

**Supplementary Submission to Fingerboards Inquiry. IAC.  
Environmental Media Foundation Inc.**

**The Environmental Media Foundation Inc (EMF) makes the following supplementary submission in relation to the use of centrifuges instead of a tailing dam.**

The EMF raises issue with the decision handed down on 23 March 2021, by IAC Chairman Nick Wimbush, detailed in the decision: **Ruling on the Consideration of Tailings Storage Facilities**. And from here on referred to as: **“the Decision”**.

The decision represents a fundamental change to the scope of the EES inquiry, the design of the project, the environmental and community risks, and the legacy issue for future generations.

The decision has been made in isolation by the Chairman of the IAC Panel, without inviting input or arguments from affected parties or their legal representatives. The decision is in effect a decree, that is not in keeping with modern inclusive processes. The Chairman has exceeded his authority in making the decision. The decision was not argued logically.

**The decision is fundamentally unfair**, because under the Victoria Environmental Effect Act 1978, an EES process doesn't not result in a decision, only a ministerial recommendation. And no part of the process or the recommendations can be appeal or sent to a court for review. The decision can not be appealed to a court and tested for its legality, correctness, fairness or propriety. Therefore any decision that are made by the IAC, should be logical and fair to all parties.

The process taken to make the decision is unfair to the community, and appears to benefit the commercial interests of the proponent.

The decision was made without defining what considerations were given to the commercial incentive for the proponent to promote the centrifuge option.

The decision expresses a trust in the proponent, but does not give reasons.

The decision relies on the proponents public statements, that it will not use a tailing dam, but will use centrifuges. That point was cited as a definitive proof in the decision.

The decision clearly failed to consider the corporate behaviour of mining companies and the ERR in Victoria, in light of the investigation by the Victoria Auditor General into mine rehabilitation in Victoria (2020). The decision appears to place complete trust in the integrity and word of the proponent, while ignoring its commercial incentive to remove discussion of a tailing dam at the panel.

The proponent has a commercial interest in obtaining a recommendation from the Minister (via the EES process) for the project to proceed. The proponent can vary its EES documentation, in order to market a more agreeable project to the IAC Panel. The decision appears to have ignored these facts.

The decision did not cite the Environmental Effects Act 1978, in so far as it does not require a proponent to be honest, or that there is no penalty in the Act against a proponent who lies or submits misleading information during an EES process. Consideration of those facts should have been contained in the decision, to justify trust in the proponents claims.

The decision ignored the history of the mining industry in Victoria and the reliance on Work Plan

Variations (WPV) by mining companies to reverse or change the environmental conditions laid out by the Minister in his recommendations accompanying an Environmental Effect process. This includes the history of support by the Mining Department Regulator (EER) to support WPV applications across numerous mining projects, that reversed environmental conditions, including well known examples at Stawell, Kanagulk and Bendigo.

(See attached image. Pit 23 Douglas Mine Iluka Resources. WPV resulted in radioactive waste-dump imposed on opposing community).

The decision noted the increased cost to the parties if a tailing dam option was still discussed during the panel hearings, this was cited as a reason to remove TSF from the consideration. But the decision now introduces a new environmental risk to the community. I.e. if the proponent in the future obtains a Work Plan Variation (after receiving a mining license), to reinstall the tailing dam option.

The decision contained a fundamental flaw: it dismissed the probability that the centrifuges option would not work, and that a tailing dam would then be required in the future.

The decision dismissed the future impact of a TSF reversal on the community and the environment, and the ensuing cost borne by the tax-payer, the local community, and affected industries, but not the mining company..

The decision will now result in the censorship of the scope allowed for the panel considerations. Through the Chair the panel hearings will now be restrained, or remove any discussion about the subject or consequences of tailings dams. However the decision failed to define the limits to those discussions. The removal of discussion about the use of a tailings dam may put future populations at risk.

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