

## **Part B - Attachment: MFG Submission on Social Licence 7/6/21**

### **Issues of Trust**

This document builds on the content of MFG's Submission (#813) our legal submissions/representation at this hearing and is also supported by community concerns expressed in written and oral submissions to the IAC.

#### **A) Who are the "Real" Experts?**

1. During the hearing the IAC will hear from:
  - The horticulture growers who are the 'experts' in relation to what happens on their farms, not the Proponent's technical expert from Tasmania.
  - Directly impacted landholders and community members whose long-term knowledge and experience of the area, in all its facets, are the experts when it comes to understanding the potential impacts and consequences of the Project due to their deep understanding of their land, soils, water and weather conditions which has been gained over multiple generations.
  - The Proponent's experts are not truly 'independent' as they have been paid to undertake work under the Proponent's 'terms of engagement'. The data, assumptions and conditions provided by the Proponent have steered the scope of their work. As stated by Mr Muller on 6 May in his expert evidence for the Proponent, the error in the water balance, in the order of nearly 2 billion litres of water annually, occurred because of data supplied by the Proponent. This error could have had dire unacceptable consequences if it wasn't uncovered. What other errors have yet to be discovered, particularly in the context of the late inclusion of so many changes to the Project that have not been assessed by the Technical Reference Group for their cumulative environmental effects?

#### **B) Who is Kalbar Operations Pty Ltd (KOPL) and Why is Trust an Issue?**

2. Since the Project was announced over 7 years ago, Kalbar Directors have changed the operator of the Fingerboards Project 3 times. Despite repeated email requests for information, MFG's questions about the creation of KOPL and its foreign ownership (which were discovered through ASIC checks) haven't been answered by their new CEO. The community is concerned about why there have been so many company changes and which company will be responsible for any future liabilities should KOPL cease operating.
3. Astonishingly, Kalbar advised ASIC on 22/9/2020 that they made an error of over 90 million shares, not declared in previous filings. Based on KOPL's filings, they were 94% foreign owned and controlled until the "error" was discovered. The sheer incompetence of a company under-declaring to ASIC by nearly 100 million shares further reinforces the lack of trust in the company amongst the community and raises questions about their ownership.
4. The Proponent has had 4 CEO's. MFG has experienced the behaviour of the recent one as bullying, which we reported to DELWP and the Minister. MFG's relationship with this CEO has totally broken down and requires an intermediary. We have asked for all communication to be in writing.

5. None of the Kalbar companies has ever operated a mine. This Project is highly complex as reflected in the risk register and is in a highly sensitive environment - the Project has become even more complex, if that is possible, with 19 water catchment dams, and now centrifuges, which have never been used in mineral sands mining before, a challenge that even the large very experienced mining giants have never tackled. Rio Tinto chose not to proceed with their exploration licence here. The community fears the environmental consequences of failure. On even a small scale it could have catastrophic consequences given the Project's location so close to where many people live, work, farm, children play and go to school, there is a major horticulture industry as close as 500m downwind and our internationally protected Gippsland Lakes Ramsar wetlands downstream, including the internationally significant Mitchell River silt jetties, which are the longest digitate delta in the world, running over 8 km.
  
6. In response to the late introduction of centrifuges just before the hearing was due to start, the IAC asked the Proponent if there were any other changes proposed to the Project. None were declared. On 17 May, the Proponent announced an application had been made to ERR for a Mining Licence to further expand the Project area due to a "failure in commercial negotiations with a landholder." This is another example of the Proponent being prepared to do whatever it takes in the interests of its Directors and shareholders to run roughshod over landholders. There is no goodwill and trust based on the Proponent's track record and continuing behaviour. This demonstrates the utter disregard the Proponent has for impacted landholders and the community at large. This behaviour is further evidence of their 'attitude of entitlement'. It is astounding that Kalbar can apply for a Mining licence at this stage of the EES hearing, which also seeks to expand the Project area by 27%, resulting in the Project area increasing from 16 square kilometres to 21 square kilometres:
  - Where is the assessment of that expanded area for its cultural heritage and biodiversity values?
  - People will now be living inside the mine boundary, in the impact zone.
  - There has been no assessment of the impacts of noise, dust and air quality for those people living on the mine footprint.
  - There will be additional sensitive receptors that haven't been considered and the impacts on those receptors.
  - Consultation with all the newly impacted landholders has not occurred. How is that possible that those people haven't been told about this?
  - Where is the assessment of these new environmental effects?
  - The community feared there would be a further 'grab for land' at some stage, just not so soon, before this Committee has made its decision!
  
