

13 July 2021

By Email

To

Amy Selvaraj
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Planning Panels Victoria
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FOR THE ATTENTION OF NICK WIMBUSH, CHAIR

Dear Amy

**Inquiry and Advisory Committee (IAC)
Fingerboards Mineral Sands Project (Project)**

We continue to act for East Gippsland Shire Council (**Council**).

We refer to the IAC's letter dated 18 June 2021 seeking written responses to the revised documents from the proponent.

Due to the large volume of material submitted and Council's experts having conducted their reviews on the basis of earlier iterations of these documents, the comments are necessarily limited to a high-level review and are not based on expert advice.

On a without prejudice basis, in an attempt to assist the process, and as best as can be achieved in the circumstances, the following comments are provided.

1. Comments included in this review are primarily focused on areas and elements in relation to which Council will continue to have an ongoing role in approval of management plans and ongoing compliance. Council is not in a position to review whether compliance with one requirement or amended requirement will affect compliance with other requirements.
2. If Council is in a position to provide additional comments prior to final submissions it will endeavour to do so in advance of Kalbar's closing submissions. We note that the comparison documents prepared for the EPA and circulated on 7 July 2021 have not been reviewed in any detail and do not form part of this response.
3. How these documents fit with other tabled documents is unclear. We note for example that the documents have not apparently been updated to reflect either agreements in the expert conclaves or TN 040 which contains reference to the role of an independent technical review body.
4. Commitments now offered such the timing of the delivery of the reserve do not form part of the proposed documentation.

5. In respect of each matter in relation to which notice to another agency is required in addition to the approving agency a period of 28 days notice must be given to that agency to comment on the approval.
6. A master plan for the entire site is required which should be approved first in order to ensure that the site is comprehensively and cohesively planned. Alternatively, it should be clear that the development plan must be approved first and must include a comprehensive understanding of the entire site layout in order ensure that staging does not result in the piecemeal or ad hoc planning of the area.
7. The SCO should not include an exemption from a requirement to obtain permission in respect of easements. The SCO head clause (proposed clause 45.12) provides that (emphasis added):

Land affected by this overlay may be used or developed in accordance with a specific control contained in the incorporated document.

8. Dealings with easements are neither use nor development and are not within the scope of the SCO. The mitigation measures should include a requirement which requires any necessary permission in respect of easements to be obtained.
9. The inclusion of tree removal within the permit triggers is not appropriate within the SCO land as tree removal in respect of this land has not been assessed as part of this proposal (save for a brief and belated reference in a technical note).
10. To the extent that the documents attempt to reflect the proposed amendment to the infrastructure area, this is not supported by the Council in view of the late notice of this proposed amendment which does not form part of the advertised EES. It is noted that the extent to which this has been advertised even to people whose land is proposed to be included in the revised area remains unknown.
11. The documentation should also include a clear statement that the proponent bears all costs of the design and approval of all roads or road alterations involved in the project including upgrades and maintenance required for the project consistent with the evidence of both traffic experts.
12. The Council does not support any Special Use zoning of the Mining land in view of the importance of retaining this land as farming land. Such a significant change was not advertised as part of the EES. The Council recognises the benefits of transparent identification of any approval of the land for mining purposes so that potential purchasers are made aware of any approval, however in the absence of such a change forming part of the advertised EES such a change is not considered appropriate.

A table is attached containing Council's comments.

Yours sincerely



Darren Wong
Principal
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ATTACHMENT 1 – COUNCIL’S TABLE OF COMMENTS

