



Town Planning Evidence Statement

Planning Panels Victoria
Fingerboards Mineral Sands Project
Amendment C156egjp

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1. INTRODUCTION

1. I received a request from White & Case, acting on behalf of Kalbar Operations Pty Ltd (the 'Proponent'), to prepare a statement of town planning evidence in relation to the Fingerboards Mineral Sands Project (the 'Project') including Amendment C156egip (the 'Amendment') to the East Gippsland Planning Scheme (the 'Planning Scheme').
2. The Proponent proposes to develop the Project over an approximate area of 1,675 hectares¹, with the Project located approximately 20 kilometres north-west of Bairnsdale in East Gippsland (the 'Project Land') (refer **Appendix A**).
3. To support the Project, various facilities and infrastructure are required to be located outside the defined Project Land and it is this additional land to which the Amendment relates (the 'Amendment Land') (refer **Appendix A**).
4. The Amendment seeks to:
 - Introduce the Specific Controls Overlay into the East Gippsland Planning Scheme.
 - Include the land identified as the 'Project Land Outside the Mining Licence Area' in the Specific Controls Overlay.
 - Inserts a new Schedule 1 to the Specific Controls Overlay at Clause 45.12.
 - Inserts a new incorporated document titled 'Fingerboards Mineral Sands Project Incorporated Document, October 2018' to the Schedule to Clause 72.04.
5. The Amendment together with an Environmental Effects Statement (EES), and EPA Works Approval Application (WAA), are to be heard by a joint Inquiry and Advisory Committee (IAC) appointed by the Minister for Planning.

¹ The total disturbance footprint is approximately 1,350 hectares, with the EES suggesting the maximum disturbance footprint at any one time will be approximately 360 hectares.



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6. The scope of my engagement, consideration, and professional expertise is limited to town planning matters. I do not comment on other technical aspects of the EES or the WAA, unless directly relevant to my town planning considerations.
 7. I was not involved in the preparation of the ESS, including the preparation of the Amendment. I was also not involved in the preparation of the WAA. I was engaged by the Proponent to provide town planning evidence following the Directions Hearing.
 8. I have outlined the relevant planning scheme framework applicable to the Project Land and Amendment Land at **Appendix B**.

My evidence

9. I have been instructed to review the EES and provide my opinion on the town planning merits of the proposal and particularly the Amendment. I have further been instructed to consider and address the submissions received, particularly those of the East Gippsland Shire Council, as they relate to my area of expertise. My instructions are contained at **Appendix C**.
10. My evidence provides a strategic assessment of the Proposal and of the Amendment, having regard to *Planning Practice Note No. 46: Strategic Assessment Guidelines* and whether the Proposal and the Amendment represents an acceptable town planning outcome.
11. In preparing this statement, I have:
 - Reviewed the draft Amendment;
 - Considered the EES prepared as it relates to matters of town planning;
 - Considered the relevant aspects of the Planning Scheme and background documents including the Gippsland Regional Growth Plan;





- Considered relevant Ministerial Directions, including the Ministerial Direction on the Form and Content of Planning Schemes and Ministerial Direction No. 11 – Strategic Assessment of Amendments;
- Considered A Practitioner’s Guide to Victorian Planning Schemes Version 1.4, April 2020;
- Considered relevant Practice Notes, including PPN46: Strategic Assessment Guidelines;
- Read the submissions received by the IAC; and
- Inspected both the Project Land and the Amendment Land as well as their surrounds.

Summary of Opinion

12. My opinion is set out at **Section 2** of this Statement. In summary, my opinion is that the Project is strategically justified and further that the Amendment is appropriate to facilitate the Project.
13. My conclusions and recommendations are set out at **Section 3** of this Statement.





2. PLANNING EVIDENCE

What is the town planning framework in which the Project and Amendment is to be considered?

14. From a town planning framework perspective (i.e. the selection of the facilitation mechanism to realise the project), the Amendment is somewhat straightforward in that it seeks to apply the Specific Control Overlay (SCO) over an area of land and introduce an Incorporated Document into the Planning Scheme.
15. The reality of the Amendment is somewhat more complex, however, and the draft Explanatory Report prepared outlines the full scope of the Amendment describing it as *to facilitate the use and development of facilities and infrastructure associated with the Fingerboards Mineral Sands Project that are located outside the project mining licence area.*
16. The fact that the Amendment is intended to only apply to land 'located outside the project mining licence area' is important. Under the Planning Scheme, 'mining' is defined as:

Land used for mining as defined in the Mineral Resources (Sustainable Development) Act 1990.
17. The Mineral Resources (Sustainable Development) Act 1990 (the 'Minerals Act') defines mining as:

extracting minerals from land for the purpose of producing them commercially, and includes processing and treating ore.
18. This definition readily applies to the Project.
19. Under the Planning Scheme, mining falls within the broader land user term 'earth and energy resources industry'. Pursuant to Clause 52.08 (Earth and Resources Industry), a permit is not required to use and develop land for mining if it:





- *Complies with Section 42(7) or Section 42A Mineral Resources (Sustainable Development) Act 1990; or*
- *Complies with Section 47A of the Electricity Industry Act 1993.*

20. Section 42(7) of the Minerals Act is relevant in this case and states:

- *If under subsection (6) or any planning scheme a permit is required to be obtained for carrying out mining on the land covered by a mining licence or prospecting licence in accordance with that licence, the licensee is not required to obtain a permit for that work if—*

(a) an Environment Effects Statement has been prepared under the Environment Effects Act 1978 on the work proposed to be done under the licence; and

(b) an assessment of that Statement by the Minister administering the Environment Effects Act 1978 has been submitted to the Minister.

21. On the basis that an EES has been prepared and that the Minister will assess the EES, the mining component of the project would therefore meet Clause 52.08 and not require any planning permission.

22. Accordingly, planning permission is only required for those works outside the project mining area as framed by the Explanatory Report. It is only these additional facilities and infrastructure which are captured and considered by the Amendment.

23. In determining whether the scope of works requiring planning permission is acceptable, it is impossible to ignore the broader and more substantive mining component of the project, given the two are intrinsically linked. Without the mining component the proposed facilities and infrastructure would simply not occur.

24. The description provided on the Fingerboards Mineral Sands Environmental Assessments project page demonstrates this by summarising the proposal as:





The proposed mining methods involve open pit mining to extract approximately 170 million tonnes of ore over a projected mine life of 20 years to produce approximately 8 Mt of mineral concentrate. Mine products are proposed to be transported via road or by rail for export overseas.

The mining project would require up to 9,000 kilovolt-ampere (kVA) of power likely to be supplied from the electricity grid and annual water requirements of approximately 3 to 4 gigalitres.

25. As such and notwithstanding that the mining operations themselves do not require any planning permission and are not covered by the Amendment, it is nevertheless helpful to consider the planning scheme support for the project as a whole.
26. In my opinion, the key town planning questions are therefore:
 - Is the Project strategically supported?
 - Is the use of the SCO the appropriate planning scheme tool?
 - Is the Incorporated Document proposed acceptable?
 - Are there any other material town planning matters raised in submissions?

Is the Project strategically supported?

27. Mineral sand is a natural resource and Clause 14 (Natural Resource Management) sets out the Planning Scheme's expectations at a State and Regional level for the management of natural resources, including agriculture, water, and earth and energy resources.
28. Clauses 12 (Environmental and landscape values), 13 (Environmental risks and amenity), 17 (Economic development), 18 (Transport) and 19 (Infrastructure) also provide policy objectives and strategies relevant to this proposal at the State and Regional planning policy level.





29. At the Local planning policy level, Clause 21.06 (Natural resource management) provides local support to Clause 14, while Clauses 21.04 (Environmental and landscape values), 21.05 (Environmental risk), 21.09 (Economic development) and 21.10 (Transport) do likewise to their State/ Regional planning policy clause counterparts.
30. As there can be conflicting objectives between achieving differing planning policies, Clause 71.02-3 (Integrated decision making) states:
 - *Planning and responsible authorities should endeavour to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. However, in bushfire affected areas, planning and responsible authorities must prioritise the protection of human life over all other policy considerations.*
31. Given the scale and complexity of the Project, the EES process is appropriate and the EES addresses the various technical aspects of the project. For my part I consider it pertinent to focus on primary town planning consideration, being whether the planning scheme supports the project on a 'first-principles' basis. To that end, I focus on Clause 14 at a State and Regional planning policy level and Clause 21.06 at a Local planning policy level, given ultimately this is a question of natural resource management.
32. I say this without seeking to downplay the importance of the other clauses outlined above and listed at **Appendix B**. However, the understanding and achievement of these requires a level of technical knowledge that is beyond my scope of expertise.
33. As I stated, natural resource management from a planning scheme perspective principally relates to agriculture, water, and earth and energy resources.
34. From an agricultural perspective, State and Regional planning policy is clear that productive agricultural land is to be protected. The two State agricultural objectives (as they relate to farmland) are:





- *To protect the state's agricultural base by preserving productive farmland (Clause 14.01-1S – Protection of agricultural land); and*
 - *To encourage sustainable agricultural land use (Clause 14.01-2S – Sustainable agricultural land use).*
35. The sole Regional agricultural strategy is:
- *Protect productive land and irrigation assets, including the Macalister Irrigation District, that help grow the state as an important food bowl for Australia and Asia (Clause 14.01-1R – Protection of agricultural land - Gippsland).*
36. Similarly, at a Local planning policy level, Clause 21.06 seeks to protect productive agricultural land with Objective 1 to sub-Clause 21.06-1 (Protection of agricultural land) reading:
- *To ensure that rural land is used and developed in a way that will support efficient agricultural production.*
37. These planning policies do not represent any type of prohibition on other forms of use and development occurring, but in the 'balancing' of planning policies outlined above, their intent is clear.
38. The EES includes an Agriculture Impact Assessment, which I rely upon, and states that over the 20-year lifespan of the Project, an average of 443 hectares per year of agricultural land will be removed from agricultural production. It is intended that at the conclusion of the 20-year lifespan of the Project that a rehabilitated area that is at least as productive as that currently present will be provided. That outcome has some parallels with the facilitation of solar energy projects in Victoria where agricultural land is removed from production 'temporarily'.
39. I understand the Project Land to be within the 'Agricultural Hinterland' as defined at Clause 21.12 (Strategies for sub-regions, towns and localities), but does not constitute 'prime or high quality agricultural land' as per Map 4 at Clause 21.06.





