

5 March 2021

By Email

To

Amy Selvaraj
Senior Project Officer
Planning Panels Victoria
Fingerboards.IAC@delwp.vic.gov.au

And To

All parties on the Distribution List

FOR THE ATTENTION OF NICK WIMBUSH, CHAIR

Dear Amy

Fingerboards Mineral Sands Project Inquiry and Advisory Committee (IAC)

We continue to act for East Gippsland Shire Council (**Council**) in the above matter.

We refer to:

1. the IAC's direction by its letter dated 8 February 2021 (tabled document (TD) 105), directing the Proponent to provide a written submission in respect of any significant legal issues arising from the introduction of centrifuges to the Project, the concept of transformation in planning scheme amendments in that context, and whether any other significant project changes were being countenanced;
2. the Proponent's written submission dated 12 February 2021 in response to that direction (TD141);
3. the IAC's Direction 58, which required the Proponent to advise the IAC and all parties calling evidence whether it proposes to proceed on the basis that the IAC should consider the project in its original (exhibited) form with the centrifuge option, or the project as modified to include centrifuges and not the TSF, and the letter from the Proponent's solicitor to the IAC dated 26 February 2021 (TD151) confirming that the Proponent proposes to change the Project, as distinct from putting the use of centrifuges forward as an 'option'; and
4. Direction 59, which provides as follows (original emphasis):

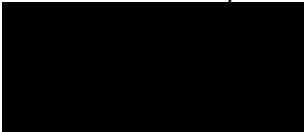
Any party wishing to make a submission to the IAC in response to Tabled Document 141 and the response to Direction 58 must circulate its submission to the IAC and all parties calling evidence on the distribution list by **midday (12.00pm) on Friday 5 March 2021**. Please note this is in response to the legal submission only; submissions on the merits of centrifuges must be made in accordance with Direction 32.

In response to the IAC's direction 59, we advise as follows.

1. Council provides no response to the submissions made in TD141 at this time. While Council should not be taken to endorse any submissions made by the Proponent in TD141, it does not seek to make any legal submissions in response to the specific questions set out in direction 58.
2. As is the case in respect of the evolution of the Project from its 'as exhibited' form, the currently proposed change to the Project has consequences and implications in respect of the environmental effects of the Project, the adequacy of the EES, and the information available for the purposes of assessing those environmental effects. Whether the nature and extent of those consequences and implications can be understood by the IAC, and ultimately the Minister, will depend on the information and evidence before the IAC at the conclusion of the hearing. It is possible that such consequences and or implications will include legal issues of which the IAC should or must be aware. Council will endeavour to identify and inform the IAC of any such issue at the earliest possible opportunity.
3. Council will otherwise make submissions in respect of each of the above matters, and any legal issues which ultimately arises having regard to what is put before the IAC in the course of the hearing, in the course of its case.
4. We note the Proponent's indication that no other changes to the design of the Project are currently contemplated and trust that further changes to the design will not be forthcoming during the course of the hearing.

If you have any questions, please contact me.

Yours sincerely



Darren Wong
Principal

