

Fingerboards Mineral Sands Project Infrastructure Area

Incorporated Document

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Draft

Incorporated document pursuant to section 6(2)(j) of the *Planning and Environment Act 1987*.

1. INTRODUCTION

- 1.1. This document is an Incorporated Document in the East Gippsland Planning Scheme (**Planning Scheme**) pursuant to section 6(2)(j) of the *Planning and Environment Act 1987* (Vic).
- 1.2. This Incorporated Document facilitates the delivery of certain infrastructure (the **Project Infrastructure**) required to support the Fingerboards Mineral Sands Project (the **Project**) on land outside the area to which mining licence [xxx] applies. The area to which mining licence [xxx] applies is referred to as the **Project Area**.
- 1.3. This document facilitates the Project, by providing a specific control for the purpose of Clause 45.12 of the planning scheme in respect of the use and development of land other than the Project Area for the purpose of infrastructure associated with the Project (**Project Infrastructure**).

2. PURPOSE

- 2.1. The purpose of the control in clause 4 is to permit and facilitate the use and development of the land described in clause 3 for the purposes of the Project Infrastructure as defined in clause 4.

3. LAND TO WHICH THIS DOCUMENT APPLIES

- 3.1. The control contained in clause 4 applies to land affected by Specific Controls Overlay – Schedule 1 (**SCO1**) as shown on the planning scheme maps in the East Gippsland Planning Scheme (the **Infrastructure Area**).

4. CONTROL

- 4.1. Despite any provision to the contrary or any inconsistent provision of the Planning Scheme, no planning permit is required for, and no provision in the Planning Scheme operates to prohibit, restrict or regulate, the use and development of the Infrastructure Area for the purposes of constructing, operating, or maintaining the Project Infrastructure.
- 4.2. The Project Infrastructure consists of:
 - 4.2.1. A new water pipeline, overhead 22kV powerline and a 30 metres wide easement over private land to a new pumping station on the Mitchell River;
 - 4.2.2. A water pipeline and associated bore pumps to the south of the Project Area;
 - 4.2.3. Any buildings or works required to implement the Mitigation Measures generally in accordance with the Minister's Assessment of the Project dated [date] made pursuant to the EE Act or the requirements of any plan required by this control (other than the removal of native vegetation);

- 4.2.4. Construction and use of a new road adjacent to Chettles Road, and new roads continuing south from Chettles Road over private land to the new railway siding;
 - 4.2.5. New 66kV and 22kV powerlines adjacent to Chettles Road and the new roads south and north of Chettles Road;
 - 4.2.6. A new water pipeline adjacent to Chettles Road and the new road extensions south and north of Chettles Road;
 - 4.2.7. Creation of easements to accommodate the above three matters;
 - 4.2.8. Noise bunding including earthworks along sections of the new roads referred in [x-ref] above;
 - 4.2.9. A rail siding (one of two options) adjacent to the Bairnsdale railway line;
 - 4.2.10. Road diversions, road widenings and roadworks including intersection upgrades (local and Road Zone Category 1) and use of land for road;
 - 4.2.11. Any temporary construction works offices and associated car parking; and
 - 4.2.12. Subdivision for the purposes of acquiring land for road and roadworks improvements and upgrades;
 - 4.2.13. Vegetation removal associated with any of the above.
 - 4.2.14. Infrastructure that is incidental or ancillary to, the infrastructure referred to in the above paragraphs.
- 4.3. The use and development of the [Infrastructure Area for Accommodation or Food and Drink Premises, is prohibited.
 - 4.4. The control in this Incorporated Document does not apply to the use and development of the Infrastructure Area for the purposes other than the construction, operation, and maintenance of the Project Infrastructure. Use and development of the Infrastructure Area for any other purpose must be in accordance with the Planning Scheme.
 - 4.5. For the avoidance of doubt, except for those easements expressly identified in [clause 4.2], nothing in this control authorises the creation, variation, or acquisition of any interest in land other than in accordance with the Planning Scheme.

5. CONDITIONS

- 5.1. The use and development authorised by this Incorporated Document is subject to the conditions set out below.
- 5.2. Environment Management Framework

5.2.1. Prior to the commencement of the use and development of the Infrastructure Area, an Environmental Management Framework (**EMF**) must be prepared in consultation with the responsible authority and the Head of the Department of State Development, Business and Innovation to the satisfaction of the Minister for Planning.