40. The Project Land is not within a declared irrigation district and is outside the Mitchell River Declared Special Water Supply Catchment Area. As such, I do not dwell on those planning scheme objectives and strategies related to water. Consideration of water related matters in the context of the Project is principally a technical undertaking and I note the various water related studies that form part of the EES, including an independent peer review undertaken on behalf of the Department of Environment, Land, Water and Planning.
41. With respect to earth and energy resources, Clause 14.03-1S (Resource exploration and extraction) has as its objective:
 - *To encourage exploration and extraction of natural resources in accordance with acceptable environmental standards.*
42. Similarly, at a Local planning policy level, Objective 1 to sub-Clause 21.06-4 (Resource exploration and extraction) reads:
 - *To encourage exploration for and development of mineral resources in appropriate areas.*
43. Some might say that there is a conflict between planning policies, which on one hand encourage the protection of agricultural land, while others encourage mineral resource mining. I am not certain that this is a conflict in its strictest sense. Rather the planning scheme supports *both activities*. It is then up to proponents to make choice as to which they wish to pursue. This is different say, to a situation where a heritage asset is to be removed (a loss of heritage fabric in an absolute sense) and where the merits of its replacement building need to justify that 'loss'.
44. Even if I am wrong on that point, the Clause 71.02-2 *requires*² decision makers are to make decisions in favour of *net community benefit and sustainable development*.

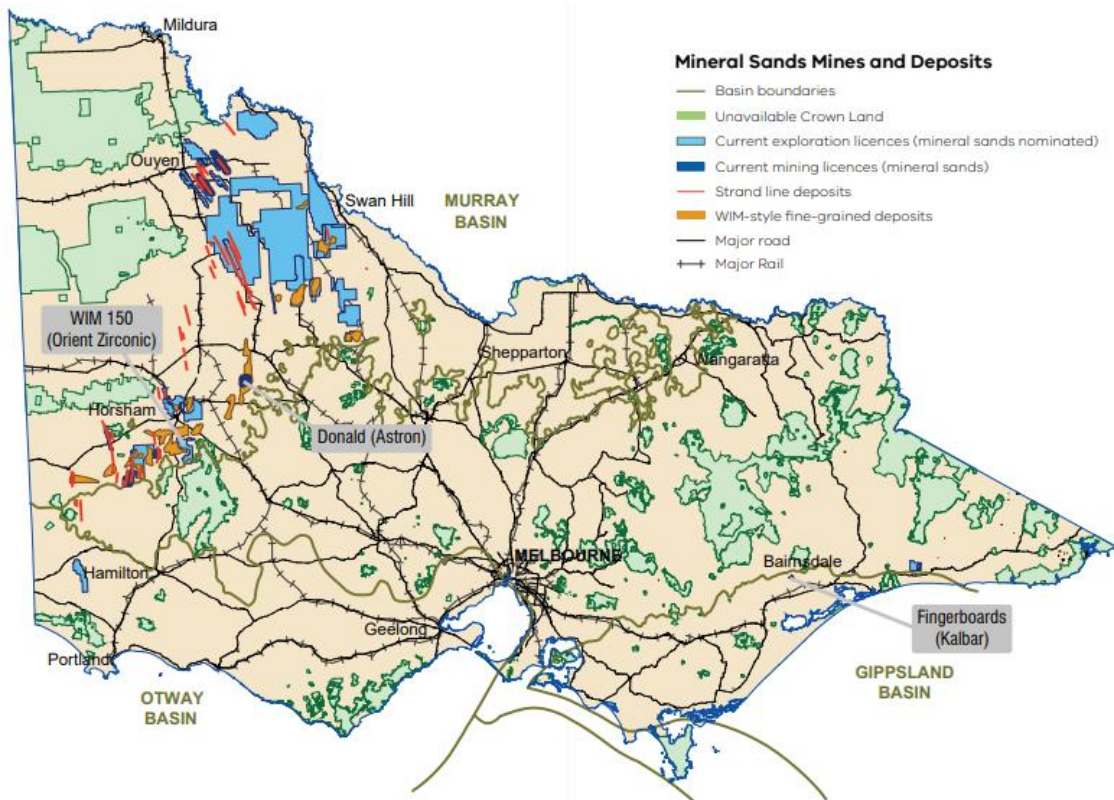
² This is an operational provision.





45. The term 'net community benefit' is an undefined term, but broadly it allows for an outcome to be considered acceptable even if it is considered to only achieve some of the relevant planning objectives and be contrary to the achievement of other planning objectives.
46. The term 'sustainable development' is similarly undefined within the planning scheme, but from a planning scheme perspective, sustainable development relates to sustainable town planning outcomes.
47. In determining whether a proposal achieves a net community benefit and represents sustainable development, the various competing policies need to be weighed against each other. As I have stated, I have considered the project from a first planning principles basis only and have not considered the many other aspects outlined within the EES and which require consideration. The acceptability or otherwise of these matters is beyond my area of expertise, but I acknowledge that the consideration of these aspects will influence the acceptability of the EES prepared and the project itself.
48. Returning to the consideration of the concept of protecting agricultural land versus the need to extract natural resources, in my opinion the net community benefit in relation to this particular matter falls comfortably in favour of natural resource extraction.
49. According to the Earth Resources Information Centre of the Department of Jobs, Precincts and Regions (the 'ERIC'), less than one per cent of exploration projects typically progress to establishing a mine. The State Government *Mineral Resources Strategy 2018-2023* states that, at best, a 1:300 conversion rate from exploration to mining development occurs and provides further statistics to support its assertion that *the probability of success is low and economic mineral deposits are very rare*.
50. The report says that Victoria benefits from favourable geology with the ERIC stating that Victoria is emerging as a world-class mineral sands province. The map below from the ERIC provides an overview of existing mineral sands mines and deposits in Victoria, with it notable that the Project is one of the very few of this nature within the eastern part of Victoria.





Mineral Sands Fact Sheet – February 2019 (source: <https://earthresources.vic.gov.au/>)

51. The location of the mineral sands themselves is of course a geological matter and not one which is controlled by the Proponent or any other party. Unlike most of the town planning matters I regularly deal with where a proposal could often quite easily occur elsewhere, this is not the case with this matter. The resource exists where nature located it. The land resource is not substitutable.
52. Planning policy is clear that it seeks to ‘encourage’ extraction of natural resources in appropriate locations and to appropriate environmental standards. While the EES and WAA will assess the environmental aspects of the matter, from an appropriate location perspective, I am entirely comfortable that the location is acceptable for the Project.
53. As I noted an average of 443 hectares per year of agricultural land will be removed from capable agricultural production, for a short (in a planning sense) period of 20 years. At the end of this 20-year period, the rehabilitated area is to be at least, if not more, productive than the current situation.





54. The Project Land and Amendment Land are not within the declared Macalister Irrigation District and not considered 'prime or high quality' agricultural land. While the extent of land which will be unavailable for agricultural purpose is not insignificant, I am comfortable that the loss of this amount of farmland over this period is acceptable, particularly given the substantive economic benefits the project will deliver as set out within the EES.
55. To achieve the objective of mineral sand natural resource extraction, there will invariably be a need to disturb the surface soil. I am not aware of any alternative mining methods which would allow for the surface soil to remain undisturbed. It appears to me that were mineral sands extraction ever to occur, it follows that there will be a corresponding loss of agricultural land.
56. The intent of the planning scheme is quite clearly not to prevent such mineral exploitation from occurring and indeed is the exact opposite. In a situation such as this where the extent of agricultural land lost on an annual basis has been minimised and where the ultimate rehabilitated area will be as productive if not more productive, I consider planning policy clearly supports the Project.
57. When considering the competing policy objectives contained within Clauses 14 and 21.06, it is clear that the balance is very heavily weighted in terms of the project from a net community benefit perspective.
58. The mining of a finite resource such as mineral sands and 'sustainable development' may not ordinarily be seen as cohesive concepts, but from a planning scheme perspective, I consider the proposal does represent 'sustainable development'. I say this as the proposal seeks to extract mineral resources which is directly encouraged by the planning scheme in a manner which in the long term will not affect the agricultural productivity of the land. From a planning scheme perspective, this is clearly a sustainable outcome whereby the competing objectives of planning policy are appropriately balanced and achieved for the benefit of current and future generations.





59. Accordingly, I consider planning policy to be weighted in favour of the project. This is important when considering the Purpose of the Farming Zone (FZ) which the Project Land is zoned (save for the Bairnsdale – Dargo Road which is zoned Road Zone, Category1) and which is not proposed to be amended. The Purpose of the FZ is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for the use of land for agriculture.*
- *To encourage the retention of productive agricultural land. To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.*
- *To encourage the retention of employment and population to support rural communities.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*
- *To provide for the use and development of land for the specific purposes identified in a schedule to this zone.*

60. As set out, my view is that planning policy supports the proposal and that the first aspect of the Purpose is achieved. This first aspect is reflected in every zone, underlying that the purpose of all zones is to implement planning policy.

