

Fingerboards Mineral Sands Project – Infrastructure Area

Incorporated Document

This Table is intended to be read with the ‘track changes’ version of the draft Incorporated Document dated 19 July 2021 (IAC v3). It responds to changes requested by other parties as set out in the following documents:

- Council (Tabled Document 641)
- EPA (Tabled Document 627)
- MFG (Tabled Document 601)

Item	Clause	Party proposing the change	Summary of Kalbar’s position
1.	2	Council/Kalbar	<p>Council notes that if a definitions section is inserted, all definitions should be included. Kalbar accepts this and has removed the reference to “Definitions” in the heading of clause 2. Kalbar believes the document is easier to read with terms defined when they are first used.</p> <p>Council has requested that a plan be attached showing which road authority is responsible for a road and where the road will be over time. Kalbar opposes this as this information is already required as part of the Traffic and Transport Management Plan (TTMP) (see clause 6.4.5(a) and (b)).</p>
2.	5.2.1, 5.2.7, 5.5, 6.9.2(u)	Council	Council has requested that references to ‘easements’ be removed because the SCO only allows for use and development of land, not the creation of property rights. Kalbar accepts this and has updated these provisions.
3.	5.2.1	EPA	Kalbar confirms this clause covers the water pipeline from the Mitchell River pump station to the mining licence area, including for water take and discharge.
4.	5.2.2	Council	Kalbar accepts the additional wording proposed by Council.
5.	5.2.1 and 5.2.2	Kalbar	Minor edits – deletion of words “A new” and “A”.
6.	previous 5.2.9 (now 5.2.8)	Council	Council says this clause needs to be removed if the Bairnsdale siding option is rejected or not pursued. Kalbar notes that both its preferred rail siding option at Fernbank East (option 1) and the extension of the existing Bairnsdale Fenning siding (option 2) are adjacent to the Bairnsdale railway line. Kalbar does not agree that this clause should be removed – rather, it should be amended to refer to only the option that is ultimately to be

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			pursued. However, it is premature to remove the optionality now given both options have been assessed in the EES and will be the subject of findings and recommendations from the IAC.
7.	previous 5.2.12 (now 5.2.11)	Council	Council says that it does not agree to remove the native vegetation permit trigger because it believes the extent of native vegetation removal in the area has not been properly assessed. Kalbar disputes this and questions whether Council is referring to the property at 2705 Dargo-Bairnsdale Road, which has not yet been surveyed. This property will not be subject to the proposed SCO1. Kalbar does not support removal of clause 5.2.11.
8.	previous 5.2.12 (now 5.2.11)	MFG/Kalbar	Kalbar has made the change to clause 5.2.11 to address the request made by MFG (i.e. to specify the plan for removal of native vegetation).
9.	previous 5.2.13 (now 5.2.12)	Council	Minor change made to correct typographical error. Council has requested that the words 'whether or not ancillary to another use of land' be included. Kalbar does not support this insertion as it does not appear to achieve Council's stated purpose. Kalbar notes that clause 5.3 already prohibits the use and development of the Infrastructure Area for accommodation or food and drink premises.
10.	6.2.1	Council	Council says that it wants to be the approval body for the EMF as it will be required to enforce it. Kalbar notes that the EMF is a guidance document only, not a statutory approval to be enforced. It is the Mitigation Measures, and the plans required under the Incorporated Document that that will be enforceable (see clause 6.2.6). Council has requested a consultative role in the alternative – this is already provided in clause 6.2.1.
11.	6.2.3(b)	EPA/Council/ Kalbar	Kalbar has reworded this clause to address Council's comment regarding the words 'generally in accordance with'. In light of this change, Council's requested insertion becomes unnecessary. Kalbar has included reference to 'operating licence' at the request of the EPA. Kalbar does not agree to the EPA's request to replace the words 'Project Infrastructure in the Infrastructure Area (if any)' with the word 'Project'. The EMF prepared under the Incorporated Document will regulate only the Infrastructure Area, not the Project Area.
12.	6.2.5	MFG	MFG proposed additional wording to enable transparency and third party participation. Kalbar supports this insertion.
13.	6.2.6	Council/Kalbar	Change made to clarify reference to 'them' at Council's request.

