

# Fingerboards Mineral Sands Project Infrastructure Area

## Incorporated Document

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~~28 April~~ 25 June 2021 – IAC version ~~1~~2 (~~'clean' copy~~)

Draft

Incorporated document pursuant to section 6(2)(j) of the *Planning and Environment Act 1987*.

## 1. INTRODUCTION

- 1.1. This document is an Incorporated Document in the East Gippsland Planning Scheme (**Planning Scheme**) pursuant to section 6(2)(j) of the *Planning and Environment Act 1987* (Vic).
- 1.2. This Incorporated Document facilitates the delivery of certain infrastructure (the **Project Infrastructure**) required to support the Fingerboards Mineral Sands Project (the **Project**) on land outside the area to which mining licence [xxx] applies. The area to which mining licence [xxx] applies is referred to as the **Project Area**.
- 1.3. This document facilitates the Project, by providing a specific control for the purpose of Clause 45.12 of the planning scheme in respect of the use and development of land other than the Project Area for the purpose of ~~infrastructure associated with~~ the Project (**Project Infrastructure**).

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## 2. DEFINITIONS

2.1. Responsible Road Authority has the meaning provided in s 37 of the *Road Management Act 2004* (Vic).

## 2.3. PURPOSE

2.1.3.1. The purpose of the control in clause 54 is to permit and facilitate the use and development of the land described in clause 43 for the purposes of the Project Infrastructure as defined in clause 1.24.

## 3.4. LAND TO WHICH THIS DOCUMENT APPLIES

3.1.4.1. The control contained in clause 54 applies to land affected by Specific Controls Overlay – Schedule 1 (**SCO1**) as shown on the planning scheme maps in the East Gippsland Planning Scheme (the **Infrastructure Area**).

## 4.5. CONTROL

4.1.5.1. Despite any provision to the contrary or any inconsistent provision of the Planning Scheme, no planning permit is required for, and no provision in the Planning Scheme operates to prohibit, restrict or regulate, the use and development of the Infrastructure Area for the purposes of ~~constructing, operating, or maintaining~~ the Project Infrastructure.

4.2.5.2. The Project Infrastructure consists of:

4.2.1.5.2.1. A new water pipeline, overhead 22kV powerline and a 30 metres wide easement over private land to a new pumping station on the Mitchell River;

4.2.2.5.2.2. A water pipeline and associated bore pumps to the south of the Project Area;

~~4.2.3-5.2.3.~~ Any buildings or works required to implement the Mitigation Measures generally in accordance with the Minister's Assessment of the Project dated [date] made pursuant to the Environment Effects Act 1978 or the requirements of any plan required by this control (other than the removal of native vegetation);

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~~4.2.4-5.2.4.~~ Construction ~~and use of a private~~ new road adjacent to Chettles Road, ~~and new roads~~ continuing ~~south from Chettles Road south-east~~ over private land to the new railway siding;

~~4.2.5-5.2.5.~~ New 66kV and 22kV powerlines adjacent to ~~Chettles Road and~~ the new roads ~~south and north of Chettles Road referred to in clause 5.2.4;~~

~~4.2.6-5.2.6.~~ A new water pipeline adjacent to ~~Chettles Road and~~ the new road ~~extensions south and north of Chettles Road referred to in clause 5.2.4;~~

~~4.2.7-5.2.7.~~ Creation of easements to accommodate the above three matters;

~~4.2.8-5.2.8.~~ Noise bunding including earthworks along sections of the new roads referred in ~~clause 5.2.4~~~~[x-ref]~~ above;

~~4.2.9-5.2.9.~~ A rail siding (one of two options) adjacent to the Bairnsdale railway line;

~~4.2.10-5.2.10.~~ Road diversions, road widenings and roadworks including intersection upgrades (local and Road Zone Category 1) ~~and use of land for road;~~

~~4.2.11-5.2.11.~~ Any temporary construction works offices and associated car parking; ~~and~~

~~4.2.12.~~ ~~Subdivision for the purposes of acquiring land for road and roadworks improvements and upgrades;~~

~~4.2.13-5.2.12.~~ Vegetation removal associated with any of the above in accordance with approved plans and all approvals; ~~and.~~

~~4.2.14-5.2.13.~~ Infrastructure that is incidental, or ancillary, to, the infrastructure referred to in the above paragraphs.

~~4.3.5.3.~~ The use and development of the Infrastructure Area for Accommodation or Food and Drink Premises, is prohibited.

~~4.4.5.4.~~ The control in this Incorporated Document does not apply to the use and development of the Infrastructure Area for ~~any the purposes~~ other than ~~for the construction, operation, and maintenance of purposes of~~ the Project Infrastructure. Use and development of the Infrastructure Area for any other purpose must be in accordance with the Planning Scheme.

4.5.5.5. For the avoidance of doubt, except in respect of the creation of easements expressly identified in clause 5.2.75.2.7. nothing in this control authorises the creation, variation, or acquisition of any interest in land other than in accordance with the Planning Scheme.

## 5.6. **CONDITIONS**

5.4.6.1. The use and development authorised by this Incorporated Document is subject to the conditions set out below.

### 5.2.6.2. Environment Management Framework

5.2.1.6.2.1. Prior to the commencement of the use and development of the Infrastructure Area, an Environmental Management Framework (**EMF**) must be prepared in consultation with the responsible authority, and the Head of the Department of State Development, Business and Innovation, the Head of Transport for Victoria and the Environment Protection Authority, to the satisfaction of the Minister for Planning.