5.2.2. The EMF must include mitigation measures (the **Mitigation Measures**) generally in accordance with the Minister's Assessment dated [date] made pursuant to the *Environment Effects Act 1978*. The Mitigation Measures must address the following areas:

- (a) Agriculture and horticulture;
- (b) Air quality;
- (c) Cultural heritage;
- (d) Geotechnical;
- (e) Greenhouse gas;
- (f) Ground water;
- (g) Land use and planning;
- (h) Noise and vibration;
- (i) Radiation;
- (j) Socioeconomic impacts;
- (k) Surface water;
- (l) Biodiversity;
- (m) Visual and landscape; and
- (n) Any other matter identified by the Minister in the Minister's Assessment.

5.2.3. The EMF must

- (a) include processes and timing for the development of the Development Plan, the Construction Management Plan, the Construction Noise Management Plan, the Operation Noise Management Plan, the Traffic and Transport Management Plan, the Native Vegetation Management Plan, the Fire and Emergency Management Plan, the Decommissioning Plan and any other plans or procedures required by the Mitigation Measures as relevant to any stage of the development of the Infrastructure Area, including the process and timing for consultation with any person or body with who consultation is required under this Incorporated Document (including under any plan required by this Document or a mitigation measure in a plan); and

(b) be generally in accordance with any works approval issued by the EPA which applies to infrastructure in the Infrastructure Area (if any).

5.2.4. The EMF may be prepared in stages or in respect of any of the elements of Project Infrastructure listed in clause 4, but the EMF for any stage of development or component must be approved before the commencement of development for that stage.

5.2.5. The EMF may be amended from time to time to the satisfaction of the Minister for Planning.

5.2.6. The EMF must be amended to update references and requirements to be consistent with the *Environment Protection Act 2017* (as amended by the *Environment Protection (Amendment) Act 2018*) to the satisfaction of the Minister for Planning. The amended EMF must be prepared in consultation with the EPA and must be submitted to the Minister for approval within 12 months of the commencement of the *Environment Protection Act 2017* (as amended by the *Environment Protection (Amendment) Act 2018*).

5.2.7. The use and development of the Infrastructure Area must be carried out in accordance with the EMF including the Mitigation Measures and all plans and procedures required by them.

5.2.8. Any other plan required by this Incorporated Document must be consistent with, and give effect to, the EMF including the Mitigation Measures.

5.3. Development Plan

5.3.1. Prior to the commencement of use and development of the Infrastructure Area, a Development Plan must be prepared and approved to the satisfaction of the responsible authority.

5.3.2. The Development Plan may be prepared and approved in stages or in respect of any of the element of the Project Infrastructure listed in clause 4, but the Development Plan for each stage or element must be approved before the commencement of development for that stage or element.

5.3.3. The Development Plan may be amended to the satisfaction of the responsible authority.

5.3.4. The Development Plan must show:

(a) The location of buildings, works and proposed activities within the Project Area;

(b) Elevations of buildings and above ground proposed works; and

(c) All vegetation to be retained and removed.

5.3.5. The use or development as shown on the Development Plan must not be altered without the written consent of the responsible authority.

5.4. Traffic and Transport Management Plan

5.4.1. Prior to the commencement of use and development, a Traffic and Transport Management Plan (**TTMP**) must be prepared by a suitably qualified traffic engineer in consultation with Transport for Victoria, East Gippsland Shire Council and Country Fire Authority, Rural Ambulance Victoria, and Victoria Police, to the satisfaction of the responsible authority and the Head, Transport for Victoria.

5.4.2. The TTMP may be amended from time to time to the satisfaction of the responsible authority and the Head, Transport for Victoria.

5.4.3. The TTMP must address all elements of the Project Infrastructure and must have regard to the use and development of the Project Area as relevant.

5.4.4. The TTMP may be prepared in stages or in respect of any of the elements of Project Infrastructure listed in clause 4, but the EMF for any stage of development or component must be approved before the commencement of development for that stage.

5.4.5. The TTMP must include, as appropriate:

- (a) Identification and assessment of the road and associated infrastructure at risk from damage, deterioration or dilapidation arising from the construction and operation of the Project, including an existing conditions audit of all identified roads and infrastructure;
- (b) A program of regular inspection works to be carried out during construction, operation, and rehabilitation / decommissioning of the Project and Project Infrastructure to identify road safety hazards or maintenance works necessary as a result of Project-related traffic;
- (c) 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 Project where rehabilitation is required as a result of Project-related traffic;
- (d) Measures to be taken to manage traffic impacts associated with construction, operation, and rehabilitation / decommissioning of the Project on surrounding roads, including strategies to reduce impacts of traffic associated with the

Project and Project Infrastructure on the use of the local road network by agricultural users;

- (e) Details of required road widening and upgrades to accommodate additional traffic or oversize vehicles;
- (f) The details of intersections and roadways, including functional layout plans;
- (g) The functional design of all areas for parking and storage of vehicles and machinery;
- (h) Details of the construction works required prior to the commencement of the operational stage of the Project;
- (i) The preparation of Road Safety Audits for all proposed roads and intersections to be used by Project vehicles;
- (j) A requirement that all mitigation works and management measures recommended by the TTMP be implemented to the satisfaction of and at no cost to the Head, Transport for Victoria or East Gippsland Shire Council;
- (k) 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.

