

# Submission Cover Sheet

Fingerboards Mineral Sands Project Inquiry and Advisory  
Committee - EES

# 690

---

**Request to be heard?:** Yes

**Full Name:** Bronwyn Parker

**Organisation:**

**Affected property:**

**Attachment 1:** Fingerboards\_EES

**Attachment 2:**

**Attachment 3:**

**Comments:** Submission is over 500 words and attached per upload instructions below.

## Environment Effects Statement for the *Fingerboards Mineral Sands Mine Project* Public Submission

Dear Inquiry and Advisory Committee members

I am writing this submission about the Environment Effects Statement (EES) for the *Fingerboards Mineral Sands Mine Project* (the Project). I strongly and vehemently oppose this mine.

I have lived in the area that will be directly affected by the mine for 3 years. My daughter and I moved here in order to be with my partner and to seek a peaceful, cleaner existence, on land that has been only minimally adulterated or altered for the benefit of the broader community via dairy, some cattle, and predominantly vegetable farming. My partner has lived on our 80-acre Hillside property, right next door to Lindenow, his 53 years, and his family for three generations before him. The Mitchell River, boosted by the unfortunately rare rainfall, is our principal source of water. We rely and depend on the Mitchell River water being clean and continuous. We argue that the Project under consideration will threaten our enjoyment of our property and life we have created and pose far-reaching risks to and significant irreversible impacts on the environment for all generations to come.

Our life, the property, the land, the clean air, the quality of the Mitchell River are what my family and I fervently and jealously seek to protect and we ask that the Victorian Government also determines it worthy to protect and deems the mine to be unviable, and the EES to be rendered void due to its many deficiencies.

We welcome the members of the Inquiry and Advisory Committee (the Panel) to visit the area as we are confident that this would easily demonstrate what is at risk and with no justifiable end. It would also easily and quickly demonstrate the inadequacy of the EES released for public comment by the Project owner (Kalbar). This is not a solar farm, conservation project or tourism venture. It is a Project that is unnecessary at its core, that will bring far-reaching disruption and irreversible negative impacts to a thriving and productive community. The Lindenow Valley, which includes Glenaladale, is a rich and vibrant community, and forms a significant part of Victoria's Food Bowl. There are over 80 family homes within 2 kms of the mine boundary, which is significantly more than identified in the EES.

The Project was referred to the Federal Government under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). In July 2017, the Federal Government determined the Project is a 'controlled action' as it is likely to have a significant impact on the following matters of national environmental significance which are protected under the EPBC Act: Ramsar wetlands; listed threatened species and communities; listed migratory species; and nuclear actions. The Federal Government pre-empted correctly - that there is certainty around the significantly negative impact the Project will have on the matters of national environmental significance, and arguably much further than those identified by the Federal Government.

I commend the Victorian Government Minister for Planning, the Hon. Richard Wynne for requiring Kalbar to prepare an EES under the *Environment Effects Act 1978* to assess the potential environment effects of the Project; and requesting the Department of Environment, Land, Water, and Planning (DELWP) to convene a Technical Reference Group (TRG) to advise DELWP on scoping and adequacy of the EES. While the TRG appears comprehensively represented by government organisations, it is unrepresented or underrepresented by experts such as in the fields of agriculture, archaeology, history, and horticulture. As such, the feedback/advice the TRG has given to Kalbar during this process has not been sufficiently informed and exposes only part of the story of devastation the Project will leave if allowed to proceed.

**EES Referral Number 2016-06** – outlines compelling reasons underpinning the Minister for Planning's decision that an EES is required - the project has the potential for a range of significant environmental effects. In particular the project as proposed is likely to have significant effects on:

- a very large extent of native vegetation and associated biodiversity values, including listed threatened species and communities;
- surface water and groundwater (i.e. hydrology, quality, availability) and protected beneficial uses;
- existing land uses, amenity and landscape values of the project area and those associated with the broader area, including the Mitchell River National Park; and
- Aboriginal cultural heritage.

While the actions of both the Federal and State Governments are standard responses to mine proposals, the Project under our consideration is a prime example of the very reason both Federal and State Governments have put in place legislation to protect communities from what this Project will result in – irreversible and significant negative change to this community now and for the future.