<p>Incorporated document</p> <p>Clause reference</p>	<p>Comment</p>
<p>2 Definitions</p>	<p>For ease of understanding if there is to be a definitions section it should include all definitions (see for example those in clauses 1.1, 1.2 and 4.1).</p> <p>In this context there will be more than one Responsible Road Authority. While technically a reference the definition should be drafted to include the potential for more than one authority to exist. It is important that which road authority is responsible for which road is transparently able to be established.</p> <p>A plan is required to be attached showing which road authority is responsible for which road and where the roads will be over time.</p> <p>See discussion below about progressive amendments to planning scheme maps to ensure that the proponent ensures that roads are progressively shown in the correct position on planning scheme maps as the project progresses.</p>
<p>5.2.1 Creation of easements</p>	<p>The terms of the Specific Controls Overlay do not extend to the creation or amendment of easements. References to the creation of easements should be removed.</p> <p>Proposed Clause 45.12-1 indicates what an SCO allows, which does not extend to alteration of property rights (emphasis added):</p> <p style="text-align: center;"><i>Use or development</i></p> <p style="text-align: center;"><i>Land affected by this overlay may be used or developed in accordance with a specific control contained in the incorporated document corresponding to the notation on the planning scheme map (as specified in the schedule to this overlay). The specific control may:</i></p> <ul style="list-style-type: none"> <li style="text-align: center;"><i>• Allow the land to be used or developed in a manner that would otherwise be prohibited or restricted.</i>

Incorporated document	
Clause reference	Comment
	<ul style="list-style-type: none"> • <i>Prohibit or restrict the use or development of the land beyond the controls that may otherwise apply.</i> • <i>Exclude any other control in this scheme.</i>
5.2.2, 5.2.7 and 5.5	<p>Add words to reflect exhibited document:</p> <p style="text-align: center;"><i><u>A water pipeline and associated bore pumps within that part of the Infrastructure Area to the south-east of the Project Area and to remove the references to creation of easements.</u></i></p> <p>Note that extension of the bore field beyond that advertised as part of the EES is not supported by the Council.</p>
5.2.9	This needs to be removed if the Bairnsdale siding option is rejected or not pursued.
5.2.13	<ol style="list-style-type: none"> 1. Replace “it” with “is” to correct a typographical error. 2. Add “whether or not ancillary to another use of land” <p>This would reflect the proponent’s stated intention not to include accommodation or food and drink premises. If the stated benefits are to be delivered it is important, and consistent with the proponent’s case, that no accommodation or food outlets are provided so that workers are required to live in and contribute to the community. Wide interpretations of permissible ancillary uses cannot be excluded without clear wording.¹</p>
6.2.1	The Council should be the decision-making body in relation to these plans as it will be required to enforce them and has the local knowledge and knowledge accumulated through this process which will assist in assessing these plans. The identified plans should be required to be prepared to its satisfaction.

¹ See for example *Swan Hill RCC v Obetz Holdings Pty Ltd [2019] VCAT 1579 (9 October 2019)*

Incorporated document	
Clause reference	Comment
	Alternatively, it should be involved in the decision-making process in a meaningful consultative role.
6.2.3(b)	<p>Add after “development license” “including any conditions on the development license”.</p> <p>It is not clear that the words “generally in accordance with” are necessary here as compliance with the development licence will be required.</p>
6.2.6	The reference to “them” should be clarified.
6.3.4	<p>Add: “in consultation with the Responsible Road Authority”.</p> <p>The requirement for a masterplan should be reinstated in accordance with the Council’s previous of the ICO documentation.</p>
6.3.4(d)	It is unclear what is meant by “approved to be removed”.
6.4.5	“Predominantly via rail” is unclear and should be replaced with a clear definition and map.
6.4.5(c)	Any existing conditions survey should be conducted in accordance with an identified standard.
6.4.5(i)	<p>Add:</p> <p>“Inspections must include traffic counts prior to commencement and annually to identify increases in traffic identified by type of vehicle”.</p> <p>These inspections must be to the satisfaction of the Council as well as Head of Transport for Victoria.</p>
6.4.5(n)(i) and (v)	These clauses should explicitly acknowledge that there may be more than one road authority by adding “or Authorities after the word Authority” or by including explicitly recognition of this in the definition section.

