

# Fingerboards Mineral Sands Project Inquiry and Advisory Committee

## Technical note

**TN No:** TN 035

**Date:** 25 June 2021

**Subject:** Response to the IAC's questions about the Incorporated Document

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This technical note must be read in conjunction with the revised version of the Incorporated Document (IAC version 2) dated 25 June 2021 ('**Incorporated Document (IAC v2)**'). It adopts the definitions used in the Incorporated Document (IAC v2).

### Questions and responses

#### **Incorporated document (version 28 April 2021 from the Proponent (Tabled Document 247)):**

The IAC has requested that:

9. The Proponent should:

- i. Provide indicative lot sizes and number of smaller lots expected to be created under 4.2.12
- ii. Provide advice on whether the subdivided lots are to remain in smaller parcels for the duration of the Project and thereafter, or whether lots are proposed to be reconsolidated (e.g. lots created for temporary roads)
- iii. Provide advice on mechanism/s that could be used to require consolidation of lots

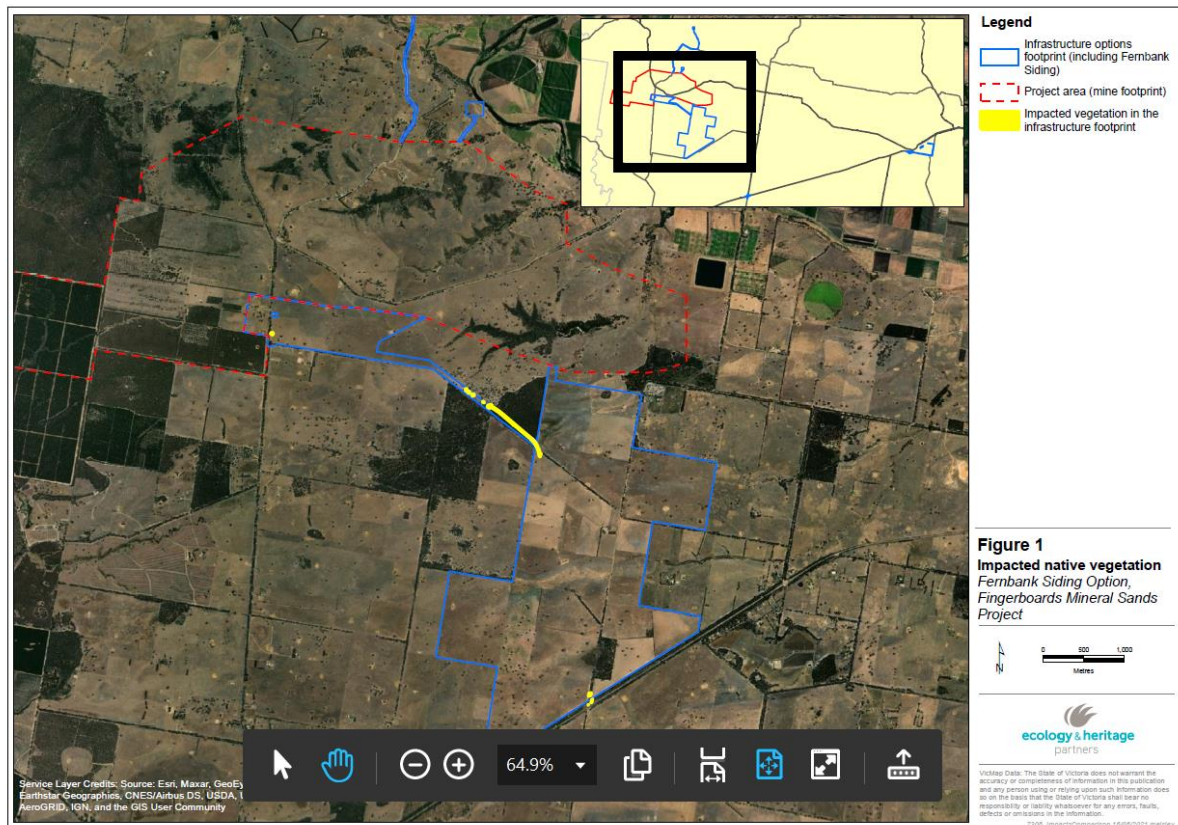
In light of the expansion of the mining licence application area to cover the land north of Chettles Road (TN 032, Tabled Document 518), Kalbar proposes to delete the reference to subdivision from the definition of Project Infrastructure in the Incorporated Document. It is anticipated that the private haul road south of Chettles Road (including any other linear infrastructure) can be delivered on an easement without the need to subdivide land. Consequently, it is not considered there will be any changes to the lots in the Infrastructure Area.

9 (cont.) iv. Provide advice on the vegetation removal that is expected in the Infrastructure Area (as distinct from the Project Area).