5.2.2.6.2.2. The EMF must include mitigation measures (the **Mitigation Measures**) generally in accordance with the Minister's Assessment dated [date] made pursuant to the *Environment Effects Act 1978*. The Mitigation Measures must address the following areas:

- (a) Agriculture and horticulture;
- (b) Air quality;
- (c) Cultural heritage;
- (d) Geotechnical;
- (e) Greenhouse gas;
- (f) Ground water;
- (g) Land use and planning;
- (h) Noise and vibration;
- (i) Radiation;
- (j) Socioeconomic impacts;
- (k) Surface water;
- (k)(l) Traffic and Transport;
- (m) Biodiversity;
- (n) Visual and landscape; and
- (o) Any other matter identified by the Minister in the Minister's Assessment.

5.2.3.6.2.3. The EMF must

- (a) include processes (including for approvals) and timing for the development of the Development Plan, the Construction Management Plan, the Construction Noise Management Plan, the Operation Noise Management Plan, the Traffic and Transport Management Plan, the Native Vegetation Management Plan, the Fire and Emergency Management Plan, the Decommissioning Plan and any other plans or procedures required by the Mitigation Measures as relevant to any stage of the development of the Infrastructure Area, including the process and timing for consultation with any person or body with who consultation is required under this Incorporated Document (including under any plan required by this Document or a mitigation measure in a plan); and
- (b) be generally in accordance with any works approval development licence issued by the EPA which applies to the Project I infrastructure in the Infrastructure Area (if any).

5.2.4-6.2.4. Subject to the prior written consent of the relevant approval authority(s) Minister for Planning, the EMF may be prepared in stages or in respect of any of the elements of Project Infrastructure listed in clause 4, but the EMF for any stage of development or component must be approved before the commencement of development for that stage.

5.2.5-6.2.5. The EMF may be amended from time to time to the satisfaction of the Minister for Planning.

5.2.6. ~~The EMF must be amended to update references and requirements to be consistent with the *Environment Protection Act 2017* (as amended by the *Environment Protection (Amendment) Act 2018*) to the satisfaction of the Minister for Planning. The amended EMF must be prepared in consultation with the EPA and must be submitted to the Minister for approval within 12 months of the commencement of the *Environment Protection Act 2017* (as amended by the *Environment Protection (Amendment) Act 2018*).~~

5.2.7-6.2.6. The use and development of the Infrastructure Area must be carried out in accordance with the EMF including the Mitigation Measures and all plans and procedures required by them.

5.2.8-6.2.7. Any other plan required by this Incorporated Document must be consistent with, and give effect to, the EMF including the Mitigation Measures.

### 5.3.6.3. Development Plan

5.3.1-6.3.1. Prior to the commencement of use and development of the Infrastructure Area, a Development Plan must be prepared and approved to the satisfaction of the responsible authority.

**Commented [A1]:** Deleted given the new Act will come into force before the hearing is completed.

**Commented [A2]:** Given the change to the ML application area, there are no public road relocations proposed over land subject to this Incorporated Document. On that basis, we do not think the Development Plan also requires TIV approval. However, Kalbar acknowledges that there needs to be a statutory mechanism to give TIV approval rights for plans of the public road relocations within the mine licence area. Kalbar has requested a meeting with Earth Resources Regulation to better understand how this could be done - our present thinking is that this could be done as a condition of the mining licence. The condition could substantially mirror clause 6.3 of the Incorporated Document.

6.3.2. Subject to the prior written consent of the responsible authority, ~~The the~~ Development Plan may be prepared and approved in stages or in respect of any of the element of the Project Infrastructure listed in clause 4.5.2, but the Development Plan for each stage or element must be approved before the commencement of development for that stage or element.

5.3.2-6.3.3. The Development Plan may be amended to the satisfaction of the responsible authority.

5.3.3-6.3.4. The Development Plan must show:

- (a) The location of all buildings, works and proposed activities (including road and rail works) within the Project Area~~Infrastructure Area to be developed or carried out over the life of the Project~~;
- (a)(b) If the Development Plan is to be approved in stages or in respect of individual elements of the Project Infrastructure, a plan for each stage of development or element of infrastructure for which approval is currently being sought;
- (b)(c) Elevations of buildings and above ground proposed works; and
- (e)(d) All vegetation to be retained and approved to be removed.

5.3.4-6.3.5. The use or development as shown on the Development Plan must not be altered without the written consent of the responsible authority.

#### 5.4.6.4. Traffic and Transport Management Plan

5.4.1-6.4.1. Prior to the commencement of use and development, a Traffic and Transport Management Plan (**TTMP**) must be prepared by a suitably qualified traffic engineer in consultation with East Gippsland Shire Council and Country Fire Authority, Rural Ambulance Victoria, and Victoria Police, to the satisfaction of the responsible authority and the Head, Transport for Victoria.

5.4.2-6.4.2. The TTMP may be amended from time to time to the satisfaction of the responsible authority and the Head, Transport for Victoria.

5.4.3-6.4.3. The TTMP must address all elements of the Project Infrastructure and must have regard to the use and development of the Project Area as relevant.

5.4.4-6.4.4. Subject to the prior written consent of the responsible authority and the Head, Transport for Victoria. ~~The~~ TTMP may be prepared in stages or in respect of any of the elements of Project Infrastructure listed in clause 4.5.2, but the EMF-TTMP for

any stage of development or component must be approved before the commencement of development for that stage.