61. In relation to the second and third aspects, I rely on my previous comments with respect to 'net community benefit'. I consider the proposal achieves the fourth aspect and that the fifth aspect is to be satisfied through the EES process. The sixth aspect does not raise any material planning considerations in relation to this matter. I am therefore comfortable that the proposal is appropriate having regard to the Purpose of the FZ.

62. Turning to the items specifically covered by the Amendment and located within the Amendment Land, these are outlined within the draft Explanatory Report prepared and within the EES and WAA. I am not qualified to comment on the merits or necessity of





each individual item as they are matters related to the wider mining project as opposed to individual elements that may be separated out and considered separately.

63. As I previously stated though, without the mining component, the proposed facilities and infrastructure located outside the proposed mining licence area would simply not be proposed. As such I do not consider it necessary to examine each individual element given, they are directly intertwined with the mine itself.
64. I do, however, consider that when the same balancing act of planning policy objectives is undertaken that they are appropriate and a net community benefit will arise given they are necessary to the functioning of the Project.
65. With respect to the zoning of the Amendment Land, save for various road carriageways, the Amendment Land is principally zoned FZ save for some small areas which are zoned either Public Conservation Resource Zone (PCRZ) or Rural Living Zone – Schedule 1 (RLZ1).
66. With respect to the FZ and RLZ1 I consider the proposed facilities and infrastructure would likely be considered permissible. However, this would not be the case in relation to the PCRZ. The facilities and infrastructure proposed nonetheless remain acceptable elements within the PCRZ in my opinion given they form necessary elements of the broader Project. However, it is necessary for some form of planning amendment to occur to expressly allow/ support these elements.

Is the use of the Specific Control Overlay the appropriate planning scheme tool?

67. Having established my support for the proposal and the need for some form of planning scheme amendment, I now turn my attention to the Amendment itself. As previously stated, it is intended to introduce a SCO1 over those non-mining project areas and introduce a new Incorporated Document.





68. Amendment VC148 was gazetted on 31 July 2018 and introduced Clause 45.12 – Specific Controls Overlay into the Victorian Planning Provisions. The Explanatory Report for Amendment VC148 indicated the Amendment in part:

- *Introduces the Specific Controls Overlay (Clause 45.12), which can be used to apply specific controls designed to achieve a particular purpose in extraordinary circumstances.*

69. *A Practitioner’s Guide to Victorian Planning Schemes Version 1.4* (the ‘Guide’) was released in April 2020 by the Department of Environment, Land, Water and Planning. The three ‘rules’ outlined in relation to preparing planning scheme provisions are:

The intended outcome is within the scope of the objectives and power of the Act and has a sound basis in strategic planning and policy.

A provision is necessary and proportional to the intended outcome and applies the VPP in a proper manner.

A provision is clear, unambiguous and effective in achieving the intended outcome.

70. In relation to planning scheme overlays generally, the Guide states the following:

An overlay is a complementary planning control to the zone. Unlike zones, that deal primarily with the broader aspects of the use and development of land, an overlay generally seeks to control a specific aspect of the development of land.

Overlays control a broad range of development matters such as the protection of vegetation or heritage values, the design of built form or mitigating flood risk. The application of an overlay may reflect a policy objective in the scheme or a condition of the land.

While a parcel of land will always be included in a zone, it will only be affected by an overlay where a specific development outcome is sought for that land. Land can be subject to more than one overlay if multiple issues apply to the land.





Each overlay contains purposes that specify the planning outcome sought by the overlay. These purposes are achieved through the application of the controls in the overlay.

An overlay may also contain application requirements, notice and review exemptions and decision guidelines.

An overlay may include a schedule that enables more specific objectives or purposes to be applied to specified land. The schedule may also specify development that requires planning permission, is exempt from the permit requirements or is prohibited.

An overlay may require permission for or prohibit development that is allowed by the zone. Neither control takes precedence over the other and both must be satisfied before a development can be carried out.

71. In relation to site specific proposals such as this, three methods are outlined within the Guide being:

- *Apply a special use zone;*
- *Use the combined amendment/permit process to rezone the land to a suitable zone and issue a permit at the same time; or*
- *Include the proposal in a Specific Controls Overlay*

72. The third method is only to be used if neither of the first two methods are appropriate. As per the Explanatory Report for Amendment VC148, the SCO is only to be utilised in extraordinary circumstances. This is reflected in the Purpose of the SCO which is:

- *To apply specific controls designed to achieve a particular land use and development outcome in extraordinary circumstances.*

73. The Guide sets out that the SCO is to achieve land use or development outcomes that may otherwise be prohibited or restricted under other provisions of the planning scheme.





74. With respect to the first preferred method, the application of the Special Use Zone (SUZ) is not appropriate. These additional facilities and infrastructure may be undertaken with a planning permit under the FZ or RLZ1 which makes up the bulk of the Amendment Land.
75. Where the works are within the PCRZ, it would be more appropriate for this land to be rezoned FZ given the surrounding land is zoned FZ and would allow for the facilities and infrastructure to occur.
76. This is outlined in Planning Practice Note 3: Applying the Special Use Zone, which states that the application of the Special Use Zone is not appropriate when an alternative zone can achieve a similar outcome, with appropriate support from local policies and overlays.
77. The SUZ is instead to be applied only when:
 - *an appropriate combination of the other available zones, overlays and local policies cannot give effect to the desired objectives or requirements*
 - *the site adjoins more than one zone and the strategic intent of the site, if it was to be redeveloped, is not known and it is therefore not possible to determine which zone is appropriate.*
78. This is not the case in this instance. Furthermore, it would also be inappropriate to rezone the affected land to the SUZ as the mine itself is not zoned SUZ.
79. The second method outlined within the Guide is to use the combined amendment/ permit process to rezone the land and issue a permit concurrently. In my opinion, this is also inappropriate for two primary reasons.
80. Firstly, rezoning the small area of land necessary to facilitate the infrastructure and facilities proposed is a disproportionate response, particularly when the proposed facilities and infrastructure do not readily fit with any other specific zone purpose including that of the SUZ.





81. Secondly, the project requires a degree of flexibility in terms of the approval process which cannot be achieved through a planning permit. A planning permit requires certainty in order to be issued and once a planning permit is granted, it cannot be varied without further consent being obtained. For a project of this nature, this is inappropriate and would cause unnecessary imposition from an administrative perspective on behalf of both the Proponent and the Council.
82. I consider that in the context of the project and the relevant planning controls that the project does represent extraordinary circumstances which warrants the application of the Specific Controls Overlay.
83. I consider the Specific Controls Overlay to be appropriate given it will allow the necessary facilities and infrastructure to occur with the degree of flexibility required within the overarching framework of an Incorporated Document. The application of the SCO in these circumstances is reasonable in my opinion.

Is the Incorporated Document proposed strategically acceptable?

84. The SCO, through an Incorporated Document, allows for the following matters:
 - *Allow the land to be used or developed in a manner that would otherwise be prohibited or restricted.*
 - *Prohibit or restrict the use or development of the land beyond the controls that may otherwise apply.*
 - *Exclude any other control in this scheme.*
85. The SCO further provides for an expiry of the specific control as set out within either the SCO itself or the Incorporated Document.
86. The proposed 'Fingerboards Mineral Sands Project Incorporated Document October 2018' contains three primary sections being, a description of the land to which it applies, what use and development is allowed, and what conditions are applicable to the use and development allowed.





87. With respect to the land proposed to be covered by the SCO1, the Explanatory Report and proposed planning scheme maps set out the extent of the SCO1 in relation to this matter. I note, however, there is a discrepancy between the map contained within the Explanatory Report and Map 30 in terms of the extent of the SCO1. The Explanatory Report indicates a greater area within SCO1 than shown on Map 30. This requires rectification.
88. With respect to what is allowed by the Incorporated Document, I consider that while the descriptions are appropriate the location/s to which they apply is vague. For example, one item reads:
- *A water pipeline and associated bore pumps to the south of the project land;*
89. 'To the south of the project land' provides no indication of where this water pipeline and associated bore pumps are to be located. In my opinion, either existing mapping undertaken should be co-opted or new mapping prepared and included in the Incorporated Document which indicates the general location of the facilities and infrastructure to be allowed.
90. In terms of the conditions proposed to be applied to those facilities and infrastructure allowed through the Incorporated Document, I consider there should be greater consistency in the conditions and the language made tighter. I also consider there is a need to better reflect the existing planning scheme overlays applicable to the SCO1 proposed land.
91. I am also of the opinion that draft Conditions 9 and 10 (noise management) go beyond the scope of the SCO1 in terms of the land to which it applies. My reading of these two conditions is that they are related to the mine itself as opposed to the facilities and infrastructure permitted under clause 3.
92. If, however, noise management plans are required in relation to the facilities and infrastructure permitted at clause 3, new conditions generally as per the format of the other plan conditions will be required.





93. Please refer to **Appendix's D and E** for a tracked changes version and clean version of these amended draft conditions respectively, which incorporate these comments.
94. I do not comment on the requirements of the various plans requiring preparation as per the conditions as these are technical matters beyond my scope of expertise.
95. The Incorporated Document nominates an expiry provision of four years from approval for the commencement of the use and development and 20 years post-commencement for completion of the development. These timeframes are acceptable.

Are there any other material town planning matters raised in submissions?