Incorporated document	
Clause reference	Comment
	The clause must reflect the requirement for satisfaction of the Council in respect of Council owned and operated roads, indemnity of Council in respect of roads built and operated by Kalbar of on land it controls and a requirement for an agreement to be entered into in respect of the bond securing road works which affect council roads. All costs of the Council associated with review of agreements and road designs must be met by the project.
6.5 including 6.5.2.	EPA should approve the noise management plan in consultation with EGSC.
6.5.3 (a)	Add for the avoidance of doubt “as amended from time to time” at the end of this subclause.
6.7	This drafting is dependent upon whether the proposed off-sets should be staged.
6.7.4(e)	Remove the word “retained” as it is unnecessary and links vegetation to the vegetation existing at the commencement of the project for which there is no survey and excludes vegetation which may grow in the interim.
6.7.5	This is inappropriate with no basis to identify the numbers and amounts to approval of vegetation loss not considered in this process.
6.7.7 – 6.7.8	This is uncertain and unworkable.
6.8	This should be to the satisfaction of the EGSC; CFA and DELWP.
6.8.3	Remove “as appropriate” and include a requirement for annual reviews and approvals.
6.9.2	A separate bond is required for rehabilitation in this area as it is not within the mine area covered by the bond administered by ERR.
6.9.2(K)	Delete “existing”. This should include all vegetation at the time of decommissioning not approval.

Incorporated document	
Clause reference	Comment
8	The project has been advertised as a 15 and/or 20 year project. There is no justification for extension to 25 years.
8.2	Add at the end "Fire and Emergency Management Plan or Native Vegetation Management Plan"
8.3	The 2 year period should be non-continuous based on the similar provision in clause 63 of all planning schemes. It should include care and maintenance periods as these indicate appropriate junctures to reconsider whether the mine should be permitted to continue so as to avoid mines remaining inoperative and without rehabilitation.
8.4	This is opposed.
8.6.1	References to Decommissioning plan should also include Fire and Emergency Management Plan or Native Vegetation Management Plan and a positive obligation to implement these plans must be included.
8.7	Amend to: "The control expires upon completion of the development required to implement the Decommissioning Plan"

Additional matters:

As indicated in the Council's previous draft, the permit trigger relating to vegetation removal should not be included in this approval.

The extent of vegetation removal in this area has not be properly considered and should remain the subject of this permit trigger to ensure a proper assessment is made. The approval of vegetation removal within this area which did not form part of the detailed vegetation assessment for the project is not appropriate.

TD 505 - Attachment H – Mitigation register	
Proposed measure	Comment
AQ04 - Speed limits of 20 km/hr in the event of dusty conditions and 50 km/hr under normal conditions will be implemented and enforced on unsealed project roads to minimise dust generation	It is unclear how the distinction between “dusty” and normal conditions would or could be established or enforced.
AQ 13 - Certain activities, such as overburden excavation and transport of overburden and product, will be ceased, slowed or relocated (as necessary) when real-time air quality monitoring indicates that air quality trigger levels have been reached near key sensitive receptors	This should be cross-referenced to indicate what those thresholds are and the real time air quality monitoring should be made publicly available. Clear indications of the “key sensitive receptors” should be included in this measure.
AQ 21	This measure is unclear. The cessation of dust producing activities during night time hours is a preferred approach.
AQ22 Corrective actions must be implemented, and authorities notified, if rainwater monitoring at surrounding properties (carried out in accordance with EMF Chapter 12, Table 12.9 – baseline and operational) exceeds Australian Drinking Water Guideline limits). [expert evidence of Simon Welchman, [71], TN13 Item 102. See also Airborne and Deposited Dust Risk Treatment Plan, Table 9-1, Item 6]	This measure is unclear as to what is proposed to be monitored and the corrective actions proposed. Presumably it relates to monitoring of water stored in rainwater tanks. It is unlikely that rainwater itself would exceed Australian Drinking Water Guidelines.
[East Gippsland Shire Council’s request for implementation of “best practice” across the board (as per cross examination of Mr Welchman and [237] and its Part B submission) is noted. This not opposed in principle, but need / utility queried, given ‘best practice’ a requirement under the PEM and SEPP AQM, but presumably to be overtaken / subsumed within general environmental duty and principles under the Environment Protection Act 2017]	All dust mitigations measures must comply with industry best practice for mining as adjusted to protect the sensitive uses in this location [including vegetable farming] as may be developed from time to time. The air quality monitoring plan the Airborne and Deposited Dust Risk Treatment Plan must be reviewed annually to ensure best practice compliance and compliance with the general environmental duty and principles under the <i>Environment Protection Act 2017</i> .
GHG11 Kalbar will comply with the commitments set out in the document titled ‘Kalbar commitment to Carbon Reduction at the Fingerboards Project’.	The commitments in that documents should be extracted and expressly included in the mitigation register to aid clarity.