5.5. Noise Management Plans

5.5.1. Prior to the commencement of:

- (a) construction of the Project Infrastructure, a Construction Noise Management Plan (CNMP) must be prepared in accordance with relevant Environment Protection Authority Victoria (**EPA**) Noise Control Guidelines to the satisfaction of the EPA; and
- (b) operation of the Project Infrastructure, an Operational Noise Management Plan (ONMP) must be prepared in accordance with EPA Guidelines to the satisfaction of the EPA.

5.5.2. The CNMP and ONMP may be amended from time to time to the satisfaction of the EPA.

5.5.3. Each plan must address all elements of the Project Infrastructure as relevant and must have regard to any cumulative noise impact associated with use and development of the Project Area during the relevant stage. The plans must include, but not be limited to:

- (a) Performance requirements, including maximum noise limits for the Project Infrastructure in accordance with relevant EPA standards and guidance;
- (b) A noise compliance procedure;

- (c) A noise complaints evaluation procedure; and
- (d) A noise complaints response procedure.

5.6. Construction Management Plan

- 5.6.1. Prior to commencement of use and development of any element of Project Infrastructure listed in clause 4, a Construction Management Plan must be prepared to the satisfaction of and be approved by the responsible authority.
- 5.6.2. The Construction Management Plan may be amended from time to time to the satisfaction of the responsible authority.
- 5.6.3. The Construction Management Plan must include, but not be limited to:
 - (a) A staging plan for all construction phases;
 - (b) Location of any temporary construction works office and machinery storage area;
 - (c) Construction timeframes;
 - (d) Details of hours of construction;
 - (e) Intended access and routes of all construction vehicles;
 - (f) Vehicle and machinery exclusion zones;
 - (g) Measures and techniques to manage surface water runoff and to protect drainage lines and watercourses from sediment runoff from disturbed or under construction areas;
 - (h) Measures to protect sites of conservation or archaeological significance during construction;
 - (i) Measures to protect existing vegetation;
 - (j) Measures and techniques to manage weeds;
 - (k) Measures and techniques to manage dust;
 - (l) Measures and techniques to manage erosion;
 - (m) Location of a machinery and vehicle wash down area;
 - (n) Management of litter, construction wastes and chemical storage;
 - (o) Details of where construction personnel shall park;
 - (p) Phone numbers of on-site personnel or other supervisory staff to be contactable in the event of issues arising on site;
 - (q) The removal of works, buildings and staging areas on completion of the construction phase;

- (r) Methods of ensuring all contractors are informed of the requirements of the plan and persons responsible for ensuring the plan is adhered to.

5.7. Native Vegetation Management Plan

5.7.1. Prior to the removal, lopping or destruction of any native vegetation within the Infrastructure Area, a Native Vegetation Management Plan must be prepared to the satisfaction of and approved by the Department of Environment, Land, Water and Planning. The plan must include:

- (a) A photograph or site plan (drawn to scale) showing the boundaries of the site, existing native vegetation and the native vegetation to be removed;
- (b) 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;
- (c) A written explanation of the steps that have been taken to:
 - i. avoid the removal of native vegetation;
 - ii. minimise the removal of native vegetation;
 - iii. appropriately offset the loss of native vegetation, if required;
- (d) 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.

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

- (a) Methods of permanent protection for established offsets;
- (b) Location of the offsets;
- (c) Type of offsets to be provided;
- (d) 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;
- (e) Details of any existing vegetation to be retained including methods of managing and restoring the vegetation and a Schedule of Works;
- (f) Actions to protect Large Old Trees and Very Large Old Trees that are hollow bearing and provide fauna habitat;
- (g) Identification of those responsible for implementing and monitoring the plan;
- (h) Time frames for implementing the plan.