I urge the Minister for Planning to use the powers available to him to assess the EES as inadequate, lacking in sufficient evidence to support the prolific assumptions promulgated under every section of the EES, intentionally ambiguous, incorrect, incomprehensible, and consciously deficient in its assessment of risk. On this basis, I also urge the Victorian Government to disallow the Project to progress any further.

I urge you, the Panel to assess the EES carefully and deliberately for the shortcomings in the evidence and assumptions presented, and also the omissions and ambiguity that simply serve to frustrate the checks and balances that are in place to protect the public interest.

The Victorian Auditor-General in its report tabled on 22 March 2017 - *Effectiveness of the Environmental Effects Statement Process* stated that the objective of EES process is to provide a transparent, integrated and timely assessment of potential significant effects a project may have on the environment. The process is complex, time-consuming and involves multiple stages. As a result, it has cost implications for project developers and can create uncertainty for members of the community who may be affected by a project's potential negative effects on their local environment.

Kalbar's EES does not meet the objective of the EES process and has certainly created uncertainty for members of our community who will be affected by this Project's negative effects on our environment.

The Victorian Government's *Fingerboards Mineral Sands Project – EES Scoping Requirements* state the purpose of the EES is to provide a sufficiently detailed description of the Project, assess potential effects on the environment (including physical, biological, heritage, cultural, social, health, safety and economic aspects) and assess alternative project layouts, designs and approaches to avoid and mitigate effects. The Scoping Requirements further state the EES will inform and seek feedback from the public and stakeholders and enable the Minister to issue an assessment of the project under the *Environment Effects Act 1978* (EE Act) at the conclusion of the process. The Minister's assessment will then inform statutory decision-makers responsible for the Project's approvals.

According to the Victorian Government's Scoping Requirements, the EES is a transparent, integrated and timely assessment of the Project according to the Victorian Government's Scoping Requirements This process that allows Kalbar to engage and commission an organisation to present an EES is fatally flawed. It represents a conflict of interest of the highest order. Due to the relationship between the funding body and the EES authors, there can be no 'arms-length', and no unbiased, objective or comprehensive assessment of environment effects. One clear example, where Urbis states "Urbis prepared this report on the instructions, and for the benefit only, of Kalbar Operations Pty Ltd".

Another flaw of this process is the expectation that a layperson, or community of passionate, intelligent people with good reason to protect a safe, vibrant, and sustainable environment must wade through multiple volumes of unsubstantiated data, some of which is illegible. The disproportionate amount of funds available to individual members of the public to use to assess the failings of the EES, compared with the bucket of money available to Kalbar to spend on commissioning the EES, is almost insurmountable. However, while presenting a challenge, on top of the timeline afforded between the release of the EES and the public submission deadline and the COVID restrictions, this same group of passionate, intelligent people with good reason to protect the said environment can provide justification for the Panel to declare the EES void, and the recommendation to the Victorian Government not to provide approvals for the Project to proceed.

Kalbar's EES **fails to achieve the agreed purpose.**

1. Kalbar has **failed to inform the public effectively**
2. Kalbar has **failed to assess potential effects** on all the requisite aspects as per the Scoping Requirements listed above (and that list above is not exhaustive)
3. For those aspects that the EES *chooses* to address, Kalbar **fails to provide an evidence-based assessment of the potential effects** and **fails to assign accurate risk ratings to key components;**
4. Kalbar's EES has **failed in its obligation to the Minister** to provide sufficiently comprehensive data and information to enable the Minister to issue an assessment of the Project under the *Environment Effects Act*.
5. In failing in the abovementioned obligations, Kalbar's EES **cannot be relied on by the Minister** to inform statutory decision-makers responsible for the Project's approvals.