96. The Council in its submission to the IAC considered that the draft Amendment adequately addressed the technical requirements of the project and describing the need for the SCO. It then went onto provide several comments on differing aspects of the Amendment.
97. I do not have a fundamental disagreement with most of the comments made by the Council as a large proportion relate to requested changes to the Amendment documents proposed for gazettal. I consider many of these changes to be 'neutral' in that they seek to amend/ add additional wording to documents, such as the Explanatory Report, to address what the Council perceives as a need to ensure these documents better align with Ministerial Direction 11 – Strategic Assessment Guidelines. I do not see these changes as being material to whether the Project should be approved or not.
98. Council does raise specific concern with the potential for additional use/ development, ordinarily prohibited within the FZ, to be required (e.g., accommodation or mine workers). Council's concern is that further planning scheme amendments will be necessary to facilitate such additional uses/ developments and that this will place an unnecessary burden on Council and relevant landowners. Furthermore, Council indicates that they are unlikely to support such additional uses/ developments.





99. It is the responsibility of the Proponent to outline what additional infrastructure and services is required. I agree that a piecemeal approach would be contrary to orderly planning and would not be appropriate.
100. However, it appears to me that Council's concerns are based on hypothetical assumptions as opposed to clear evidence. Where Council has indicated that the mapping sheets associated with the SCO1 do not accurately identify all infrastructure and services located outside the project mining area, I agree that this requires rectification. Indeed, I made a similar comment previously with respect to the Explanatory Report and the SCO1 mapping.
101. However, I do not consider the SCO1 should be applied to land which is not clearly and demonstrably intended to be used in association with the Project on the chance that it may be required. As best able, the extent of facilities and infrastructure required outside the project mining area needs to be identified upfront. My understanding is that this has occurred and the SCO1 should be limited to this land.
102. If there is a subsequent unavoidable and unforeseen need to provide further facilities or infrastructure outside the SCO1, than a further planning scheme amendment may ultimately be required. However, I do not consider this will be unnecessarily burdensome on the Council, given ultimately it is the planning authority.
103. This leads to Council's resolution of 1 December 2020 and particularly Item 8 which indicates that Council objects to the draft Amendment as Council will effectively be removed as the responsible authority for land within the SCO1. This is simply incorrect. The East Gippsland Shire Council will be the responsible authority for administering the SCO1 including the Incorporated Document.
104. In relation to other statutory authority submissions, I note their submissions on the Amendment generally relate to the conditions contained within the Incorporated Document. As I previously stated, the content of each plan required is beyond my scope of expertise.





3. CONCLUSION

105. My conclusions are summarised below:

- The Fingerboards Mineral Sands Project is strategically justified from a town planning perspective.
- The proposal can be assessed favourably when competing policies are weighed in favour of net community benefit and sustainable development.
- Those works outside the project mine area are intrinsically linked to the mine itself and are not separate land uses or developments.
- The application of the Specific Controls Overlay is the appropriate planning scheme mechanism to control the use and development of these works outside the project mine area.
- The extent of land to be contained within the Specific Controls Overlay needs to be confirmed.
- The Incorporated Document requires updating with respect to:
 - a) Providing guidance in the form of mapping as to the general location of the facilities and infrastructure to be allowed; and
 - b) Amending the conditions proposed in the form shown at **Appendix D**.

106. I have made all inquiries that I believe are desirable and appropriate and that no matters of significance which I regard as relevant have to my knowledge been withheld from the IAC.

John Glossop FPIA
Director, Glossop Town Planning Pty Ltd
29 January 2021





4. REQUIREMENTS UNDER PLANNING PANELS VICTORIA'S GUIDE TO EXPERT EVIDENCE

107. This statement is prepared by John Glossop, Glossop Town Planning Pty Ltd, Level 5, 111 Cecil Street, South Melbourne VIC 3205. I am a Director of the firm. The firm has been in business since 1997.

108. I have a Bachelor of Arts (Urban Studies) Hons. I have been engaged in the following positions and roles in my career as a planner including:

- Former planner with the Shire of Newham and Woodend (prior to its amalgamation with the Macedon Ranges Shire).
- Strategic and Social Planning Manager, Shire of Melton until 1997.
- Sessional member, Planning Panels Victoria between 1997-2012.

109. I have sat as a Chairman or member on several planning scheme amendments, dealing with a broad range of issues from high-rise housing in Williamstown, the redevelopment of Pentridge Prison and the application of flooding overlays in the Mornington Peninsula Shire.

110. Sessional lecturer and tutor in strategic, statutory planning and urban studies at Victoria University of Technology (1996-99) and lecturer in statutory planning Latrobe University Bendigo (2000- 02).

- Member of the ResCode Advisory Committee 2000.
- I have considerable experience in statutory and strategic planning and new format planning schemes.

111. My expertise to make this statement is based on a combination of my experience working in metropolitan Melbourne and regional Victoria, an understanding of the site and my experience as a planner in both the private and public sectors.





112. During my tenure as a sessional member of Planning Panels Victoria, I sat as a Member on the Potentially Contaminated Land Advisory Committee.

113. I have been instructed by White & Case, on behalf of Kalbar Operations Pty Ltd, to provide an opinion on the strategic planning merits of the proposal and Amendment C156egipm.

114. My office was not involved in the preparation of the Environmental Effects Statement, Works Approval Application of draft Planning Scheme Amendment C156egip. I was engaged following the Directions Hearing.

115. I have relied on the documents referred to in the introduction section of my statement.

116. There were no tests undertaken in the preparation of this statement.

117. I was assisted in this statement by Hew Gerrard, Senior Associate of my office.





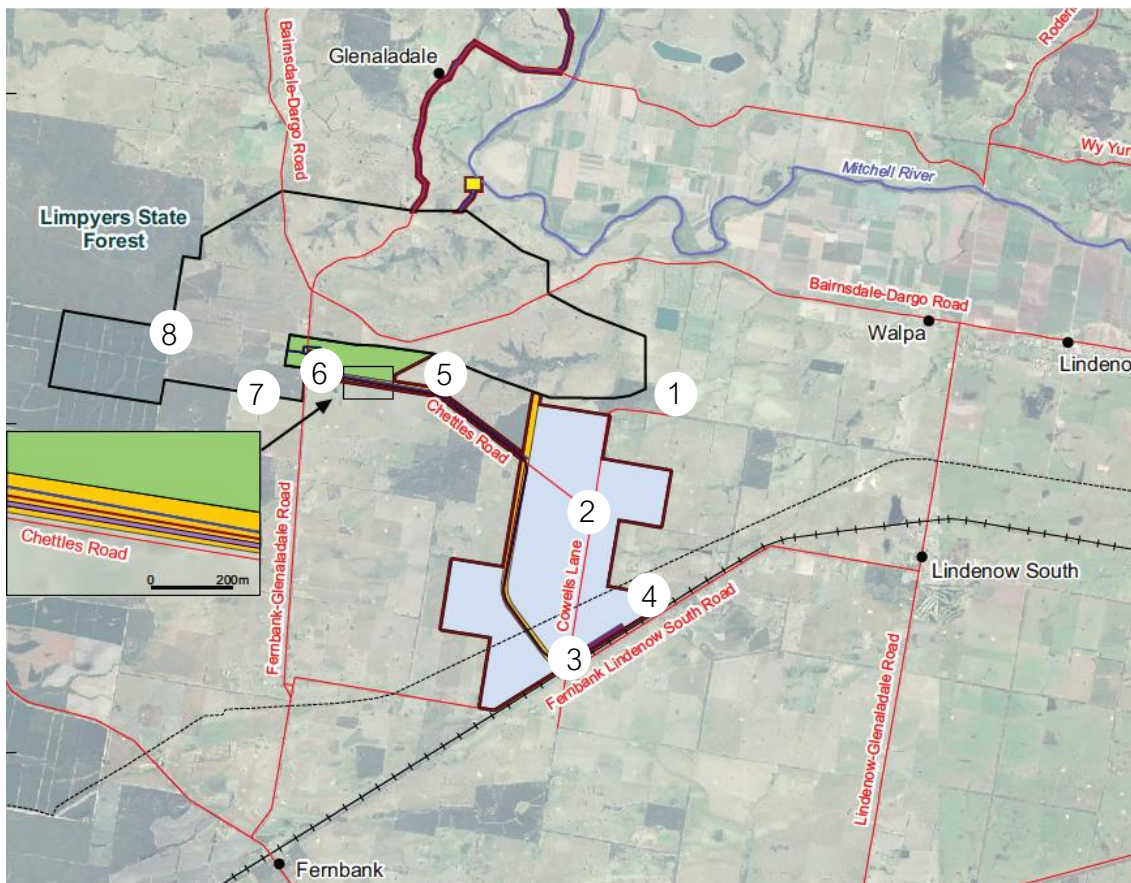
APPENDIX A: THE PROJECT LAND AND AMENDMENT LAND

118. I inspected the Project Land Amendment Land on 28 January 2021.

119. I have documented what I observed on the site and the surrounding area and have taken photographs.

120. During my inspections, I walked around the site and the surrounding area.

121. The photographs below provide a snapshot of the Project Land and part of the Amendment Land.



Photograph reference points in relation to Project Land and part of the Amendment Land