Kalbar's ecological expert, Mr Aaron Organ, has advised that, assuming the Fernbank siding option is adopted (which is the preferred option of Kalbar, EGSC, the Department of Transport and the EPA), 1.623ha of native vegetation will potentially be cleared in the Infrastructure Area, consisting largely of Lowland Forest (1.483 ha) as well as smaller components of Plains Grassy Woodland (0.116ha) and Plains Grassy Forest (0.025ha).

Figure 1 below shows the location of vegetation potentially impacted by the infrastructure outside the Project area. However, it is noted that with the expansion of the mining licence application area, the native vegetation marked by the single yellow dot in the 'road diversion corridor' north of Chettles Road, will actually be located within the mining licence rather than the Infrastructure Area. The advice from Mr Organ is that this area supports a large scattered tree and portion of a Plains Grassy

Woodland patch. Because this area lies on the edge of the proposed project footprint, it is likely impacts to it can be avoided in any event.



10. Clause 5.2.2 does not list traffic and transport, however these issues are addressed in Clause 5.4. The Proponent should confirm whether traffic and transport should be included in this list.

The Proponent confirms that the EMF should be required to include Mitigation Measures addressing traffic and transport. The Incorporated Document (IAC v2) includes this amendment.

11. Clause 5.2.3(b) provides that the Environmental Management Framework (EMF) should be generally in accordance with any works approval/development licence issued by the EPA. The IAC is interested in the views of the Proponent on the interaction between the EMF and the Work Plan. Can the Proponent:

- i. outline the relationship between the EMF, the approved planning scheme amendment and Incorporated Document, and any approved Work Plan.
- ii. advise whether any statutory decision maker will be bound by the EMF, and if not, whether (and how) this could give rise to potential inconsistencies across the statutory approvals around environment management.

It is proposed that the preparation and approval of the EMF would be a condition of both the Incorporated Document and the Work Plan. This is consistent with the approach taken in relation to the Stockman Base Metals Project where the Minister assessed that the EMF should be 'included in, and/or required through,' both documents. This would mean any failure to comply with the EMF

would be a breach of the both approvals and enforcement action could be taken if the regulator considered it justified.

In saying this, it is important to recognise that the EMF is, as its name suggests, intended to establish a governance framework for the management and monitoring of environmental impacts. It is not in and of itself a tool for directly regulating environmental impacts. This will occur through compliance with conditions on applicable statutory approvals, including where required the preparation and implementation of subplans relating to particular subject matters.

In this context, the function of the EMF is to explain, among other things, what the environmental objectives that the Project seeks to achieve, what indicators are relevant in assessing whether those objectives have been achieved, how those indicators will be monitored, and who is responsible for ensuring those outcomes are achieved. The identification of objectives, indicators and monitoring requirements in the EMF is necessarily informed by, and reflects, the contents of relevant statutory approvals, conditions, and subplans. In this regard, it is expected that the EMF may need to be periodically updated to reflect approvals as they are granted (if they are granted). This is consistent with the need for the EMF to provide for 'continuous improvement'.

The adoption of an EMF does not, by itself, give rise to any risk of inconsistency in approvals. That risk arises from the complex statutory framework applicable to a project of this nature where individual aspects of the Project are subject to a range of distinct statutory approvals and that each individual decision-maker is required to make their own decision having regard to the applicable statutory criteria. To some extent, this reflects a shortcoming of the EES process, which is purely advisory, as compared to other major projects regimes which permit a single decision to be made by a single decision maker and thus directly facilitate consistency in decision-making.

Nonetheless, the adoption of an EMF may assist in reducing the risk of inconsistency insofar as it provides as enables individual regulators to have an informed appreciation of how different aspects of the Project are intended to be managed, by whom, and under what approvals framework.

12. Clause 5.4.5 states:

*The TTMP must include, as appropriate: i. 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;*

In a practical sense, how does the Proponent anticipate Council will manage and enforce traffic impacts associated with the Project if load-out, hours of operation and movement of vehicles are regulated for the site operations through the Work Plan which is approved and regulated through ERR?

In practical terms, it is considered that the management of traffic impacts from the mine site can be regulated by imposing a condition on the mining licence that the TTMP be approved prior to the endorsement of the Work Plan and that the Work Plan be consistent with the TTMP.

Such a condition would fall within the scope of s 26(2)(b) of the *Mineral Resources (Sustainable Development) Act 1990* which permits the Minister to impose a condition on the mining licence to

eliminate or minimise the risks that the works may pose to the environment, the public, land, property or infrastructure within the vicinity of the works.

The consequence of such a condition would be that those conditions in the Work Plan relating influencing the traffic impacts would have to be consistent with any constraints imposed by the Council through the TTMP.