## **Failure to inform the public**

- The EES includes ill-informed and inaccurate statements throughout, the consequence being the reader is not able to trust the source or analysis contained in the EES and associated documents. Use of poor quality diagrams, many unreadable, some lacking supporting legends to make sense of the material all serve to support the conclusion that the EES has not met the obligation to effectively inform the public.
- The EES relies on desktop research with obvious geographical errors – the EES shows that Fernbank and Lindenow have active railway stations, which ceased to operate in 1981.
- The area targeted by the Project is productive agricultural farming, which is multigenerational, sustainable, reliable, and essential for food security. The area is zoned for farming purposes. The EES does not provide sufficient information on the intersection of the 15-20-year mining activity with any plans the East Gippsland Shire Council may have for the area.
- The EES does not address activities that fall outside the mining boundary sufficiently, such as modifications to road infrastructure.
- The EES provides no consideration of cumulative environmental impacts, which prevents a complete understanding of the combined effect of the Project - competing interests, impacts of sequential or ongoing issues such as associated with ground water and surface water, compounding dust and noise effects, and indirect effects such as new roads that provide new invasion pathways for weeds and pest species. Economic impacts of the Project have not been assessed by the EES either which would add to the cumulative impact.
- There is no reference in the EES to providing the community/stakeholders with regular status reports on compliance with legislated/agreed performance measures, indicating no intention to continuously inform the public or be accountable for non-performance.

I call on the Panel to recommend to the Victorian Government that before any other decisions are made on the Project, that all components of this failure to inform the public are rectified.

## **Failed to address all aspects of the EES Scoping Requirements**

### ***Indigenous Cultural Heritage***

- The EES has not addressed the Scoping Requirements around the effects on Indigenous and non-Indigenous cultural heritage values in the vicinity of the Project site.
- The Victorian Government, through Aboriginal Victoria, is very clear on its advice - that before starting any development activities it's important to understand how Aboriginal cultural heritage is affected. A Cultural Management Plan is recommended even if projects are not in an area formally defined as having 'cultural heritage sensitivity'. At the time of writing there is no approved Cultural Management Plan in place.
- There is no evidence to demonstrate that the EES has been informed by appropriate consultation with relevant members/experts of the Indigenous population.
- The EES has not appropriately assessed or acknowledged the certain annihilation of all Aboriginal artefacts in the area targeted by Kalbar. The EES' tokenistic mitigation plans to collect some scattered artefacts, store at a museum, and provide education to staff about what an artefact might look like are naïve and discriminatory.
- This Project is playing a key role in the continuous and planned cultural degradation that compounds generational trauma for Aboriginal people. If approved to proceed, this will be part of many events that have robbed both non-Indigenous and Indigenous people of the opportunity to experience, learn from, and be immersed in an area preserving the history of this country.
- The EES categorically fails in meeting the obligation to assess the impact on cultural heritage.

I call on the Panel to investigate whether any heritage assessment has been submitted to Heritage Victoria and Heritage Victoria's response; and provide advice to the Victorian Government on the above deficiencies.

## **Failure to provide appropriate evidence-based assessment of the potential effects**

### ***Land, Soil, Water, Ecology***

- The EES provides no detail on the method Kalbar will use to ensure the original soil is reinstated which renders many of the claims on rehabilitation and revegetation void. Additionally, the EES is limiting soil testing to a

sample that is not representative of the whole site, therefore the data used to inform rehabilitation actions is defective.

- The EES has not provided enough guarantees that tailings can be contained so soil and water supplies are not filled with an unacceptable level of contaminants that presents high risk to the health of the community. The EES rates a tailings dam failure as low. This is not accepted - irrespective of likelihood of a dam failure, the massive negative impact on the economy, surrounding properties and people's lives if the event occurs would drive the risk rating more severe than the EES rating of low. Further the current tailings dam failure ratio cannot be applied to the 15-20-year life of the Project – scientifically proven climate warming increasing every year, with extreme weather that it brings, has not been considered properly by the EES in tailings dam failure.
- The EES provides no evidence that all potential Groundwater Dependent Ecosystems (GDEs) have been identified. The EES also does not provide sufficient detail on downward draining.
- The EES provides insufficient evidence for the basis of its water quality assessment, the impact of water flow on GDEs, and what contaminants or components will make up the runoff. The EES inadequately addresses the risk of dams overflowing and sediment running into the Mitchell and Perry Rivers and dismisses the issue in its claim that sediment would be released when the Mitchell River is fast flowing. Dilution is not a suitable response to this pollution creation.
- The EES assumes that the reduction in annual volume of water flowing in the Mitchell and Perry Rivers caused by the Project is acceptable, however shows no basis or rationale for this assumption.
- The EES does not provide evidence or clarity on the methodology used to assess acceptable flood capacity.
- The EES is clear that dams will play a vital role in operations, however, does not adequately address the risk this will bring to downstream communities. The EES does not address sufficiently the impact of the creation of dams on the quality and volume of water entering the Mitchell River, or the impact on the aquatic ecology of water environments that exist in the affected area.
- Over 3 billion litres of water are required by the mine annually for up to 15 years for processing and to control dust. This shows how big a problem dust is. What will the impact of this be on bores, aquifers and the Mitchell River? According to irrigation data, if the same amount of water was redirected to the horticulture industry, 3 times more jobs could be created than proposed by the mine.