Location 1



Location 2





Location 3



Location 4





Location 5



Location 6





Location 7



Location 8





Receptor 30

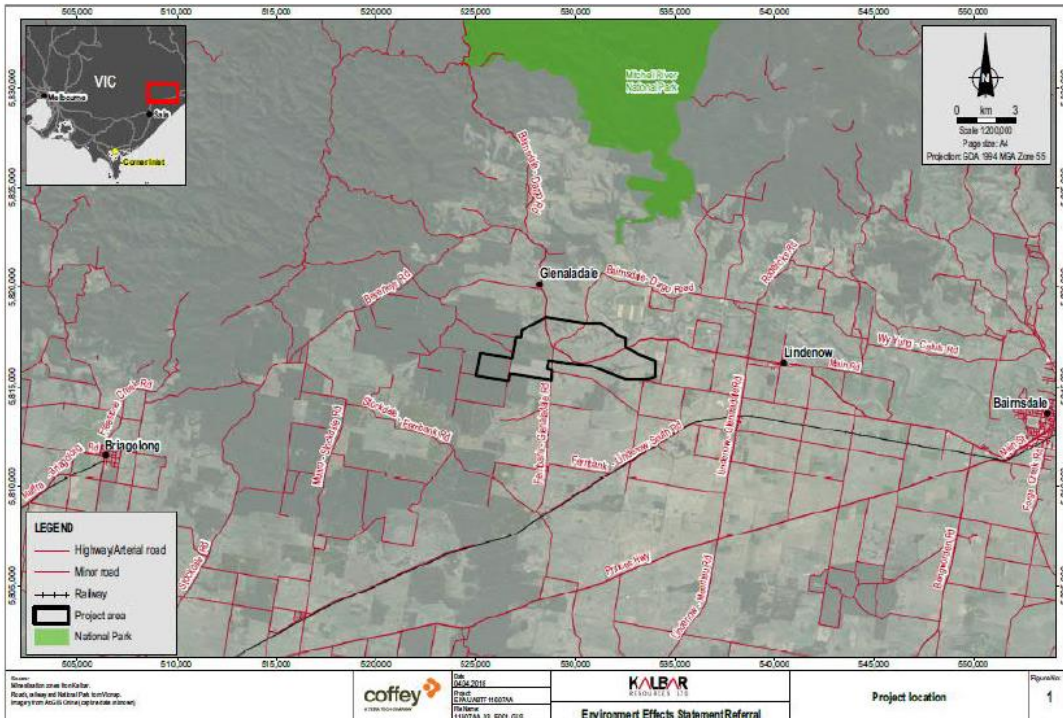




The Project/Amendment Land

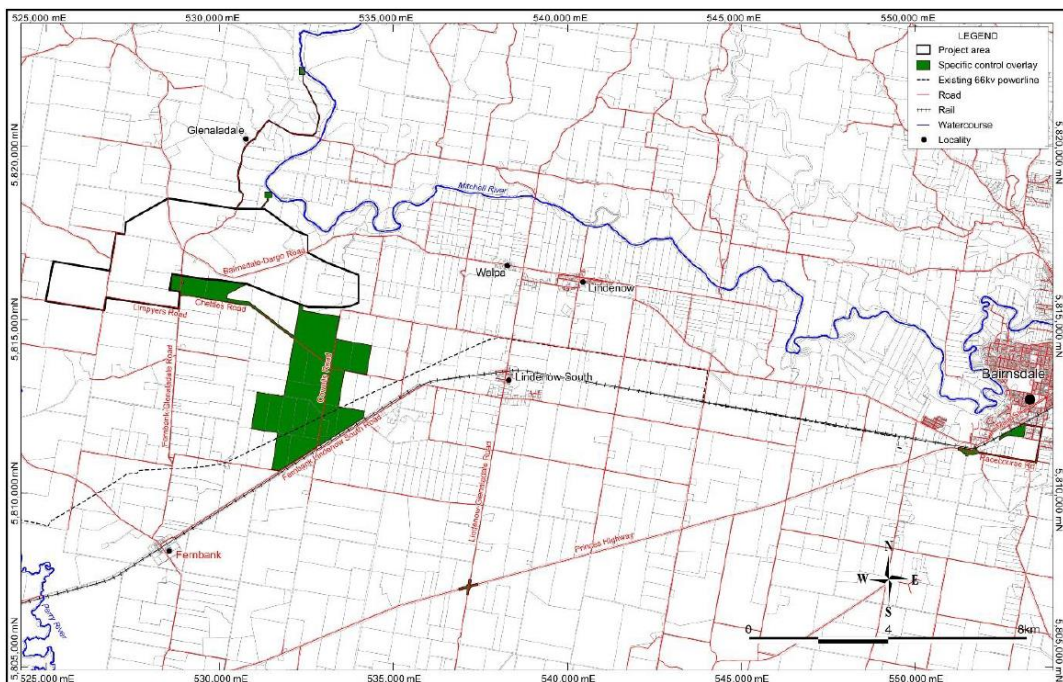
122. The Project Land is an irregularly shaped area comprising approximately 1,675 hectares. The area is approximately 9km (east-west) and 2km (north-south).
123. The Project Land is located within the eastern part of the Glenaladale mineral sands deposit in East Gippsland.
124. The Project Land is located near the Mitchell River and approximately 2km south of Glenaladale, 4km south-west of Mitchell River National Park and 20km north west of Bairnsdale Victoria.
125. The Project Land is located on both side of Bairnsdale-Dargo Road. Bairnsdale-Dargo Run is the primary arterial road linking Bairnsdale and the Dargo-High Plains.
126. The Project Land is predominantly used for dryland agriculture (including grazing of livestock beef stock and sheep for wool), timber production and rural living.
127. Farm dwellings are located within the Project Land at 1500, 255 and 265 Fernbank-Glenaladale Road. All these dwellings and adjacent land have been purchased or are under agreement to purchase by Kalbar. Several dwellings are located outside but within 500 metres of the project area.





Project Land location map (source: source: Kalbar Resources, 2018)

128. The Amendment Land is more spread out and includes land immediately to the south and south-east of the Project Land, as well as land further to the east within Bairnsdale.



Amendment Land map (Source: Amendment C156egip explanatory report)

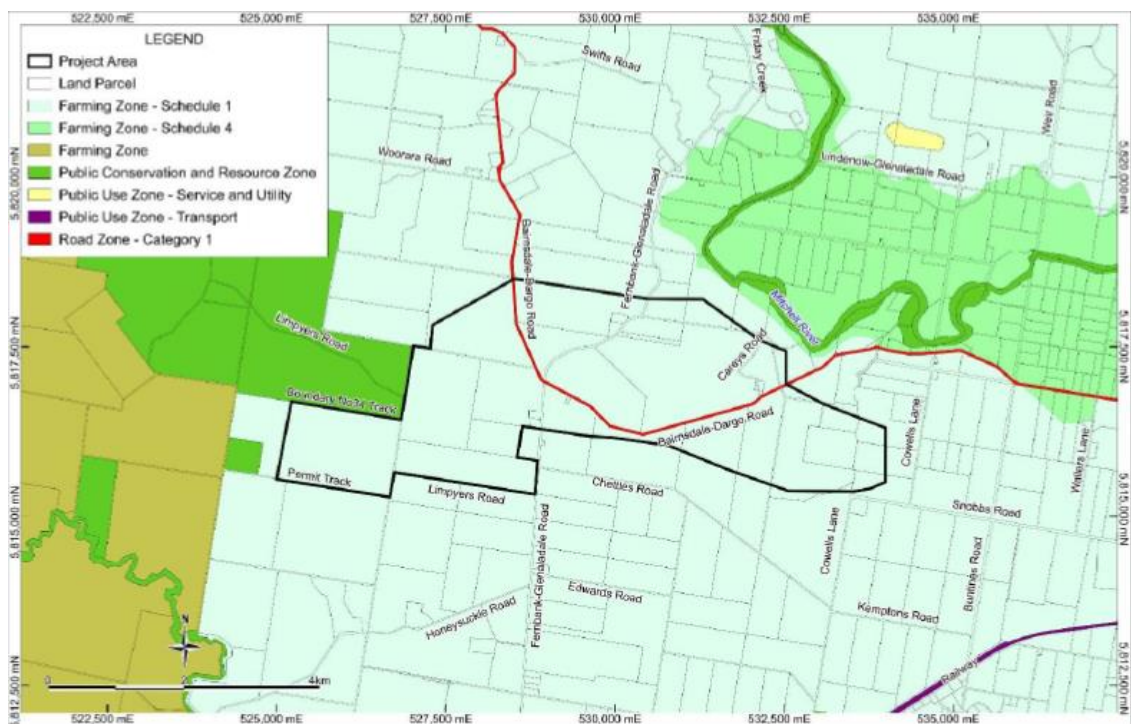




Zoning and Overlays

129. Most of the Project Land and surrounding land is zoned Farming Zone – Schedule 1 (FZ1).

130. The Bairnsdale-Dargo Road is located within the Project Area and is zoned Road Zone Category 1 (RDZ1).



Zoning map of land within the amendment area. Amendment area marked in black outline (Source: Land use and planning assessment Kalbar Operations Pty Ltd)

131. The Amendment Land is primarily zoned Farming Zone. There are however some exceptions as outlined below:

- On Map 27, one parcel of land is zoned Public Conservation Resource Zone.
- On Map 28, the southern part of Forge Creek Road is zoned Rural Living Zone.
- On Map 30, the northern part of Forge Creek Road and extent of Bosworth Road is zoned Industrial 1, as is the section of Collins Street. The land adjacent to Collins