5.8. Fire and Emergency Management Plan

- 5.8.1. Prior to commencement of any use or development, a Fire and Emergency Management Plan must be prepared to the satisfaction of the Country Fire Authority and the Department of Environment, Land, Water and Planning.
- 5.8.2. The Fire and Emergency Management Plan may be amended from time to time to the satisfaction of the Country Fire Authority and the Department of Environment, Land, Water and Planning.
- 5.8.3. The plan must address all elements of the Project Infrastructure as relevant, having regard to the use and development of the Project Area. The plan must include, as appropriate:
 - (a) Procedures for vegetation management, fuel control and the provision of firefighting equipment during declared fire danger periods;
 - (b) Procedures for planned burns or other fuel reduction measures to reduce overall fuel hazard levels;
 - (c) Protocols to address periods of high fire danger, including Total Fire Ban days and Code Red days;
 - (d) Procedures for hot work permitting to reduce the potential for ignitions and suspension or shutdown of tasks which may cause ignition (such as site preparation works in vegetated areas) on days of elevated fire danger;
 - (e) Criteria for the provision of static water supply solely for firefighting purposes in respect of bushfires and fires associated with the Project and Project Infrastructure;
 - (f) Procedures for maintaining suppression equipment and plant to respond to spot fires;
 - (g) Minimum standards for access roads and tracks to allow access for firefighting vehicles;
 - (h) Bushfire awareness and response procedures, including response to formal emergency alerts issued by authorities;
 - (i) Details of response roles at the mine site;
 - (j) Details of the location, design and role of fire refuges;
 - (k) Specification of BAL ratings for any buildings and identification of defensible space;
 - (l) A program for monitoring the implementation of bushfire mitigation measures on an on-going basis;
 - (m) Responsibility for, and frequency of, reviews of the plan; and

- (n) A requirement for the operator to facilitate an annual familiarisation visits to the site and explanation of emergency services procedures, for the Country Fire Authority, Rural Ambulance Victoria, East Gippsland Shire Council Emergency Management Committee and Victoria Police.

5.9. Decommissioning Plan

5.9.1. No less than five years prior to closure, a Decommissioning Plan must be prepared to the satisfaction of the responsible authority.

5.9.2. The plan must address all elements of the Project Infrastructure within the Infrastructure Area. The plan must include, as appropriate:

- (a) The standard of remediation, being at a minimum the restoration of land to a standard suitable for uses previously capable of being undertaken on the land and to a soil quality of equal quality than previously existing on each site;
- (b) Demolition and removal of all buildings, except in accordance with clause 5.9.4;
- (c) Remediation of bores, roads and removal of all infrastructure, except in accordance with clause 5.9.4;
- (d) A staging plan for all remediation phases;
- (e) Location of any temporary construction works office and machinery storage area;
- (f) Remediation timeframes;
- (g) Intended access and routes of all remediation vehicles;
- (h) Vehicle and machinery exclusion zones;
- (i) Measures and techniques to manage surface water runoff and to protect drainage lines and watercourses from sediment runoff from disturbed or under remediation areas;
- (j) Measures to protect sites of conservation or archaeological significance during remediation;
- (k) Measure to protect existing vegetation;
- (l) Measures and techniques to manage weeds;
- (m) Measures and techniques to manage dust;
- (n) Measures and techniques to manage erosion;
- (o) Location of a machinery and vehicle wash down area;
- (p) Management of litter, remediation, wastes and chemical storage;
- (q) Details of where remediation personnel shall park;

- (r) Phone numbers of on-site personnel or other supervisory staff to be contactable in the event of issues arising on site;
 - (s) The removal of works, buildings, and staging areas on completion of the remediation phase;
 - (t) Methods of ensuring all contractors are informed of the requirements of the plan and persons responsible for ensuring the plan is adhered to.
- 5.9.3. The Decommissioning Plan may be amended from time to time to the satisfaction of the responsible authority.
- 5.9.4. Buildings, bores, roads and other infrastructure need not be demolished or removed if:
- (a) The landowner on which the infrastructure is present requests that the infrastructure not be demolished or removed; and
 - (b) The responsible authority approves that request in writing.

6. AVAILABILITY OF APPROVED PLANS AND DOCUMENTS

- 6.1. The current version of any approved plans and documents must be available on a clearly identified Project website from date of approval and must remain available on such website for at least five years after the use and development (including any rehabilitation / decommissioning) of the Infrastructure Area ceases.
- 6.2. Material in an approved plan may be redacted in the publicly available plan if the inclusion of the material would:
- 6.2.1. disclose personal information not necessary for the functioning of the plan;
 - 6.2.2. disclose commercially sensitive information; or
 - 6.2.3. permit malicious interference with the construction, operation, or decommissioning of the Project.

7. EXPIRY OF THIS CONTROL

- 7.1. The specific controls in this Incorporated Document expire if:
- (a) The development and use is not started within four years of the approval date; and
 - (b) The development is not completed within 20 years after commencement.
- 7.2. The responsible authority may extend the periods referred to above if a request is made in writing before these controls expire or within six months afterwards.

Appendix 1 – Area to which this Incorporated Document Applies

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