6.4.5. The TTMP must include, as appropriate:

- (a) Identification and assessment of the road and associated infrastructure at risk from damage, deterioration or dilapidation arising from the construction and operation of the Project, including an existing conditions audit of all identified roads and infrastructure;
- (b) A program of regular inspection works to be carried out during construction, operation, and rehabilitation / decommissioning of the Project and Project Infrastructure to identify road safety hazards or maintenance works necessary as a result of Project-related traffic;
- (c) A program to rehabilitate existing road and infrastructure to a safe and usable condition during construction, operation and during and at the conclusion of decommissioning of the Project where rehabilitation is required as a result of Project-related traffic;
- (d) Measures to be taken to manage traffic impacts associated with construction, operation, and rehabilitation / decommissioning of the Project on surrounding roads, including strategies to reduce impacts of traffic associated with the Project and Project Infrastructure on the use of the local road network by agricultural users;
- (e) Details of required road widening and upgrades to accommodate additional traffic or oversize vehicles;
- (f) The details of intersections and roadways, including functional layout plans;
- (g) The functional design of all areas for parking and storage of vehicles and machinery;
- (h) Details of the construction works required prior to the commencement of the operational stage of the Project;
- (i) The preparation of Road Safety Audits for all proposed roads and intersections to be used by Project vehicles;
- (j) A requirement that all mitigation works and management measures recommended by the TTMP be implemented to the satisfaction of and at no cost to the Head, Transport for Victoria or East Gippsland Shire Council;
- (k) A requirement to enter into agreements with the relevant road authority regarding ongoing pavement maintenance to specific transport corridors prior to the commencement of the operation of the Project.

Road and rail works for construction and operation

(a) Identification and specification of:

- (i) all proposed works, land and processes required to facilitate the transportation of materials associated with the Project (including during construction) predominantly via rail from the Project Area to the relevant Victorian Port;
  - (ii) all proposed permanent and temporary roadworks (including intersections and related infrastructure) required to facilitate traffic movements associated with the Project, including construction activity; and
  - (iii) the routes that will be used by trucks associated with the Project and how the use of the roads will be managed.
- (b) A functional layout plan(s) for all new road works (including intersections and related infrastructure) in the Infrastructure Area that identifies who is the Responsible Road Authority for each of the new road works.
- (c) An existing conditions road pavement and road infrastructure survey and regular monitoring program, conducted by an independent engineer, pre-qualified by the Head, Transport for Victoria, for the roads and road infrastructure to be used by Project traffic in the Infrastructure Area.
- (d) The functional design of all areas for parking and storage of vehicles and machinery.
- (e) A staging plan for implementation of any identified works, land and processes for the road and rail works associated with the Project.

Traffic impacts

- (f) Identification of potential traffic impacts from the proposed road and rail works and Project traffic and, if so, measures to mitigate and manage these impacts.
- (g) Identification and assessment of the road and associated infrastructure at risk from damage, deterioration or dilapidation arising from the construction and operation of the Project.
- (h) Measures to be taken to manage traffic impacts associated with construction, operation and rehabilitation of the Project on surrounding roads, including consultation with all agricultural landholders within 2 km of the Project Area to understand where, when and how the local road network is used for the transport of machinery and stock, and strategies to reduce impacts of traffic associated with the Project and Project Infrastructure on the use of the local



road network by agricultural users and public transport (including school buses) users.

Inspection

(i) A program of regular inspection works to be carried out during construction, operation, and rehabilitation / decommissioning of the Project and Project Infrastructure to identify road safety hazards or maintenance works necessary as a result of Project-related traffic.

(h)(i) A program to remediate existing roads and road infrastructure during construction and operation of the Project where remediation is required as a result of Project-related traffic, which identifies who is the Responsible Road Authority for each existing road and item of road infrastructure.

Road Safety Audits

(m)(k) Prior to the commencement of any road or rail works in the Infrastructure Area, Road Safety Audits conducted by an independent road safety auditor, pre-qualified by the Head, Transport for Victoria, in accordance with Austroads – Road Safety Audit for all proposed roads and intersections in the Infrastructure Area in accordance with the approved functional layout plans.

Road and rail works contractor(s)

(n)(l) A requirement that the contractor(s) engaged to undertake the road and rail works in the Infrastructure Area are approved by the Head, Transport for Victoria.

Decommissioning Traffic Management Plan

(m) A Decommissioning Traffic Management Plan (DTMP), which must contain the following:

(i) A plan that shows the roads and transport infrastructure covered by the DTMP and identifies who is the Responsible Road Authority for all roads and transport infrastructure.

(ii) Specification of:

- a. the temporary roads and road infrastructure that are to be removed and the condition for reinstatement of the land; and
- b. the roads and road infrastructure to be retained and any relevant pavement handback criteria;

(iii) A process for:

- a. obtaining an existing conditions road pavement and road infrastructure audit conducted by an independent engineer, pre-

qualified by the Head, Transport for Victoria, for the roads and road infrastructure in the Infrastructure Area that identifies any works required to ensure that any damage to road pavement and road infrastructure caused by the Project is rectified; and

b. Implementation of any recommendations of the existing conditions road pavement and road infrastructure survey required by clause 6.4.5(m)(iii)a.

(iv) A requirement that any remedial works required for permanent roads and road infrastructure required for the roads and road infrastructure to meet relevant standards to the satisfaction of the Head, Transport Victoria.

#### Agreement

(n) Prior to the commencement of any roadworks in the Infrastructure Area, agreement(s) must be entered into with the responsible authority and the Head, Transport for Victoria in relation to any roads, road infrastructure or any rail siding within the Project Area and Infrastructure Area that they are responsible for. The agreement(s) must provide for the following:

#### Road and rail works required for construction and operation of the Project

(i) The provision to the relevant Responsible Road Authority of a bond or bank guarantee, for the purpose of securing satisfactory completion of the road and rail works in the Infrastructure Area that are the responsibility of that Responsible Road Authority.