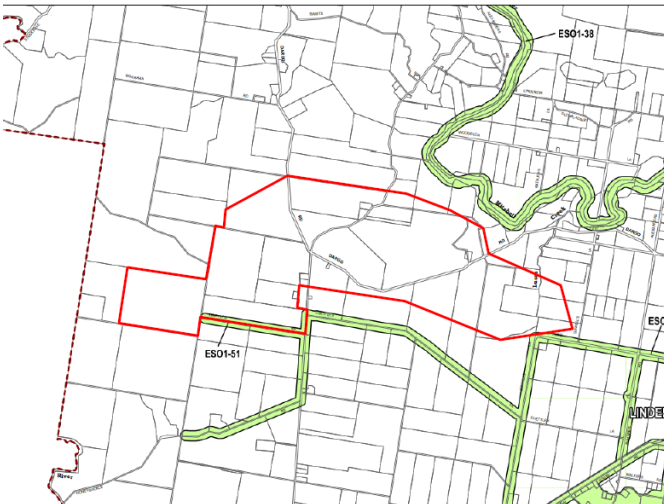




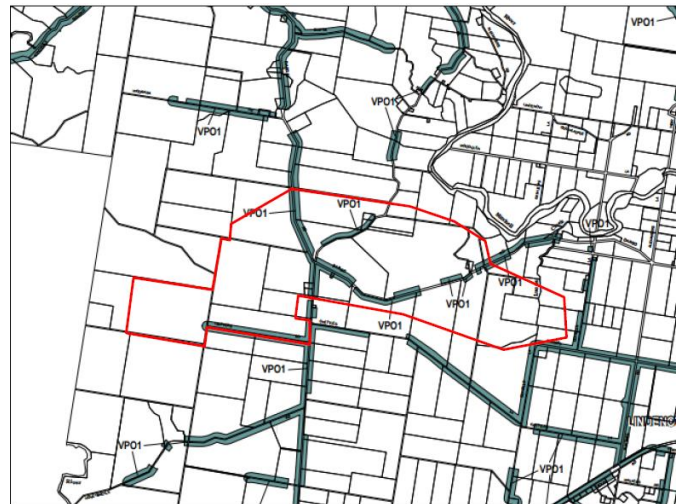
Street is zoned Rural Living Zone, while the Princes Highway is zoned Road Zone, Category 1.

- On Map 48, most of the affected road carriageways are zoned Road Zone, Category 1.

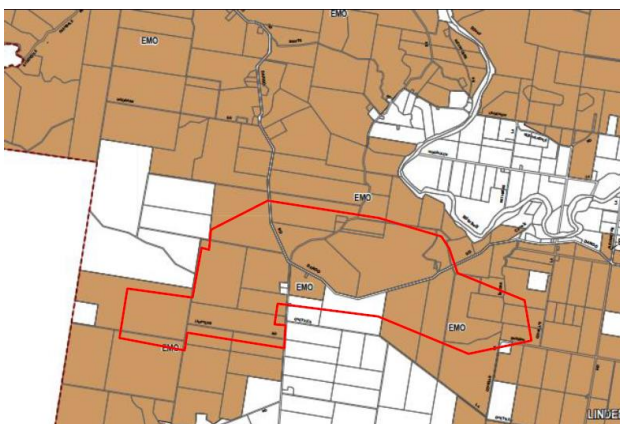
132. The Project Land is affected by the following overlays: Environmental Significance Overlay (ESO1-51), Vegetation Protection Overlay (VPO1), Erosion Management Overlay (EMO), Bushfire Management Overlay (WMO).



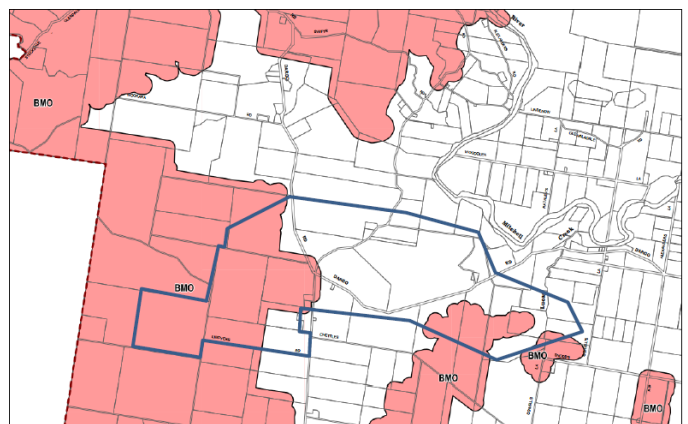
Environmental Significance Overlay (ESO1-51) Map (Source: Land use and planning assessment Kalbar Operations Pty Ltd)



Vegetation Protection Overlay (VPO1) (Source: Land use and planning assessment Kalbar Operations Pty Ltd)



Erosion Management Overlay (EMO) (Source: Land use and planning assessment Kalbar Operations Pty Ltd)



Bushfire Management Overlay (BMO) (Source: Land use and planning assessment Kalbar Operations Pty Ltd)





133. The Amendment Land is also partially covered by these planning scheme overlays. Additionally, the land immediately alongside the Princes Highway is located within Design and Development Overlay – Schedule 7 (Highway Corridors, Princes Highway & Great Alpine Road).





APPENDIX B: THE AMENDMENT & PLANNING SCHEME CONTEXT

The Amendment

134. Amendment C156 to the East Gippsland Planning Scheme applies to land associated with the Fingerboards Mineral Sands Project outside of the proposed mining licence area.
135. The Amendment proposes to introduce the Specific Controls Overlay, including Schedule 1 (Clause 45.12) into the East Gippsland Planning Scheme and insert a new incorporated document titled 'Fingerboards Mineral Sands Project Incorporated Document, October 2018' to the Schedule to Clause 72.04.
136. The Amendment will facilitate the use and development of facilities and infrastructure associated with the Fingerboards Mineral Sands Project. The Amendment is required to facilitate the approval of the project components that are currently prohibited or subject to permit in the East Gippsland Planning Scheme.
137. Pursuant to Section 42(7) of the Mineral Resources (Sustainable Development) Act 1995, planning permits are not required for the development and operation of the Project undertaken within the mining licence area.
138. The Amendment is supported by the Fingerboards Project Environmental Effects Statement (EES). The EES identifies the biodiversity, ground water, surface water, air quality, noise and vibration, radiation, road, traffic and transport, cultural heritage, social and economic impacts of the project. The EES also provides a visual and landscape assessment of the project.





Planning Scheme Context

139. Within the East Gippsland Planning Scheme, the following State and regional policy is most relevant:

- Clause 11.01-1S – Settlement;
- Clause 11.01-1R – Settlement – Gippsland;
- Clause 12.01-1S - Protection of Biodiversity;
- Clause 12.01-2S - Native Vegetation Management;
- Clause 13.02-1S - Bushfire Planning;
- Clause 13.05-1S - Noise Abatement;
- Clause 13.06-1S - Air Quality Management;
- Clause 14.01-1S - Protection of Agricultural Land;
- Clause 14.02-1S - Catchment Planning and Management;
- Clause 14.02-2S - Water Quality; and
- Clause 14.03-1S - Resource Exploration and Extraction.

140. At a local level, the following policies are most relevant:

- Clause 21.02 – Municipal Overview;
- Clause 21.03 – Settlement;
- Clause 21.04 – Environmental and Landscape Values;
- Clause 21.06 – Natural Resource Management;
- Clause 21.09 – Economic Development; and





- Clause 21.10 – Transport.

141. The following particular provisions are relevant:

- Clause 52.08 – Earth and Resources Industry;
- Clause 52.17 – Native Vegetation; and
- Clause 52.29 – Land Adjacent to a Road Zone Category 1.

142. The following background documents are relevant:

- Gippsland Regional Growth Plan (Victorian Government, 2014).

The Gippsland Regional Growth Plan (the 'Plan') indicates that the regional economy is primarily based around natural resources and commodities, with key sectors including agriculture and mining.

The Plan is underpinned by four guiding principles, Principle 1 of which is to:

Strengthen economic resilience by growing a more diverse economy that is supported by new investment, innovation and value-adding in traditional strengths.

One of the strategies to support this is to:

Strengthen the energy sector and identify, protect, extract and process valued earth resources such as brown coal, oil and gas, and sand and rock subject to best practice environmental standards.

In respect of the regions natural resources, the Plan in part states the following with respect to sand, stone and mineral extraction:

Extractive industry interest areas occur within the region, which contain areas of known future interest to the extractive minerals industry (for example sand and stone). Areas are based on suitable geological occurrence and also take into account existing local government planning schemes.





There may also be economic opportunities for a local mining industry in Gippsland. There has been an active industry in the past, most notably with goldmining at Walhalla but also with copper and tin mining, and there are also recognised deposits of lead, iron, zinc, silver and platinum, particularly in East Gippsland. These resources and other minerals have the potential to be commercially productive subject to variables such as world prices, the value of the Australian dollar and demand from major markets such as China. There is currently exploration activity for minerals sands such as rutile and zircon.

143. The following documents are also relevant to my considerations:

- *Inquiry into greenfields mineral exploration and project development in Victoria.*
- *Mineral Resources Strategy 2018-2023.*
- *Joint Ministerial Statement Extractive Resources, 2018.*
- *Helping Victoria Grow: Extractive Resources Strategy.*

144. I have had regard to this context in my evidence.





APPENDIX C: MY INSTRUCTIONS



15 January 2021

John Glossop
Director
Glossop Town Planning Pty Ltd

By email: john@glossopco.com.au

Confidential and subject to legal professional privilege

Dear Mr Glossop,

Fingerboards mineral sands project

We act as legal advisors to Kalbar Operations Pty Ltd (**Kalbar**), the proponent of the Fingerboards mineral sands project (**Project**).

This letter confirms and sets out the scope of your retainer to prepare an expert witness statement and to present evidence at the inquiry hearing to be held in relation to the environment effects statement (**EES**).

1. The Project

Kalbar proposes to develop the Project on an area of approximately 1,675 hectares within the eastern part of the Glenaladale mineral sands deposit in East Gippsland, Victoria. The Project site is located near the Mitchell River, approximately 2 km south of Glenaladale, 4 km south-west of Mitchell River National Park and 20 km north-west of Bairnsdale.