7. Contrary to the Proponent's Part B submission, the IAC will hear that Environmental Review Committees (ERCs) cannot be relied upon as a mitigation measure to resolve community disputes and compensation when mining failures occur. The problems with ERCs and the strong opposition of 85% of the directly impacted landholders to this Project make it clear that an ERC will fail here, as it has done elsewhere.

### C) What are Potential Consequences?

8. When the VFF was questioned at their presentation on 19 May about whether compensation occurs easily for offsite contamination the reply was “it tends to be a process where you have to lawyer up and push it; for individual farmers it is too hard and a complex legal problem.” That will be the fate of our growers.
9. There is deep-felt concern about the potential risks of exposure to toxic dust and what the long-term health implications will be, particularly on women and children (refer to Dr Ruff’s evidence). On 20 May, Dr Perrin spoke about the failure of regulators to protect children in their community; is this our plight?
10. This is the wrong place for a mine with environmental & social consequences that are unacceptable, that will do harm to the traditional owners, to those who call the area home, and to those who rely on the area for their livelihood and for its agricultural and tourism values as pre-existing major industries.
11. There is a personal deep-felt connection with the Fingerboards area that the IAC witnessed on its landholder tour, have read in submissions, have heard from presentations including our closing submission last Thursday and will hear from submitters in the coming weeks. It is about place, heritage, history, landscape, and community, which is multi-generational, binding, and ties people to the land and country. This connection goes to one’s very soul.
12. Through these IAC proceedings we advocate that the Victorian Government needs to listen to the concerns of the people who live in, know the area, and will have to live with any consequences. Nevertheless, if necessary, the community is prepared to take non-violent direct action to protect their legacy because that is the ultimate response to a claim of no social licence.

### D) Why are the EES Scoping Requirements not Met?

13. In the context of social impact, the Project fails to satisfy several draft evaluation objectives as follows:

**a) Resource development** – To achieve the best use of available mineral sands resources, in an economic and environmentally sustainable way, including while maintaining viability of other local industries.

The viability of local tourism & agricultural/horticultural industries are threatened including the livelihood of those business owners and those they employ. The indirect value of the horticulture industry was not considered.

**d) Amenity and environmental quality** – To protect the health and wellbeing of residents and local communities, and minimise effects on air quality, noise and the social amenity of the area, having regard to relevant limits, targets or standards.

The health and wellbeing of a very large number of people, including children and workers in the horticulture fields are threatened due to the proximity of the proposed mine. They will be subjected to 24/7 mining operations with concerns not addressed on air quality, noise, and amenity. Under the new

EPA legislation, the Proponent is required to eliminate or minimise impacts so far as reasonably practicable. As advised by Associate Prof Ruff, no level of radiation exposure is safe for children. There are schools and a kindergarten nearby, recreation reserves, community halls, a golf course, and CFA operations.

**e) Social, land use and infrastructure** – To minimise potential adverse social and land use effects, including on, agriculture (such as dairy irrigated horticulture and grazing), forestry, tourism industries and transport infrastructure.

The potential adverse social effects will be considerable and can't be minimised based on evidence that has been and will be presented to the IAC. Evidence about adverse effects will be presented from impacted landholders and farmers, horticulture business owners, and tourism operators. It is deeply concerning that the Project has already created community division and will foster much greater community and social upheaval if approved.

In closing our submissions today, we reaffirm MFG's strong opposition to the Project.