(ii) The bond or bank guarantee (or any replacement bond or bank guarantee) required by clause 6.4.5(n)(i) must be equivalent to the estimated, indexed cost of the relevant road and rail works as agreed by the relevant Responsible Road Authority and must be in place until those works have been completed to the satisfaction of that Responsible Road Authority.

#### Implementation of the DTMP

(iii) Unless otherwise agreed in writing by the responsible authority and the Head, Transport for Victoria, within 12 months of the cessation of the use of road and rail works in the Infrastructure Area, the approved DTMP required by clause 6.4.5(m) must be implemented, and any other necessary remedial works required for permanent roads to meet relevant standards carried out, at no cost to, and to the satisfaction of, the responsible authority and the Head, Transport Victoria.

(iv) An estimate of the cost of the works required to be undertaken in the approved DTMP must be prepared by a suitably qualified engineer and/or

**Commented [A3]:** We have included TfV infrastructure within the Project Area as well as the Project Infrastructure, but recommend confirming this approach with Earth Resources Regulation.

**Commented [A4]:** It is intended that this construction bond will cover works to public roads (such as the intersection upgrades to Racecourse Road if the Bairnsdale rail siding option proceeds rather than Kalbar's preferred option of the Fernbank rail siding) or works required to interface with public roads or rail infrastructure. It is not intended to cover the private haul road itself (apart from crossings over public roads).

quantity surveyor, to the satisfaction of the responsible authority and the Head, Transport Victoria.

(v) The provision to the relevant Responsible Road Authority of a bond or bank guarantee, for the purpose of securing satisfactory completion of the works required by the approved DTMP that relate to infrastructure that is the responsibility of that Responsible Road Authority.

(vi) The bank guarantee or bond required by clause 6.4.5(n)(v) must be for the amount calculated in accordance with clause 6.4.5(n)(iv) for the relevant works, plus a 20% contingency, with the amount indexed in accordance with any index to the satisfaction of the Head, Transport for Victoria on 1 July each year, and the bank guarantee or bond maintained at the indexed amount. The bond or bank guarantee (or any replacement bond or bank guarantee) must be in place for a sufficient time to ensure that the works required by the approved DTMP are completed to the satisfaction of the relevant Responsible Road Authority.

(vii) The relevant Responsible Road Authority may call upon the bank guarantee or bond provided under clauses 6.4.5(n)(v) in the event of default under clause 6.4.5(n)(iii) to the extent required to remedy the default, and may arrange for the works referred to in 6.4.5(n)(iii) to be undertaken by the relevant Responsible Road Authority or on its behalf.

(viii) Payment of all reasonable costs and expenses incurred by the responsible authority and the Head, Transport for Victoria for the preparation, execution and review of the agreement(s).

6.4.6. The approved TTMP must be implemented to the satisfaction of and at no cost to the responsible authority and the Head, Transport for Victoria.

#### 5-5-6.5. Noise Management Plans

5-5-1-6.5.1. Prior to the commencement of:

- (a) construction of the Project Infrastructure, a Construction Noise Management Plan (CNMP) must be prepared in accordance with relevant Environment Protection Authority Victoria (EPA) Noise Control Guidelines to the satisfaction in consultation with of the EPA; and
- (b) operation of the Project Infrastructure, an Operational Noise Management Plan (ONMP) must be prepared in accordance with EPA Guidelines to the satisfaction in consultation with of the EPA.

5-5-2-6.5.2. The CNMP and ONMP may be amended from time to time to the satisfaction of in consultation with the EPA.

**Commented [A5]:** It is intended that this decommissioning bond will cover costs associated with works to public roads and rail. It is not intended to cover the cost of decommissioning the private haul road itself (apart from crossings over public roads).

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5-5-3-6.5.3. Each plan must address all elements of the Project Infrastructure as relevant and must have regard to any cumulative noise impact associated with use and development of the Project Area during the relevant stage. The plans must include, but not be limited to:

- (a) Performance requirements, including maximum noise limits for the Project Infrastructure in accordance with relevant EPA standards and guidance;
- (b) A noise compliance procedure;
- (c) A noise complaints evaluation procedure; and
- (d) A noise complaints response procedure.

#### 5-6-6.6. Construction Management Plan

5-6-1-6.6.1. Prior to commencement of use and development of any element of Project Infrastructure listed in clause 4, a Construction Management Plan must be prepared to the satisfaction of and be approved by the responsible authority.

5-6-2-6.6.2. The Construction Management Plan may be amended from time to time to the satisfaction of the responsible authority.

5-6-3-6.6.3. The Construction Management Plan must include, but not be limited to:

- (a) A staging plan for all construction phases;
- (b) Location of any temporary construction works office and machinery storage area;
- (c) Construction timeframes;
- (d) Details of hours of construction;
- (e) Intended access and routes of all construction vehicles in accordance with the approved TTMP;
- (f) Vehicle and machinery exclusion zones;
- (g) Measures and techniques to manage surface water runoff and to protect drainage lines and watercourses from sediment runoff from disturbed or under construction areas;
- (h) Measures to protect sites of conservation or archaeological significance during construction;
- (i) Measures to protect existing vegetation, which must be consistent with relevant measures set out in the Native Vegetation Management Plan approved in accordance with clause 6.7.1;
- (j)(i) Measures and techniques to avoid impacts on fauna;
- (j)(k) Measures and techniques to manage weeds;

- ~~(k)~~(l) Measures and techniques to manage dust;
- ~~(l)~~(m) Measures and techniques to manage erosion;
- ~~(m)~~(n) Location of a machinery and vehicle wash down area;
- ~~(n)~~(o) Management of litter, construction wastes and chemical storage;
- ~~(o)~~(p) Details of where construction personnel shall park;
- ~~(p)~~(q) Phone numbers of on-site personnel or other supervisory staff to be contactable in the event of issues arising on site;
- ~~(q)~~(r) The removal of works, buildings and staging areas on completion of the construction phase;
- ~~(r)~~(s) Methods of ensuring all contractors are informed of the requirements of the plan and persons responsible for ensuring the plan is adhered to.