TD 505 - Attachment H – Mitigation register	
Proposed measure	Comment
CH01 – CH08	These are likely to require updating to reflect further work understood to be occurring.
CH09 Kalbar will consult with GLaWAC on the cultural heritage values of the waterbodies in the region and how these values could inform the definition of water quality objectives to protect Traditional Owner cultural and spiritual values.	Consultation is not a mitigation measure.
GW02 Groundwater will be extracted from the Latrobe Group Aquifer in line with the conditions, timings, and limits detailed in a licence issued by Southern Rural Water	This is not a mitigation measure but statement that the proponent will comply with the law. It would be better expressed as: “The conditions of any licence or approval issued under the <i>Water Act</i> 1989 will be complied with”.
GW19 Kalbar will work with SRW to encourage owners of unregistered bores to have their bores licensed. Once registered, those bores will be incorporated into any modelling undertaken as part of the groundwater licence application. [In response to recommendations made by John Sweeney in TN013 No.65]	It is not clear what this means or how it would mitigate a risk. It may something that Kalbar wishes to do but it is not clear how it mitigates risk.
GW20 Predicted process water quality will be reviewed as part of the updated water balance currently in preparation. [In response to recommendations made by John Sweeney in TN013 No.70]	It is unclear when this is to occur and does not appear to be a mitigation measure.
GW22 That filling of the Perry Gully with overburden and mine tailings be subject to appropriate protection measures reflective of the risks to surface water and groundwater. [In response to EPA Part B submission (Tabled Document 486, paragraph 93)]	The reference to “appropriate protection measure” gives no guidance as to what they are or how they will mitigate and identified risk not how that assessment will be made.
NV03 Unless a noise assessment based on plant noise emission data and predicted received noise levels indicates that noise reduction is unwarranted (e.g., because the noise source would not increase the received noise level at a sensitive receptor by ≥ 1 decibel, with the prediction rounded to the nearest whole	It is unclear why this is limited to dwellings within 800m rather than being based on the extent of increase in noise. It is important to understand which properties would be affected by this measure.

TD 505 - Attachment H – Mitigation register	
Proposed measure	Comment
decibel), when pumping units over 500 kVA are located within 800 m of any dwelling, temporary acoustic barriers will be used, such as earth bunds, Echobarrier or FlexShield or other portable barriers (when with the barrier height to exceeds the pump height by at least 0.5 m). The barrier system will incorporate an acoustically absorptive finish to minimise reflected noise.	
NV 09 or additional mitigation measure relating to complaints.	Each of the relevant subplans nominated should include a clear and consistent and updated protocol for complaints consistent TD390/TN025 and AS 10002:2014 <i>Guidelines for complaint management in organizations</i> .
NV 17 – Noise at sensitive times	Both the EPA’s suggested drafting and the approach articulated by the Council should be adopted as they are not inconsistent; the EPA drafting is more targeted to night time activities. Alternatively night time activities could be prohibited except specific permission of the EPA and a minimum of 48 hours written notice is provided to potentially affected properties.
NV32 Equipment and processes that do not exhibit characteristics of intermittency or impulsiveness will be selected, where feasible.	This measure should be changed is as follows: NV32 Equipment and processes that do not exhibit characteristics of intermittency or impulsiveness will be selected, <u>where reasonably practicable and in accordance with industry best practice</u> .
NV37 (added from Risk Treatment Plan) - Where a meaningful reduction in noise levels at a sensitive receiver will result, then quieter plant and equipment will be selected where options exist, unless the cost or other relevant disadvantage of selecting the quieter plant (e.g., reliability, quality, warranty provision and so on) is disproportionate to the noise reduction achieved.	This drafting is improved but remains imprecise and unlikely to be capable of enforcement. The following change would assist: NV37 (added from Risk Treatment Plan) Where a <u>meaningful perceptible</u> reduction in noise levels at a sensitive receiver will result, then quieter plant and equipment will be selected where options exist, unless the cost or other relevant disadvantage of selecting the quieter plant (e.g., reliability, quality,

