

29 January 2021

By Email

To

Mr Nick Wimbush
Chair, Fingerboards Mineral Sands Project Inquiry
and Advisory Committee
Planning Panels Victoria
Fingerboards.IAC@delwp.vic.gov.au

FOR THE URGENT ATTENTION OF NICK WIMBUSH, CHAIR

Dear Mr Wimbush

**Inquiry and Advisory Committee (IAC)
Fingerboards Mineral Sands Project**

We refer to the letter from the proponent to the IAC dated 29 January 2021, sent to the IAC by email shortly after 7:30am today.

Contrary to what is said in that letter, the adjournment of the hearing is not the preferred option for the Council. The need for directions arises due to the proponent's distribution of material suggesting a change to the Project that has the capacity to substantially affect the assessment of the environmental effects of the Project, without the detail which is necessary to enable such assessment, and less than a month before the commencement of an eight week hearing. The Council's proposed directions seek to account for that substantial change, while affording procedural fairness to the Council and the balance of submitters, all of whom have engaged with and made submissions in respect of the Project on the basis of the EES as exhibited, and all of whom have made arrangements to appear and be represented at the hearing as scheduled.

The proponent's letter suggests that it does not oppose a requirement that it provide further information and documents relevant to the proposed change, but that it is not presently in a position to provide that information or those documents. While the proponent does not provide an indication of when it would be in such a position, it is clear that their provision any later than today compromises the timetable established by the IAC's directions dated 23 December 2020 in respect of expert evidence, conclaves, and the Council's mark-up of relevant documents as required by Direction 30.

In those circumstances, and unless it can be demonstrated that an alternative timetable is achievable, the adjournment of the hearing appears the only course affording the parties procedural fairness.

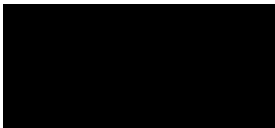
Any requirement that the Council or any other party file expert evidence in advance of the receipt of further information, or in the context of the potential adjournment of the hearing, would result in substantial procedural unfairness and inefficiencies.

The Council therefore supports:

- (a) the convening of a directions hearing as soon as practicable;
- (b) the deferment of filing of expert evidence as required by Direction 2, and of 'track change' documents as required by Direction 30, to a time set down by further direction.

If you have any questions, please do not hesitate to contact me.

Yours sincerely



Darren Wong
Principal