#### 5.7.6.7. Native Vegetation Management Plan

- 5.7.1. — ~~Prior to the removal, lopping or destruction of any native vegetation within the Infrastructure Area, a Native Vegetation Management Plan must be prepared to the satisfaction of and approved by the Department of Environment, Land, Water and Planning. The plan must include:~~
- ~~(a) A photograph or site plan (drawn to scale) showing the boundaries of the site, existing native vegetation and the native vegetation to be removed;~~
  - ~~(b) A description of the native vegetation to be removed, including the extent and type of native vegetation, the number and size of any trees to be removed and the Ecological Vegetation Class of the native vegetation;~~
  - ~~(c) A written explanation of the steps that have been taken to:
 
    - ~~i. avoid the removal of native vegetation;~~
    - ~~ii. minimise the removal of native vegetation;~~
    - ~~iii. appropriately offset the loss of native vegetation, if required;~~~~
  - ~~(d) A written explanation that addresses the Guidelines for the Removal, Destruction or Lopping of Native Vegetation (DELWP, 2017) as if a permit was required to remove native vegetation.~~
- 5.7.2. — ~~Prior to the removal, lopping or destruction of any native vegetation, an Offset Management Plan must be prepared to the satisfaction of the Department of Environment, Land, Water and Planning. The plan must include:~~
- ~~(a) Methods of permanent protection for established offsets;~~
  - ~~(b) Location of the offsets;~~

**Commented [A6]:** Kalbar proposes that similar clauses be included in the mining licence conditions to cover the Project Area, but on the basis that the offsets can be secured in stages to mirror the staged mine plan. The approach will be that the offsets for each stage of the mine must be secured to DELWP's satisfaction before works on that stage of the mine can commence.

- (c) ~~Type of offsets to be provided;~~
- (d) ~~Details of any revegetation including number of trees, shrubs and other plants; species mix; density; methods of interim protection and management until vegetation is established; and a Schedule of Works;~~
- (e) ~~Details of any existing vegetation to be retained including methods of managing and restoring the vegetation and a Schedule of Works;~~
- (f) ~~Actions to protect Large Old Trees and Very Large Old Trees that are hollow bearing and provide fauna habitat;~~
- (g) ~~Identification of those responsible for implementing and monitoring the plan;~~
- (h) ~~Time frames for implementing the plan.~~

6.7.1. Before the removal of any native vegetation associated with the Project Infrastructure can begin, a Native Vegetation Management Plan must be prepared to the satisfaction of and be approved by the Department of Environment, Land, Water and Planning. The plan must be:

- (a) drawn to scale with a key, north point, dimensions and georeferences (such as VicGrid94 coordinates), that clearly shows:
  - (i) the location and identification of the land affected by this Incorporated Document, including standard parcel identifiers for the affected and adjacent land;
  - (ii) the location and area of all native vegetation present on the Infrastructure Area, including large trees within patches and scattered trees to be removed; and
  - (iii) all areas of native vegetation to be retained on the Infrastructure Area, including patch native vegetation, large trees within patches and scattered trees within the immediate vicinity of all construction impact areas.

6.7.2. The Native Vegetation Management Plan must include:

- (a) a master plan and detailed subplans that include current aerial photography of a scale that enables the responsible authority to locate and identify the native vegetation permitted to be removed and audit for compliance;
- (b) a detailed description of the measures to be implemented to protect the native vegetation to be retained throughout the life of the Project Infrastructure, including decommissioning, and the person/s responsible for implementation and compliance. These measures must include the erection of a native vegetation protection fence around all native vegetation to be retained on the Infrastructure Area, including the tree protection zones of all native trees to be

retained. All tree protection zones must comply with AS 4970-2009 Protection of Trees on Development Sites and be clearly marked as 'no go zones'.

(c) an avoid and minimise statement, which must describe all efforts to avoid the removal of and minimise the impacts on the biodiversity and other values of native vegetation, and how these efforts focussed on areas of native vegetation that have the most value. The statement must include details that demonstrate the following:

(i) Strategic level planning – any regional or landscape scale strategic planning process that the site has been subject to that avoided and minimised impacts on native vegetation across a region or landscape;

(ii) Site level planning – how the proposed use or development has been sited or designed to avoid and minimise impacts on native vegetation; and

(iii) That no feasible opportunities exist to further avoid and minimise impacts on native vegetation without undermining the key objectives of the proposal.

6.7.3. Where the removal of native vegetation is to create required defensible space and/or satisfy bushfire risk mitigation requirements under the Fire and Emergency Management Plan and/or the Bushfire Attack Level required for buildings and infrastructure associated with the use and development, a written statement explaining why the removal of native vegetation is necessary must be provided to the satisfaction of the Department of Environment, Land, Water and Planning. This statement must have regard to other available bushfire risk mitigation measures and must account for the impacts to native vegetation in the DELWP generated Native vegetation removal report and subsequent offset requirements.

6.7.4. Except with the written consent of the Department of Environment, Land, Water and Planning, the following is prohibited within the area of native vegetation to be retained on the Infrastructure Area and any tree or vegetation protection zone associated with the permitted use and/or development:

(a) vehicular or pedestrian access;

(b) trenching or soil excavation;

(c) storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products;

(d) entry and exit pits for the provision of underground services; and

(e) any other actions or activities that may result in adverse impacts to retained native vegetation.