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			Kalbar has inserted the words 'and with all plans required by this Incorporated Document' to make it clear that the plans required under the Incorporated Document must be complied with.
14.	6.2.7	EPA/Kalbar	Change made at the EPA's request, except that the EPA proposed reference to 'Project' in place of 'Infrastructure Area'. As explained in 11 above, Kalbar does not support the reference to 'Project' given that the Incorporated Document will apply only to the SCO area, not the Project Area.
15.	6.3.1	Council/Kalbar	Council requested this insertion at clause 6.3.4 but this appears to fit better at clause 6.3.1. Council requested that its proposed masterplan clause be reinstated. Kalbar does not accept that a masterplan is required given the requirement for a Development Plan.
16.	6.3.4(d)	Council/Kalbar	Change made to address the Council's comment that it is unclear what was meant by 'approved to be removed'.
17.	6.4.5(a)	Council/Kalbar	Change made to address the Council's comment that 'predominantly via rail' is unclear. Kalbar split subclause (a)(i) to deal with HMC separately as it is the only material to be transported to the Port. Council also requested that a map be provided, however, Kalbar submits this is unnecessary given the clause already requires '[i]dentification and specification' of all processes for transportation of materials.
18.	6.4.5(c)	Council/Kalbar	Kalbar does not support Council's proposal to identify the standard for an existing conditions survey. Kalbar submits that the standard should be determined by the independent engineer, pre-qualified by TfV.
19.	6.4.5(h)	MFG	MFG has requested that the requirement to consult with agricultural landholders be extended to those within 5 km of the Project Area (rather than 2 km). Kalbar supports this change.
20.	6.4.5(i)	Council	Insertion added at Council's request.
21.	6.4.5(n)(i) and (vi)	Council/Kalbar	Change made to acknowledge Council's point that there may be more than one road authority.
22.	6.4.5(n)(iii)	Council/Kalbar	Indemnity added at Council's request. Kalbar submits that Council's other requirements for the agreement are already covered.
23.	6.5.1	EPA/Kalbar	References to specific guidelines etc have been included to address the EPA's request. Note that there are three options for construction noise criteria provided in NV17 and the reference to EPA Publication 1834 has been provided by way of example.

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24.	6.5.1, 6.5.2	EPA/Council/ Kalbar	Both Council and the EPA say they want a consultation role, not an approval role, for the Noise Management Plans. To resolve this apparent impasse, Kalbar has nominated Council as having the approval role.
25.	6.5.3(a)	Council/Kalbar	Council's requested that the words 'as amended from time to time' be included at the end of the clause. Kalbar submit that the reference to 'relevant EPA standards and guidance' should be replaced with reference to the new EP Act (which requires compliance with EPA standards and guidance as amended from time to time). This means that Council's specific amendment is no longer needed.
26.	6.5.3(e)-(g)	EPA/Kalbar	Kalbar has inserted these clauses to address the EPA's comments about the need to address the requirements of the GED and be consistent with NV09. Kalbar notes that the EPA also proposed reference to implementation of contingency measures, however, this is already covered by cross referencing the 'Mitigation Measures'.
27.	6.6.1	EPA	Change made at the EPA's request.
28.	6.7.4	Council	Change made at Council's request.
29.	MFG's proposed 6.7.5	MFG	MFG inserts clause to embed compliance with DELWP's guidelines. While Kalbar agrees with the intent of this clause, it notes that similar requirements are already provided in clause 6.7.2(c) and 6.7.10 (which reflect DELWP's standard wording) and therefore, the insertion is unnecessary.
30.	6.7.5, 6.7.7, 6.7.8	Council	Council opposes these clauses but Kalbar does not support change as they reflect DELWP's standard wording and have been agreed by DELWP.
31.	6.7.6, 6.7.7	MFG	MFG oppose the staging of offsets and request deletion of this clause. Kalbar does not support deletion given this clause reflects DELWP's standard wording and has been agreed by DELWP. Offsets will need to be in place before the relevant stage of native vegetation can be removed. MFG also makes the point that the offsets required are not yet known as a detailed survey of the entire project area has not been undertaken. Kalbar acknowledges this, which is the reason for including the note at the end of clause 6.7.7 which reads "Subject to confirmation once all known impacts and offsets have been verified by DELWP, before gazettal of the Incorporated Document".
32.	6.8.1 - 6.8.3	Council/Kalbar	Changes made at Council's request.
33.	6.9.2	Council	Kalbar does not support Council's request for a rehabilitation bond. Kalbar has agreed to provide a bond for works to public roads under the TTMP.
34.	6.9.2(k)	Council	Change made at Council's request.

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35.	6.9.4	MFG/Kalbar	Change made to address MFG's request.
36.	7.2.3	MFG	Kalbar agrees to MFG's request to delete this clause.
37.	8.1	MFG	Kalbar does not support MFG's request to require the development and use to start within 2 years instead of 4 years.
38.	8.2	MFG/Council	Kalbar does not support the request from Council and MFG to change the period for used and development from 25 years to 20 years. 25 years has been nominated to allow time for construction and commissioning of the Project, as well as for all approvals to be obtained. The words 'Fire and Emergency Management Plan or Native Vegetation Management Plan' have been inserted at Council's request.
39.	8.3	Council/Kalbar	Council proposed that the 2 year period be non-continuous to reflect VPP clause 63. Kalbar supports this proposal and has amended the clause to reflect VPP clause 63.06.
40.	8.4	Council	Kalbar does not support Council's opposition to this clause.
41.	8.6.1	Council	Change made at Council's request.
42.	8.6.3	Kalbar	Minor correction
43.	8.7	Council	The new clause proposed by Council does not work in light of clause 8.6.3 and Kalbar opposes it.
44.	8.8	Kalbar	The words 'Fire and Emergency Management Plan or Native Vegetation Management Plan' have been inserted for consistency given Council's requested changes to clauses 8.2 and 8.6.1.
45.	Appendix 1	MFG	Kalbar does not support MFG's request to reinstate the original map. As explained in TN 032 (Tabled Document 518), no mining is proposed in the mining licence area that extends beyond the Project area shown in the EES and further approvals/assessment would be required to do so.