The Project includes the development of an open cut mineral sands mine and associated infrastructure. It is expected to have a mine life of 15–20 years and involve extraction of approximately 170 Mt of ore to produce approximately 6 Mt of mineral concentrate for export overseas.

2. EES inquiry

The EES and the studies and assessments that underpin it (together with a draft planning scheme amendment and application for an EPA works approval) were publicly exhibited in September – October 2020. Copies of all documents are available [online](#). Over 900 submissions were made in relation to the exhibited documents, and copies of these are also available [online](#).

The inquiry is scheduled to commence on **15 February 2021**. Kalbar has been allocated 9 days to present its case, at this stage: **15–19** and **22–25 February 2021**. Expoert witness statements must be exchanged by midday on **Friday 29 January 2021**. A copy of the inquiry directions are enclosed with this letter.

White & Case
Level 32, 525 Collins Street
Melbourne VIC 3000
Australia

GPO Box 2756
Melbourne VIC 3001
Australia

T +61 3 8486 8000

ABN 17 847 592 731

whitecase.com

15 January 2021

3. Scope

This letter is confirmation of your engagement as an independent planning expert to:

- (a) prepare an expert witness statement in which you:
 - (i) set out your background and relevant expertise;
 - (ii) consider and address the submissions (and in particular the submission of the East Gippsland Shire Council) that are relevant to your area of expertise and respond to any issues raised;
 - (iii) set out your expert opinions on the strategic planning considerations and merits associated with the Project and the draft planning scheme amendment exhibited with the EES; and
- (b) prepare and present expert evidence at the panel/inquiry hearing.

We will provide further instructions on the scope of your engagement and any new instructions as necessary.

4. Your duties and responsibilities as an expert witness

Even though you are engaged by Kalbar, you will likely be asked to provide expert evidence to the inquiry. As such, you are retained only as an independent expert, and you should assume that you may be called as an expert to assist the inquiry as a witness, in which case you have an overriding duty to it. You are instructed to be objective, professional and form an independent view as to the matters in respect to which your opinion is sought.

We enclose for your reference, a copy of Planning Panel Victoria's *Guide to Expert Evidence*.

5. Timing

You will be required to complete your expert witness statement as soon as possible, in advance of the hearing dates set out in Part 2, above. We will be in touch shortly regarding timing.

6. Conflict of interest

It is important that you are free from any possible conflict of interest in providing your advice. You should ensure that you have no connection with any potential party to this matter that could preclude you from providing your opinion in an objective and independent manner.

7. Costs and invoicing

Glossop Town Planning Pty Ltd will be contractually engaged by Kalbar and Kalbar will be responsible for the payment of your fees. Your accounts should be sent directly to the appropriate person nominated by Kalbar.

15 January 2021

8. Confidentiality

Your engagement and any documents you prepare under it should be marked “Confidential and subject to legal professional privilege”.

If anyone other than ourselves, Kalbar, or Kalbar’s technical advisers contact you about this engagement or the work you are undertaking under this engagement, please contact us immediately.

If you have any questions about this letter or require any additional information, please contact us.

Yours sincerely,

Tim Power

Tim Power
Partner

T +61 3 8486 8037
E tim.power@whitecase.com

Enc: Planning Panel Victoria’s *Guide to Expert Evidence* — April 2019
Inquiry directions and timetable, 23 December 2020



APPENDIX D: TRACKED CHANGES VERSION OF INCORPORATED DOCUMENT CONDITIONS

4.1 GENERAL

4.1.1 Development Plan

1. Prior to the commencement of ~~buildings and works development~~ a development plan must be prepared and approved to the satisfaction of the responsible authority.
2. The development plan may be prepared and approved in stages or in respect of any of the individual project components listed in clause 3.
- ~~3. The development plan may be amended to the satisfaction of the responsible authority.~~
34. The development plan must show:
 - I. The location of buildings, works and proposed activities ~~within the project land;~~
 - II. Elevations of buildings and above ground proposed works.
- ~~45.~~ The ~~use of~~ development as shown on the development plan must not be altered without the written consent of the responsible authority.

4.1.2 Traffic and Roads

- ~~56.~~ Prior to the commencement of development, a Traffic Management Plan must be prepared by a suitably qualified traffic engineer, in consultation with Transport for Victoria, East Gippsland Shire Council and relevant emergency services, and approved to the satisfaction of the responsible authority and the Head, Transport for Victoria. ~~The plan must address all elements of the Project, with consideration given to mining and processing operations associated with the Project, and~~
6. The Traffic Management Plan may be prepared in stages or in respect of any of the individual project components listed in clause 3.
7. The Traffic Management Plan must address all elements of the Project, with consideration given to mining and processing operations associated with the Project, and must include, as appropriate, but may not be limited to:
 - i. Identification and assessment of the road and associated infrastructure at risk from damage, deterioration or dilapidation arising from the construction and operation of the mine;
 - ii. A program of regular inspection works to be carried out during construction to identify road safety hazards or maintenance works necessary as a result of construction traffic;
 - iii. 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 mine;





- iv. Measures to be taken to manage traffic impacts associated with construction and ongoing operation of the mine on surrounding roads;
 - v. Details of road widening required and upgrades required to accommodate additional traffic or oversize vehicles.
 - vi. 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.
8. The Traffic Management Plan must be implemented to the satisfaction of the **relevant road-responsible** authority.

4.1.3 Noise Management Plan

9. Prior to the commencement of:

- i. construction of the Project, a Construction Noise Management Plan must be prepared in accordance with relevant Environment Protection Authority Victoria (EPA) Noise Control Guidelines; and
- ii. operation of the Project, an Operational Noise Management Plan must be prepared in accordance with EPA Guidelines.

Each plan must address all elements of the Project as relevant. The plans must include, but not be limited to:

- Performance requirements;
- A noise compliance procedure;
- A noise complaints evaluation procedure; and
- A noise complaints response procedure.

10. The Construction Noise Management Plan and the Operational Noise Management Plan must be prepared and be implemented for the duration of the operation of the Fingerboards mineral sands mine to the satisfaction of the responsible authority and Environment Protection Authority.

4.1.4 Environmental Management Plan

11. Prior to the commencement of development, an Environmental Management Plan must be prepared and approved to the satisfaction of the responsible authority. The use and development of the project land must be undertaken in accordance with an Environmental Management Plan prepared and approved to the satisfaction of the responsible authority prior to the commencement of use and development of the project.

10. The Environmental Management Plan must include, but may not be limited to:

- i. Measures to address the Environmental Significance Overlay – Schedule 1 as appropriate.





121. The Environmental Management Plan may be prepared in stages or in respect of any of the individual project components listed in clause 3.

132. The Environmental Management Plan must be implemented to the satisfaction of the responsible authority.

4.1.5 Construction Management Plan

143. Prior to commencement ~~of use and~~ development ~~of each relevant project component listed in clause 3~~, a Construction Management Plan must be prepared ~~to the satisfaction of~~ and ~~be~~ approved to the satisfaction of ~~by~~ the responsible authority.

154. The Construction Management Plan may be prepared in stages or in respect of any of the individual project components listed in clause 3.

~~All construction works must be undertaken and completed in accordance with the approved Construction Management Plan to the satisfaction of the responsible authority.~~

165. The Construction Management Plan must include, but may not be limited to:

- i. A staging plan for all construction phases_{1,2}
- ii. Location of any temporary construction works office and machinery storage area_{1,2}
- iii. Construction timeframes_{1,2}
- iv. Details of hours of construction_{1,2}
- v. Intended access and routes of all construction vehicles_{1,2}
- vi. Vehicle and machinery exclusion zones_{1,2}
- vii. Measures and techniques to manage surface water runoff and to protect drainage lines and watercourses from sediment runoff from disturbed or under construction areas_{1,2}
- viii. Measures to protect sites of conservation or archaeological significance during construction_{1,2}
- ix. Measures to protect existing vegetation_{1,2}
- x. Measures and techniques to manage weeds_{1,2}
- xi. Measures and techniques to manage dust_{1,2}
- xii. Measures and techniques to manage erosion_{1,2}
- xiii. Location of a machinery and vehicle wash down area_{1,2}
- xiv. Management of litter, construction wastes and chemical storage_{1,2}
- xv. Details of where construction personnel shall park_{1,2}
- xvi. Phone numbers of on-site personnel or other supervisory staff to be contactable in the event of issues arising on site_{1,2}





xvii. The removal of works, buildings and staging areas on completion of the construction phase.;

xviii. Methods of ensuring all contractors are informed of the requirements of the plan and persons responsible for ensuring the plan is adhered to.

xix. Measures to address the Erosion Management Overlay as appropriate.

16. All construction works must be undertaken and completed in accordance with the approved The Construction Management Plan must be implemented to the satisfaction of the responsible authority.

4.1.6 Native Vegetation Management Plan

17. Prior to the ~~removal, lopping or destruction of any native vegetation from any of the project land to which this document applies~~ commencement of development, a Native Vegetation Management Plan must be prepared ~~to the satisfaction of~~ and approved to the satisfaction of by the responsible authority and the Department of Environment, Land, Water and Planning.

18. The Native Vegetation Management Plan may be prepared in stages or in respect of any of the individual project components listed in clause 3.