Native vegetation permitted to be removed, destroyed or lopped

6.7.5. The native vegetation permitted to be removed, destroyed or lopped under both this Incorporated Document and the approved work plan for the Project Area is [X.XXX] hectares of native vegetation, which is comprised of:

(a) [X.XXX] hectares of patch native vegetation including [XXX] large trees, with a strategic biodiversity value of [X.XXX];

(b) [XXX] scattered large trees; and

(c) [XXX] scattered small trees.

(NOTE: [XXX] for final quantities of impacts and offset requirements to be completed once the final DELWP generated Native vegetation removal report has been generated to the satisfaction of the Department of Environment, Land, Water and Planning).

6.7.6. The native vegetation permitted to be removed in accordance with clause 6.7.5 can be removed and offset in stages throughout the life of the Project Infrastructure and Project, subject to compliance with the Native Vegetation Management Plan (in the case of removal associated with the Project Infrastructure) and the work plan conditions (in the case of removal associated with the Project).

#### Native vegetation offsets

6.7.7. To offset the removal of native vegetation for the Project Infrastructure and each stage of the Project, the following native vegetation offsets must be secured in accordance with *Guidelines for the removal, destruction or lopping of native vegetation* (DELWP 2017) before any native vegetation removal for the relevant stage can begin:

(a) For the Project Infrastructure, [XXX] hectares of native vegetation, including [XXX] large trees are permitted to be removed, which requires the following offsets: **Note: the required offsets set out below will need to be split up into the relevant stages, with subclause (a) replicated for each stage.**

(i) a general offset of [XXX] general habitat units located within the East or West Gippsland Catchment Management boundaries or East Gippsland municipal area with a minimum strategic biodiversity value of at least 0.243;

(ii) 34.264 species habitat units for [ID#] Australian Grayling, [Genus species];

(iii) 63.411 species habitat units for [ID#] Flinders Pygmy Perch, [Genus species];

(iv) 136.537 species habitat units for [ID#] Sticky Wattle, [Genus species];

(v) 38.540 species habitat units for [ID#] Yellow-wood, [Genus species];

(vi) 46.084 species habitat units for [ID#] Thick-lip Spider-orchid, [Genus species]



- (vii) 139.674 species habitat units for [ID#] Purple Diuris, [Genus species]
- (viii) 144.335 species habitat units for [ID#] Bushy Hedgehog-grass, [Genus species]
- (ix) 140.249 species habitat units for [ID#] Rough-grain Love-grass, [Genus species]
- (x) 111.068 species habitat units for [ID#] Slender Violet-bush, [Genus species]
- (xi) 144.335 species habitat units for [ID#] Slender Wire-lily, [Genus species]
- (xii) 144.335 species habitat units for [ID#] Golden Pomaderris, [Genus species]
- (xiii) 28.412 species habitat units for [ID#] Star Cucumber, [Genus species]
- (xiv) 140.057 species habitat units for [ID#] One-flower Early Nancy, [Genus species]
- (xv) 130.087 species habitat units for [ID#] Limestone Blue Wattle, [Genus species]
- (xvi) 98.648 species habitat units for [ID#] Thin-leaf Daisy-bush, [Genus species]
- (xvii) 137.980 species habitat units for [ID#] Forest Red Gum, [Genus species]
- (xviii) 0.057 species habitat units for [ID#] Gaping Leek-orchid, [Genus species]
- (xix) 140.249 species habitat units for [ID#] Silky Kidney-weed, [Genus species]
- (xx) 40.829 species habitat units for [ID#] Heath Spider-orchid, [Genus species]

The offset(s) secured must also protect 834 large trees. (Subject to confirmation once all known impacts and offsets have been verified by DELWP, before gazettal of the Incorporated Document).

6.7.8. Before any native vegetation is removed for the Project Infrastructure, evidence that the required amount of corresponding offsets have been secured must be provided to the satisfaction of the responsible authority and the Department of Environment, Land, Water and Planning. This evidence must be one or both of the following:

- (a) an established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10-year management actions and ongoing management of the site, and/or
- (b) credit extract(s) allocated to the Infrastructure Area (Planning Scheme Amendment Number from the Native Vegetation Credit Register).

6.7.9. For the avoidance of doubt, any offsets required for the removal of native vegetation for the Project Infrastructure and the Project must be obtained at no cost to the Head, Transport for Victoria, even if the native vegetation is removed from road reserves.

Offset evidence

6.7.10. A copy of the offset evidence required for the removal of native vegetation associated with the Project Infrastructure will be endorsed by the responsible authority and form part of this Incorporated Document. Within 30 days of endorsement of the offset evidence, a copy of the endorsed offset evidence must be provided to Planning & Approvals at the Department of Environment, Land, Water and Planning Gippsland regional office via Gippsland.Planning@delwp.vic.gov.au.

6.7.11. Where the offset(s) include a first party offset, an annual offset site report must be provided to the responsible authority by the anniversary date of the execution of the relevant offset security agreement, for a period of 10 consecutive years and thereafter, at the reasonable request of a statutory authority.

6.7.12. Within 12 months of the completion of the Project Infrastructure, offset requirements can be reconciled with the written agreement of the responsible authority and the Department of Environment, Land, Water and Planning.

#### 5.8-6.8. Fire and Emergency Management Plan

5.8-1-6.8.1. Prior to commencement of any use or development, a Fire and Emergency Management Plan must be prepared to the satisfaction of the Country Fire Authority and the Department of Environment, Land, Water and Planning.

5.8-2-6.8.2. The Fire and Emergency Management Plan may be amended from time to time to the satisfaction of the Country Fire Authority and the Department of Environment, Land, Water and Planning.

