



28 May 2021

1 Spring Street
Melbourne Victoria 3000
GPO Box 2392
Melbourne, Victoria 3001
Telephone (03) 8392 5115

Mr Anthony Hurst
Executive Director
Earth Resources Regulation
Department of Jobs, Precincts and Regions
1 Spring Street, Melbourne, Victoria, Australia, 3000

Via email

Dear Mr Hurst

Fingerboards Mineral Sands Mine EES Inquiry: Information Requests

I refer to previous correspondence in this matter and in particular your email dated 20 November 2020 in which you advised that while you did not wish to make a submission to the Environment Effects Statement (EES), you would consider written requests for information or clarification about the regulatory framework for mining projects.

As you may be aware, the Hearings for the Fingerboards Mineral Sands Mine EES Inquiry are now underway. During the Hearing a number of queries and requests for information regarding the role of Earth Resources Regulation (ERR) and the mining regulatory framework have arisen or been received from submitters.

On this basis, the Inquiry and Advisory Committee (IAC) would appreciate written advice by **12.00noon on Friday 11 June 2021** on the following matters:

Procedural issues

1. The IAC has been advised that the Proponent has recently lodged an application for a mining licence (MIN007636) in respect of the Project. The IAC notes that the proposed mining area in the application is slightly larger than the area indicated in the EES documentation. Please advise how ERR will proceed to consider this application in light of the current EES process and provide particular advice on the operation of section 24 (objector rights) of the *Mineral Resources (Sustainable Development) Act 1990* in this instance.
2. In assessing an application for a mining license, does ERR undertake an assessment of, or have regard to, the relative strategic merits of similar mines (in production or proposed) and if so, how is this done? For example, ERR's public engagement fact sheet [Mineral sands exploration in Victoria](#) identifies five mineral sands projects in Victoria at various stages of development. In assessing any mining application for one of these projects, are the relative merits of the other potential projects assessed and considered?
3. Do Work Plan approvals include a requirement to commence operations by a certain date? If so, what is the process for extensions of time to commence operations?

Privacy Statement

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4. What is the process for assessing changes proposed in the overall mining Work Plan, particularly in the context of core issues that may have been critical to any decision to grant a mining approval in the first instance and/or not included in the EES process?

Compliance and monitoring

5. How does ERR ensure the design, quality and sourcing of components of equipment used in mining projects (such as the components in the centrifuges now proposed for the Fingerboards Project) meet relevant standards?
6. Please provide information on how ERR monitors Work Plans to ensure operational compliance.
7. In the event complaints are received by ERR in relation to dust, noise or other environmental breaches from the mining operation, how are these recorded, managed, and addressed?
8. A submitter has expressed concern that Work Plans are written in such a way that they may be unenforceable. How does ERR enforce Work Plans in the context where conditions or performance targets in performance measures use language such as 'as far as practicable' or 'as far as reasonably practicable' such as have been proposed in this case?
9. Does ERR have a regional enforcement presence in Gippsland or would it (or would it be increased if existing) if the mine was approved?
10. A number of submitters have expressed concern about ERR as a regulator of the mining industry and drawn attention to the Victorian Auditor General's report of 2019.¹ The IAC notes the ERR website [Site rehabilitation and VAGO response - Earth Resources](#). The web page appears to have been updated in late 2020. The IAC is not reviewing either the operation of ERR, or suggesting that the Proponent will not satisfactorily implement proposed environmental management measures. However, if the mine is approved it will likely need to operate under complex and detailed environmental management requirements, and the ability for these to be implemented and monitored successfully will require a highly functional and effective regulatory system. As lack of confidence in the regulatory framework has been expressed as a significant issue by some submitters, can ERR please provide a concise summary of improvements in earth resources regulation (if any) either undertaken in the past 12 months or that are planned in the next five years that are, or will be, relevant to this Project.

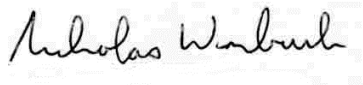
¹ For example specific alleged regulatory failures were identified at Carshalton, Woodvale and Costerfield.

Rehabilitation bonds and insurance

11. How does ERR ensure the Proponent and/or the Joint Venture partners involved in a mining project provide the appropriate public liability insurance to cover unplanned events (for example in the case of the Project, the collapse of the Perry Gully tailings storage area and/or dam)? Are insurance requirements only imposed on the mining license holder or are all entities engaged in or acting on behalf of the mining license holder required to hold public liability insurance?
12. What are the terms of any bank guarantee for the rehabilitation bond that may be required from the Proponent? For example, is the bank guarantee unconditional, will it have an expiry date or have exclusions?
13. What level of rehabilitation of the land does the bond provide for in its calculation? For example, the IAC has heard submissions that the calculation allows for the rehabilitation to a safe and stable landform, however does the bond calculation allow for ongoing land revegetation and erosion management until the site is fully regenerated, which may be some decades?
14. During the Hearing, that Proponent made submissions that the bond/bank guarantee would be determined by reference to what the rehabilitation liability is *from time to time*. Please explain how this works where there is intended to be progressive rehabilitation of the mine site. Does this approach provide a strong financial incentive for the Proponent to undertake significant progressive rehabilitation?

If you have any queries, please contact Amy Selvaraj at Planning Panels Victoria fingerboards.iac@delwp.vic.gov.au.

Yours sincerely



Inquiry and Advisory Committee, Chair