

14 June 2021

Mr Nicholas Wimbush  
Chair, Fingerboards Inquiry and Advisory Committee  
Department of Environment, Land, Water and Planning  
Level 5, 1 Spring Street  
Melbourne, Victoria 3000

Via email

Dear Mr Wimbush

**Re: Tabled Document 497: Response from Earth Resources Regulation to IAC**

The Bendigo District Environment Council (BDEC) have contributed submissions 429 and 554 to the Fingerboards Mineral Sands Project Inquiry and Advisory Committee (IAC).

On 28 May 2021 the IAC wrote to Mr Hurst, Executive Director, Earth Resources Regulation with a request for further information (Tabled Document 439). Mr Hurst subsequently provided a response dated 9 June 2021 (Tabled Document 497).

In general, the BDEC does not wish to comment on that advice provided by ERR which is of a bureaucratic nature. Several parties have approached the BDEC for comment on the section of the response (Item 10, page 6) which refers to the role of ERR as a regulator with the former mining company, Kralcopic, as follows:

*"Earth Resources Regulation will continue to fulfil its responsibility to hold site operators accountable for their obligations. As a recent example, the regulator refused to renew the mining licences held by Kralcopic Pty Ltd at Woodvale and Bendigo because the company could not demonstrate that it could finance its mining activities and site rehabilitation obligations (including successfully defending this decision in the Victorian Supreme Court), successfully sought liquidation of the company in the Federal Court and took ownership of the abandoned mining plant and disclaimed freehold land. The regulator also stepped in to take control of site monitoring, maintenance and rehabilitation drawing on the rehabilitation bonds."*

The BDEC have provided community members as formal community representatives to the Bendigo gold project for approximately 15 years (including the Bendigo Mining, Unity Mining, GBM and its subsidiary, Kralcopic companies) and therefore believes it is in a position to understand the background to the current activity.

The BDEC feels that as a matter of transparency, rather than respond to individual requests, it is best to place a response regarding the refusal of ERR to renew Kralcopic's licence with the IAC, so that all parties currently preparing individual submissions will have the option to view evidence contrary to that provided by ERR. This evidence is supported by ERC minutes, bond spreadsheets and ERR correspondence, the two EES's, Work Plans and the Woodvale 53V Audit (Health Assessment).

The BDEC contend that the advice provided by ERR in Tabled Document 497, as shown in the italicised paragraph above, is incomplete and is substantially incorrect as follows:

1. *"This is a recent example."* This is incorrect. Mining activity ceased at Bendigo twelve years ago and for the last decade ERR have issued various orders and forms of legal

notice, requiring rehabilitation activity to occur, to the preceding site owners and for at least the last four years to Kralcopic (GBM). Until the current legal process, at no stage did ERR attempt to recover the mining license from the mine operators or recover bond monies and proceed with rehabilitation activity.

2. ERR did not initiate the current chain of legal activity. The activity seeking to wind down the Kralcopic company was initiated by debtors of that company. ERR were reported by media services to ERC community members as an unwilling contributor to this legal activity until ERR became aware that the receiver might pass any remaining bond monies from Kralcopic to the parent company GBM. ERR at about this time also accepted that Kralcopic had established a “business hub” at the Kangaroo Flat site for small logistics and earthmoving companies, which was in contravention of the Work Plan and the MRSD Act and ERR became concerned with the capacity of site insurance to cover an accident caused by one of the multiple parties on the site.
3. ERR did not “*continue to fulfil its responsibility to hold site operators accountable for their obligations.*” An EPA 53V approved Audit, as a Human Health Assessment, was completed for the Woodvale tailings dams in 2018. That audit required 33 actions or work activities to be undertaken to mitigate risk to health. Several of these actions were of an immediate nature. No more than one of these actions were attempted by Kralcopic, or subsequently ERR.
4. ERR did not successfully take ownership of the abandoned mining plant. The significant item of plant with a commercial value was the crushing plant at the Kangaroo Flat site. The rehabilitation bond spreadsheet required that this plant remain on site and would be passed to ERR to form one half of the bond monies. The remaining half of the bond monies was to be a bank guarantee for \$6 million. The crushing plant was in fact sold several years ago by Kralcopic as they described in their regular reporting to the ASX. This sale occurred with the prior agreement of the then Executive Director, Earth Resources Regulation, ERR. It must now be accepted that this plant value of \$6 million cannot be recovered. The community have no understanding of the reason for permitting the sale of the plant in effect returning one half of the bond monies to Kralcopic. The IAC may not be a suitable forum for the further discussion of this matter, and it is more likely a matter for the Minister for Resources or a legal institution.
5. The community is unaware that “*the regulator has taken control of site monitoring and maintenance.*” Community members who reside near the Kangaroo Flat site continue to observe the release of dust during periods of high wind and note any component generated from haul roads is likely to involve the fugitive release of arsenic and heavy metals. ERR have not provided a response to ERC community members who requested copies of any current monitoring test results.
6. It is not understood how ERR could proceed with rehabilitation “*drawing from the current bond*” of \$6 million, if in fact the bank guarantee can be honoured. A draft Work Plan prepared by Kralcopic in 2017, but not lodged with the ERC, suggested that rehabilitation at Woodvale would require the removal of several hundred thousand tons of arsenic salts and polluted soil. This work would require many tens of millions of dollars of funding. It may be that a \$6 million bond would be insufficient to prepare the consultants reports required for rehabilitation along with the respective Work Plans for the four sites and the preparation of tender documents. The only site activities that ERC community members are aware of is the re-establishment of site security.

On a wider planning matter, Kralcopic began the activity of re-processing of tailing sands on the Kangaroo Flat site using the services of a third party with a gravity-water separation plant. ERC

community members requested that ERR refer this unplanned activity to the Minister for Planning for a Supplementary EES and a Work Plan. ERR refused this request and it is not known if Kralcopic had any form of authority for the attempted works. Community members noted that for several months a workforce of predominately young females worked in apparently unmonitored circumstances in the immediate vicinity of haul roads which at this time were heavily polluted with arsenic from mine water which had been used as a dust suppressant.

It is a general view of the wider Bendigo community that the Victorian government is unlikely to provide the many tens of millions of dollars of 'make up' funding that would be required by ERR to carry out rehabilitation of the four mine sites and that the most likely outcome is that these sites, like many others currently in "care and maintenance" will remain in their current circumstance for perhaps decades.

The BDEC respectfully requests that this letter be placed as an IAC tabled document for the understanding of the wider group of submitters yet to make their submission. The BDEC will take the opportunity to provide a copy of this letter to the three legally represented parties at the IAC as a failure by ERR to be able to carry out its regulatory responsibilities equally affects all parties to the IAC and equally disadvantages the proponent, Kalbar Operations Pty Ltd..

Yours sincerely

Ian Magee  
On behalf of the BDEC