

8 July 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: TD 542 Technical Note 40 (TN040)**

No 3: Kalbar's assertion that the adequacy of the regulator is beyond the IAC's Terms of Reference (ToR) overlooks the fact that under the ToR Purpose of the IAC, 5c & d, the IAC, when assessing the ability to "avoid, mitigate or manage the environmental effects" must "advise on how this relates to relevant conditions, controls and requirements that could form part of the necessary approvals and consent for the project:..."

Since the regulators, ERR and EPA, (in particular), are responsible for enforcing conditions, controls and requirements, the adequacy of these regulators to execute their functions does seem to be relevant to the IAC's task.

No 4: To overcome the many uncertainties. Kalbar recommends that an Independent Technical Reviewer (ITR) be appointed "to be funded by the Proponent". Its functions (Nos 5 and 6) would be to review, monitor and audit "to ensure that regulators and other accountability bodies (including the Environment Review Committee and the Community Reference Group) have adequate and independent technical advice to assist them in discharging their roles within the accountability framework established for the Project".

Reference to the Stockman's (Benambra) Mine raises a sore point given its ongoing environmental issues-hardly an exemplary model of compliance.

Notwithstanding the disclaimer at No 9, DRAFT TERMS OF REFERENCE FOR INDEPENDENT TECHNICAL REVIEWER:

"In carrying out its function, the ITR is to act independently of the Proponent and must not enter into any relationship or engage in any conduct which gives rise to a conflict of interest", it is patently obvious that if Kalbar appoints and funds the ITR, there is an inherent conflict of interest.

In summary, the idea that a Technical Reviewer is independent when it is appointed and funded by the proponent is a clear contradiction in terms and, therefore, absent of any logic and reasonableness.

Kind regards

Jane Hildebrant  
Submitter 335