I call on the Panel to conclude that the water quality assessment, flood risk assessment, water quality/volume entering the Mitchell River, impact on GDEs, has not been assessed accurately and the recommendation from the Panel should be that the Project does not proceed.

### ***Air / Dust***

- The EES does not accurately assess the impact on air quality and dust. From my personal experience, the severe north-westerly winds that I estimate occur approximately 30 per cent of the year are ferocious, we baton down the hatches, ensure all is secured, and when the wind storm passes, we are left to clean and wash every single surface in our home and on our property. The significant wind velocity off the high ground of the Fingerboards will bring substantial additional volumes of dust and will mean particles from the mine will be deposited downwind when the velocity drops. There are no mitigation strategies in the EES or commitment to cease operations when these severe north-westerly winds are forecast or arrive without forecast. There is insufficient information in the EES on temporary or unplanned mine shut down.
- The EES acknowledges that dust will be a major issue – as already mentioned over 3 billion litres of water (3GL) is required by the mine annually for the life of the Project for processing and to dust control.
- The vegetable growing industry is multigenerational, and continually innovating to meet the increasing demand for 'clean, green' produce underpinned by sustainable practices. The EES does not effectively consider the probability of toxic dust from mine activities that could shut the industry down. Buyers refused to accept ash-tainted produce during bushfires (some 70 kms or more from the Lindenow Valley) - to extrapolate - produce tainted by dust (containing toxic components) which is generated only 500 metres away will be refused. This contamination will have a profound impact on food security for both the region and further afield.
- The EES lacks validity in relation to its statements around air quality. Measuring air quality at Traralgon (in the Latrobe Valley, site of a coal fired power station) 120 kms away and using it as baseline in rural Glenaladale is one example of distorting data.



## **Traffic / Noise**

- The EES provides insufficient evidence to support its noise level estimation. Further if the Project is allowed to commence, it will be near impossible to mitigate.
- The EES proposed road infrastructure changes/realignments have insufficient detail to put the reader in an informed position.
- A key omission in the EES is around the issue of compulsory acquisition of private land located outside the Project boundary for: additional road infrastructure, water pipelines, bore pumps, bore field, new powerlines, easements, rail siding and vegetation removal. This potential area of acquisition should have been included in the Project area in interests of transparency. It is unclear the role of the East Gippsland Shire Council in this matter.
- The EES does not effectively deal with the impact on the Lindenow South Primary School – it fails to acknowledge the duty of care the Victoria Government has to the students. The school will be affected and the educational outcomes of students will be impacted by traffic, noise, and air quality.
- The EES does not deal with the impact on users of the Bairnsdale-Dargo Road effectively, in particular, cyclists. The Bairnsdale-Dargo Road is familiar to many local cyclists and visitors to the region. It is the road that keen cyclists take to Mount Hotham, the road that clubs such as the Bairnsdale Cycling Club utilise and enjoy regularly, and the road that features on websites such as Cycling Victoria and the Lonely Planet. A practical and genuine demonstration of investment into the community and commitment to mitigation would be for Kalbar to commit to funding and building *before* Project commencement, a barricaded cyclist on-road route from Lindenow to where the Bairnsdale-Dargo Road meets the Princes Highway, Bairnsdale. With the increased traffic, this will be only way cyclists can safely share the road.