5.8-3-6.8.3. The plan must address all elements of the Project Infrastructure as relevant, having regard to the use and development of the Project Area. The plan must include, as appropriate:

- (a) Procedures for vegetation management, fuel control and the provision of firefighting equipment during declared fire danger periods;
- (b) Procedures for planned burns or other fuel reduction measures to reduce overall fuel hazard levels;
- (c) Protocols to address periods of high fire danger, including Total Fire Ban days and Code Red days;
- (d) Procedures for hot work permitting to reduce the potential for ignitions and suspension or shutdown of tasks which may cause ignition (such as site preparation works in vegetated areas) on days of elevated fire danger;
- (e) Criteria for the provision of static water supply solely for firefighting purposes in respect of bushfires and fires associated with the Project and Project Infrastructure;

- (f) Procedures for maintaining suppression equipment and plant to respond to spot fires;
- (g) Minimum standards for access roads and tracks to allow access for firefighting vehicles;
- (h) Bushfire awareness and response procedures, including response to formal emergency alerts issued by authorities;
- (i) Details of response roles at the mine site;
- (j) Details of the location, design and role of fire refuges;
- (k) Specification of BAL ratings for any buildings and identification of [defensible defensible](#) space;
- (l) A program for monitoring the implementation of bushfire mitigation measures on an on-going basis;
- (m) Responsibility for, and frequency of, reviews of the plan; and
- (n) A requirement for the operator to facilitate an annual familiarisation visits to the site and explanation of emergency services procedures, for the Country Fire Authority, Rural Ambulance Victoria, East Gippsland Shire Council Emergency Management Committee and Victoria Police.

#### 5.9.6.9. Decommissioning Plan

5.9.1.6.9.1. No less than five years prior to closure, a Decommissioning Plan must be prepared to the satisfaction of the responsible authority, [and, in relation to the items in clause 6.9.2\(c\), \(d\), \(f\), \(g\), in consultation with the Head, Transport for Victoria.](#)

5.9.2.6.9.2. The plan must address all elements of the Project Infrastructure within the Infrastructure Area. The plan must include, as appropriate:

- (a) The standard of remediation, being at a minimum the restoration of land to a standard suitable for uses previously capable of being undertaken on the land and to a soil quality of equal quality than previously existing on each site;
- (b) Demolition and removal of all buildings, except in accordance with [clause 6.9.4](#);
- (c) Remediation of bores, roads and removal of all infrastructure, except in accordance with [clause 6.9.4](#);
- (d) A staging plan for all remediation phases;
- (e) Location of any temporary construction works office and machinery storage area;
- (f) Remediation timeframes;
- (g) Intended access and routes of all remediation vehicles;

- (h) Vehicle and machinery exclusion zones;
- (i) Measures and techniques to manage surface water runoff and to protect drainage lines and watercourses from sediment runoff from disturbed or under remediation areas;
- (j) Measures to protect sites of conservation or archaeological significance during remediation;
- (k) Measure to protect existing vegetation, which must be consistent with relevant measures set out in the Native Vegetation Management Plan approved in accordance with clause 6.7.11.1.1;
- (l) Measures and techniques to manage weeds;
- (m) Measures and techniques to manage dust;
- (n) Measures and techniques to manage erosion;
- (o) Location of a machinery and vehicle wash down area;
- (p) Management of litter, remediation, wastes and chemical storage;
- (q) Details of where remediation personnel shall park;
- (r) Phone numbers of on-site personnel or other supervisory staff to be contactable in the event of issues arising on site;
- (s) The removal of works, buildings, and staging areas on completion of the remediation phase;
- (t) Methods of ensuring all contractors are informed of the requirements of the plan and persons responsible for ensuring the plan is adhered to, and
- ~~(u) Requirement that any easements created pursuant to clause 5.2.7 be removed, except to the extent they relate to infrastructure to be retained in accordance with clause 6.9.4.~~

~~5.9.3.6.9.3.~~ The Decommissioning Plan may be amended from time to time to the satisfaction of the responsible authority, and in relation to traffic and transport on or associated with declared roads, ~~to the satisfaction of~~in consultation with the ~~Head, Transport for Victoria~~ Responsible Road Authority.

~~5.9.4.6.9.4.~~ Buildings, bores, roads and other infrastructure need not be demolished or removed if:

- (a) The landowner on which the infrastructure is present requests that the infrastructure not be demolished or removed; and
- (b) The responsible authority and the and the Head, Transport for Victoria approves that request in writing ,in consultation with the Head, Transport for Victoria.

6.9.5. Upon completion of the mining in the Project Area, the Decommissioning Plan must be implemented.

## **6.7. AVAILABILITY OF APPROVED PLANS AND DOCUMENTS**

6.1.7.1. The current version of any approved plans and documents must be available on a clearly identified Project website from date of approval and must remain available on such website for at least five years after the use and development (including any rehabilitation / decommissioning) of the Infrastructure Area ceases.

6.2.7.2. Material in an approved plan may be redacted in the publicly available plan if the inclusion of the material would:

6.2.1.7.2.1. disclose personal information not necessary for the functioning of the plan;

6.2.2.7.2.2. disclose commercially sensitive information; or

6.2.3.7.2.3. permit malicious interference with the construction, operation, or decommissioning of the Project.

## **7.8. EXPIRY OF THIS CONTROL**

7.1. The specific controls in this Incorporated Document expire if:

7.2. ~~The development and use is not started within four years of the approval date; and,~~

8.1.