19. The Native Vegetation Management Plan must include, but may not be limited to:

The plan must include:

i. A photograph or site plan (drawn to scale) showing the boundaries of the site, existing native vegetation and the native vegetation to be removed.;

ii. 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.;

iii. A written explanation of the steps that have been taken to:

- avoid the removal of native vegetation, where possible.;
- minimise the removal of native vegetation.;
- appropriately offset the loss of native vegetation, if required.;

iv. 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.

v. Measures to address the Vegetation Protection Overlay – Schedule 1 as appropriate.

20. The Native Vegetation Management Plan must be implemented to the satisfaction of the responsible authority.





2148. Prior to the removal, lopping or destruction of any native vegetation, an Offset Management Plan must be prepared and approved to the satisfaction of the responsible authority and Department of Environment, Land, Water and Planning. The plan must include:

- i. Methods of permanent protection for established offsets₂₁₄₈;
- ii. Location of the offsets₂₁₄₈;
- iii. Type of offsets to be provided₂₁₄₈;
- iv. 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 Works₂₁₄₈;
- v. Details of any existing vegetation to be retained including methods of managing and restoring the vegetation and a Schedule of Works₂₁₄₈;
- vi. Actions to protect Large Old Trees and Very Large Old Trees that are hollow bearing and provide fauna habitat₂₁₄₈;
- vii. Identification of those responsible for implementing and monitoring the plan₂₁₄₈;
- viii. Time frames for implementing the plan.

22. The Offset Management Plan must be implemented to the satisfaction of the responsible authority.

4.1.7 Fire Management Plan

2349. Prior to commencement of the development, a Fire Management Plan must be prepared₂₃₄₉ in consultation with the Country Fire Authority and the Department of Environment, Land, Water and Planning₂₃₄₉ to the satisfaction of the responsible authority.

24. The Fire Management Plan may be prepared in stages or in respect of any of the individual project components listed in clause 3.

25. The Fire Management Plan must address all elements of the Project, with consideration given to mining and processing operations associated with the Project, and must include, as appropriate, but may not be limited to:

The plan must address all elements of the Project as relevant, including the consideration of mining and processing operations associated with the Project. The plan must include, as appropriate:

- i. Procedures for vegetation management, fuel control and the provision of firefighting equipment during declared fire danger periods₂₅;
- ii. Protocols to address periods of high fire danger, including Total Fire Ban days and Code Red days₂₅;
- iii. Criteria for the provision of static water supply solely for firefighting purposes₂₅;





iv. Minimum standard for access roads and tracks to allow access for firefighting vehicles.†

v. Details of response roles at the mine site.†

vi. Details of the role of fire refuges.†

vii. A program for monitoring the implementation of bushfire mitigation measures on an on-going basis.† and

viii. A requirement for the operator to facilitate a familiarisation visit to the site and explanation of emergency services procedures, on an annual basis, for the Country Fire Authority, Rural Ambulance Victoria, East Gippsland Shire Council Emergency Management Committee and Victoria Police.

ix. Measures to address the Bushfire Management Overlay as appropriate.

26. The Fire Management Plan must be implemented to the satisfaction of the responsible authority.





APPENDIX E: CLEAN VERSION OF AMENDED INCORPORATED DOCUMENT CONDITIONS

4.1 GENERAL

4.1.1 Development Plan

1. Prior to the commencement of development a development plan must be prepared and approved to the satisfaction of the responsible authority.
2. The development plan may be prepared and approved in stages or in respect of any of the individual project components listed in clause 3.
3. The development plan must show:
 - I. The location of buildings, works and proposed activities.
 - II. Elevations of buildings and above ground proposed works.
4. The development as shown on the development plan must not be altered without the written consent of the responsible authority.

4.1.2 Traffic and Roads

5. Prior to the commencement of development, a Traffic Management Plan must be prepared by a suitably qualified traffic engineer, in consultation with Transport for Victoria, East Gippsland Shire Council and relevant emergency services, and approved to the satisfaction of the responsible authority and the Head, Transport for Victoria.
6. The Traffic Management Plan may be prepared in stages or in respect of any of the individual project components listed in clause 3.
7. The Traffic Management Plan must address all elements of the Project, with consideration given to mining and processing operations associated with the Project, and must include, as appropriate, but may not be limited to:
 - i. Identification and assessment of the road and associated infrastructure at risk from damage, deterioration or dilapidation arising from the construction and operation of the mine.
 - ii. A program of regular inspection works to be carried out during construction to identify road safety hazards or maintenance works necessary as a result of construction traffic.
 - iii. 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 mine.
 - iv. Measures to be taken to manage traffic impacts associated with construction and ongoing operation of the mine on surrounding roads.
 - v. Details of road widening required and upgrades required to accommodate additional traffic or oversize vehicles.





vi. 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.

8. The Traffic Management Plan must be implemented to the satisfaction of the responsible authority.

4.1.4 Environmental Management Plan

9. Prior to the commencement of development, an Environmental Management Plan must be prepared and approved to the satisfaction of the responsible authority.

10. The Environmental Management Plan may be prepared in stages or in respect of any of the individual project components listed in clause 3.

11. The Environmental Management Plan must include, but may not be limited to:

i. Measures to address the Environmental Significance Overlay – Schedule 1 as appropriate.

12. The Environmental Management Plan must be implemented to the satisfaction of the responsible authority.

4.1.5 Construction Management Plan

13. Prior to commencement development, a Construction Management Plan must be prepared and approved to the satisfaction of the responsible authority.

14. The Construction Management Plan may be prepared in stages or in respect of any of the individual project components listed in clause 3.

15. The Construction Management Plan must include, but may not be limited to:

i. A staging plan for all construction phases.

ii. Location of any temporary construction works office and machinery storage area.

iii. Construction timeframes.

iv. Details of hours of construction.

v. Intended access and routes of all construction vehicles.

vi. Vehicle and machinery exclusion zones.

vii. Measures and techniques to manage surface water runoff and to protect drainage lines and watercourses from sediment runoff from disturbed or under construction areas.

viii. Measures to protect sites of conservation or archaeological significance during construction.

ix. Measures to protect existing vegetation.

x. Measures and techniques to manage weeds.





- xi. Measures and techniques to manage dust.
 - xii. Measures and techniques to manage erosion.
 - xiii. Location of a machinery and vehicle wash down area.
 - xiv. Management of litter, construction wastes and chemical storage.
 - xv. Details of where construction personnel shall park.
 - xvi. Phone numbers of on-site personnel or other supervisory staff to be contactable in the event of issues arising on site.
 - xvii. The removal of works, buildings and staging areas on completion of the construction phase.
 - xviii. Methods of ensuring all contractors are informed of the requirements of the plan and persons responsible for ensuring the plan is adhered to.
 - xix. Measures to address the Erosion Management Overlay as appropriate.
16. The Construction Management Plan must be implemented to the satisfaction of the responsible authority.

4.1.6 Native Vegetation Management Plan

17. Prior to the commencement of development, a Native Vegetation Management Plan must be prepared and approved to the satisfaction of the responsible authority and the Department of Environment, Land, Water and Planning.

18. The Native Vegetation Management Plan may be prepared in stages or in respect of any of the individual project components listed in clause 3.

19. The Native Vegetation Management Plan must include, but may not be limited to:

i. A photograph or site plan (drawn to scale) showing the boundaries of the site, existing native vegetation and the native vegetation to be removed.

ii. 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.

iii. A written explanation of the steps that have been taken to:

- avoid the removal of native vegetation, where possible.
- minimise the removal of native vegetation.
- appropriately offset the loss of native vegetation, if required.

iv. 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.





v. Measures to address the Vegetation Protection Overlay – Schedule 1 as appropriate.

20. The Native Vegetation Management Plan must be implemented to the satisfaction of the responsible authority.

21. Prior to the removal, lopping or destruction of any native vegetation, an Offset Management Plan must be prepared and approved to the satisfaction of the responsible authority and Department of Environment, Land, Water and Planning. The plan must include:

i. Methods of permanent protection for established offsets.

ii. Location of the offsets.

iii. Type of offsets to be provided.

iv. 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.

v. Details of any existing vegetation to be retained including methods of managing and restoring the vegetation and a Schedule of Works.

vi. Actions to protect Large Old Trees and Very Large Old Trees that are hollow bearing and provide fauna habitat.

vii. Identification of those responsible for implementing and monitoring the plan.

viii. Time frames for implementing the plan.

22. The Offset Management Plan must be implemented to the satisfaction of the responsible authority.

4.1.7 Fire Management Plan

23. Prior to commencement of the development, a Fire Management Plan must be prepared, in consultation with the Country Fire Authority and the Department of Environment, Land, Water and Planning, to the satisfaction of the responsible authority.

24. The Fire Management Plan may be prepared in stages or in respect of any of the individual project components listed in clause 3.

25. The Fire Management Plan must address all elements of the Project, with consideration given to mining and processing operations associated with the Project, and must include, as appropriate, but may not be limited to:

i. Procedures for vegetation management, fuel control and the provision of firefighting equipment during declared fire danger periods.

ii. Protocols to address periods of high fire danger, including Total Fire Ban days and Code Red days.

iii. Criteria for the provision of static water supply solely for firefighting purposes.





- iv. Minimum standard for access roads and tracks to allow access for firefighting vehicles.
 - v. Details of response roles at the mine site.
 - vi. Details of the role of fire refuges.
 - vii. A program for monitoring the implementation of bushfire mitigation measures on an on-going basis.
 - viii. A requirement for the operator to facilitate a familiarisation visit to the site and explanation of emergency services procedures, on an annual basis, for the Country Fire Authority, Rural Ambulance Victoria, East Gippsland Shire Council Emergency Management Committee and Victoria Police.
 - ix. Measures to address the Bushfire Management Overlay as appropriate.
26. The Fire Management Plan must be implemented to the satisfaction of the responsible authority.