## **Risk assessment**

- The EES appears to arbitrarily assign risk ratings to certain events e.g. impact of contaminants on water; minor impact on the Ramsar site with no evidence for this assessment provided in the ecology report.
- Other events are omitted from risk assessment altogether e.g. impact on the aquatic ecology of water environments; unplanned/temporary mine shutdown.
- Kalbar's mitigation strategies in some key areas rely on having an inappropriately conservative risk rating applied. Groundwater and surface water are two examples.
- Confidence is eroded and the integrity of the document is compromised when omissions are identified – a question for the Panel is what other omissions exist? Only a Victorian Government funded expert objective assessment of the EES would settle this matter.

I call on the Panel to conclude that the EES risk assessment of key Project components is inadequate and many risks are intentionally underrated so as to avoid the Panel's scrutiny; and call on the Panel to recommend to the Victorian Government that an expert objective assessment of the EES is funded and all decisions related to the Project be suspended until this occurs.

## **Rehabilitation**

- The Victorian Auditor-General in its report tabled on 5 August 2020 – *Rehabilitating Mines* stated that site rehabilitation is key to minimising risks to the public, the environment, property or infrastructure; it is vital that mining operators fulfil their obligations to rehabilitate the land by returning land that has been disturbed to a safe, stable, and sustainable condition.
- The 5 August 2020 Report further states that the *Mineral Resources (Sustainable Development) Act 1990* does not define rehabilitation. It is my contention that the EES applied an extremely narrow reading of rehabilitate the land to a "safe, stable, and sustainable condition" which is not acceptable and will not meet the original intent of the Act. The site under consideration requires a much wider reading of the rehabilitation thresholds that is currently being put forward in the EES.

I call on the Panel to independently assess the rehabilitation plan in consultation with all relevant experts:

- To gauge what actions will be acceptable to return the land to a "safe, stable, and sustainable condition";

- To investigate whether there are rehabilitation bonds in place that are enough to ensure that the State has funds to restore sties if Kalbar does not, and to protect the State from being exposed to significant financial risk.
- The EES rehabilitation plans are insufficient – old growth trees cannot be returned, Indigenous artefacts and land with cultural significance cannot be returned – these impacts are irreversible. The commitment to progressive rehabilitation is hollow as the EES have not performed soil testing of the whole site (just a sample); ignored the symbiotic relationship between all layers of planting which will be irreversibly disrupted;
- The Benambra Mine, near Omeo is a classic example of a company being placed into administration without any environmental rehabilitation occurring. Ten years later, the Victorian Government engaged a company to undertake rehabilitation of the entire site, including the tailings dam. The repercussions of that project are that toxic tailings continue to leak from the dam into the headwaters of the Tambo River, which, like the Mitchell River, flows into the Gippsland Lakes and ocean. The Benambra Mine location is distinguishable from the Project under our consideration, as it is remote. There would be more immediate and risky repercussions if that were to eventuate in this our populated regional area that is not remote.

### **Conclusion**

The information that is not included in the EES, together with the disorganised, unsubstantiated, ambiguous, and incomplete information that is included – equates to a categorical failure to achieve the purpose of the EES, that being:

- to provide a sufficiently detailed description of the Project;
- assess potential effects on the environment (including physical, biological, heritage, cultural, social, health, safety and economic aspects);
- assess alternative project layouts, designs and approaches to avoid;
- mitigate effects;
- inform the public and stakeholders;
- seek feedback from the public and stakeholders;
- enable the Minister to issue an assessment of the Project.

The EES does not demonstrate benefits to the immediate community, the State, or the country. The entire premise upon which the EES assesses impact on, and risk to, the Fingerboards area is flawed. The multitude of assumptions made in the characterisation of the Fingerboards area are flawed. This invariably should lead the Panel to suspend the process immediately and to find a way in the existing legal framework to mandate a triple bottom line cost/benefit analysis. Once the environment and social bottom lines are given equal consideration as the economic, the case against the Project proceeding will be undeniable.

The role of Government in our democratic society is to act in the public interest – when performing functions and duties, in the exercise of discretionary powers, in making decisions. With so many issues there are competing or conflicting interests that arguably form part of the public interest. There no such competition or conflict relating to the public view or interest here, there is one undivided and homogenous view – that the Project should not proceed.

I would like to express my thanks to the Panel members in anticipation of your consideration.

Bronwyn Parker