8.2. ~~The development is not completed within 20 years after commencement. The use and development of the Infrastructure Area authorised by these controls must be completed within 25 years of the commencement of the Project. If the use and development is not completed within 25 years, any use and development of the Infrastructure Area for the purposes of the Project Infrastructure must cease other than the use and development of the Infrastructure Area for the purposes of implementing an approved Decommissioning Plan.~~

8.3. ~~If the Infrastructure Area ceases to be used for the purposes of the Project Infrastructure for a consecutive period of two years, any use and development of the Infrastructure Area for the purposes of the Project Infrastructure must cease other than the use and development of the Infrastructure Area for the purposes of implementing an approved Decommissioning Plan.~~

8.4. ~~For the avoidance of doubt, the Infrastructure Area does not cease to be used for the purposes of the Project Infrastructure merely because the Project is in care and maintenance.~~

8.5. ~~If the Project is in care and maintenance for a period of four or more years, the responsible authority may serve on the holder of Mining Licence [xxxx] a notice requiring licence holder to demonstrate in writing and to the satisfaction of the responsible authority that the Project is likely to exit care and maintenance in the next 12 months.~~

8.6. ~~If notice is given in accordance with clause 8.5, then:~~

**Commented [A7]:** 25 years has been nominated to allow time for construction and commissioning of the Project, as well as for all approvals to be obtained.

8.6.1. If the licence holder does not provide a written response within 3 months of the service of the notice, then any use and development of the Infrastructure Area for the purposes of the Project Infrastructure must cease other than the use and development of the Infrastructure Area for the purposes of implementing an approved Decommissioning Plan;

8.6.2. If the licence holder provides a written response to the notice and the responsible authority is not satisfied that the Project is likely to exit care and maintenance in the next 12 months, then any use and development of the Infrastructure Area for the purposes of the Project Infrastructure must cease other than the use and development of the Infrastructure Area for the purposes of implementing an approved Decommissioning Plan; or

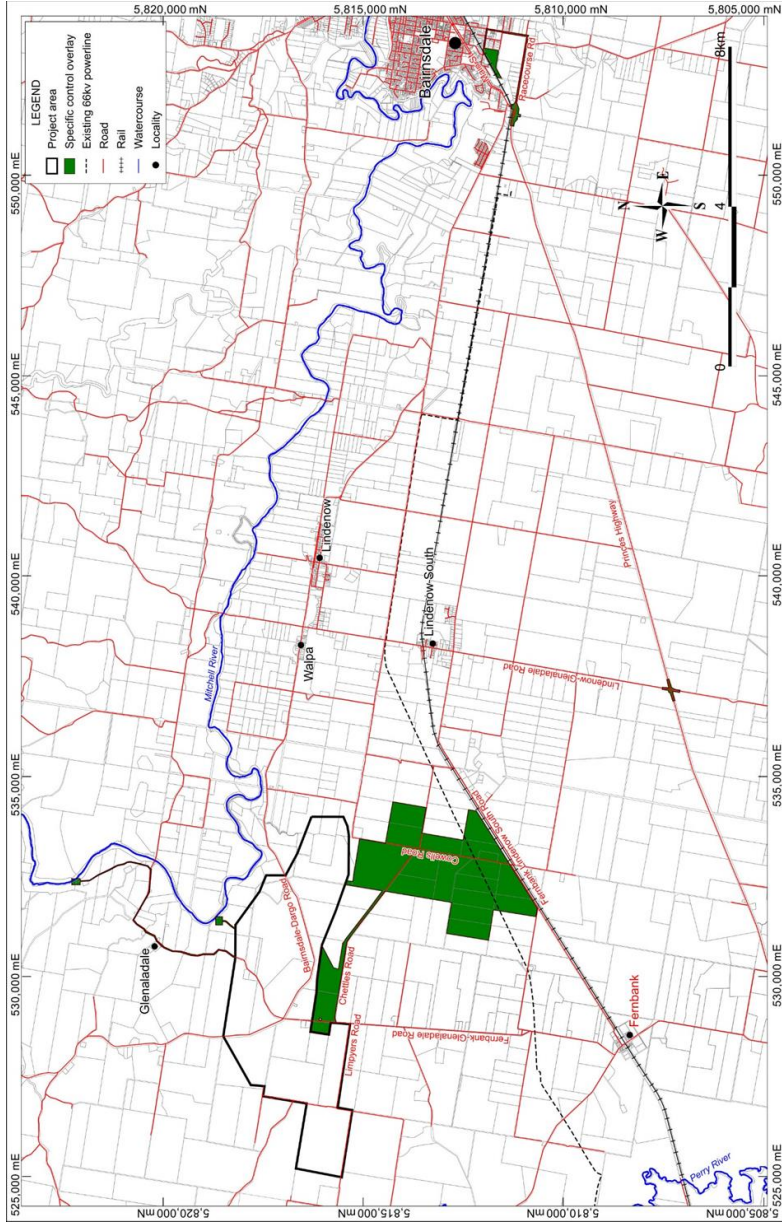
8.6.3. If the licence provides a written response and the responsible authority is satisfied that the Project is likely to exit care and maintenance in the next 12 months, the use and development of the Infrastructure Area for the purposes of the Project Infrastructure may continue in accordance with the controls in this Incorporated Document.

8.7. If, 12 months after the service of a notice under clause 8.5, the Project remains in care and maintenance, the responsible authority may serve a further notice in accordance with clause 8.5.

7.3.8.8. This control expires upon the completion of any use and development required to implement the Decommissioning Plan.

7.4. The responsible authority may extend the periods referred to above if a request is made in writing before these controls expire or within six months afterwards.

**Appendix 1 – Area to which this Incorporated Document Applies**



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Appendix 1 – Area to which this Incorporated Document Applies

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