TD 505 - Attachment H – Mitigation register	
Proposed measure	Comment
	<p>warranty provision and so on) is <u>demonstrated to be an unreasonable response</u> to the noise reduction achieved.</p> <p>Records relating to all decision making consistent with this mitigation measure must be made available to any person on request.</p>
RD 1 – RD 11	These measures do not appear to have been reviewed taking into account the revised comments by Dr Joyner particularly in relation to transport off-site.
RH08 Riparian vegetation will be established in rehabilitated flow channels to increase effective hydraulic roughness of the channels, reduce flow velocities, increase channel stability to storm flows and minimise erosion. A revegetation programme for revegetation of all gullies downstream of mining activities will be commenced at the first autumn or winter after environmental approval (i.e., as early as possible and prior to mining commencement to minimise risks of erosion). [evidence statement of Dr Michael Cheetham, p 4]	<p>It is not clear what “environmental approval means” ie whether it is final approval of a work plan or any approval of an EES.</p> <p>Given the importance of this process it should be any approval of an EES.</p> <p>This addresses rehabilitated flow channels but not other channels not yet rehabilitated or eg Perry Gully.</p> <p>This should be extended to all flow paths or at a minimum those affected by the relevant stage of mining operation whether or not rehabilitated.</p>
	The rehabilitation plan remains silent on when the proposed reserve would be delivered. If it is intended that this be delivered at the end of the mine life this should be squarely stated and measures to ensure this occurs clearly articulated.
SE 1 - 64	<p>It is noted that no changes to these mitigation measures are proposed. A clear commitments to make community contributions if this is a claimed benefit of the proposal.</p> <p>At a minimum a requirement to report annually as to how these mitigation measures have produced measurable benefits to the community and a procedure for updating these measures in the absence of a benefit being</p>

TD 505 - Attachment H – Mitigation register	
Proposed measure	Comment
	<p>demonstrated should be included and how the previous failure to deliver a benefit will be compensated for by future actions.</p> <p>Eg:</p> <p>A report must be prepared to the satisfaction of ERR and EGSC which provides details of:</p> <ul style="list-style-type: none"> (a) What has done to demonstrate compliance with SE 1 – 64; (b) Any benefit to the community delivered by SE 1 – 64; (c) Identify amendments required to ensure the measures to deliver real and measurable benefits; (d) How the delivery of those measures will be adapted to ensure benefits are delivered to the community commensurate with the intention that each measure provides a benefit to the community to mitigate the effects of the mine. <p>This report must be prepared annually and made available to the public.</p> <p>The report must be to the satisfaction of East Gippsland Shire Council as the responsible authority for the Infrastructure Area.</p> <p>Note: This requirement should also be included in the Incorporated Document.</p>
SW03 Mine contact water from outside of the mine void, temporary TSF or process water dams that is retained in water management dams will be offset by releasing the same volume of water from the freshwater storage dam. Water will be released downstream of the project area (to the Perry River catchment) or directly to the Mitchell River via the pipeline from the freshwater storage dam.	These releases should also be subject to the sub-plan referred to in SW-04 and cross-referenced to the requirements of SE-44 and SW-45.
SW45 In order to limit the risk of impacts arising due to nitrogen or phosphorus in discharged water, treated water from the Dissolved Air Flotation (DAF) circuit will not be	It is unclear how this fits with SW33. If the water is required to be discharged in anticipation of a flood event, while flows are low this would inhibit the indicated benefits of

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Proposed measure	Comment
released to the Mitchell River when daily Mitchell River water flows are less than 50 ML/day. [In response to recommendations made by Jarrah Muller in TN013 No.53]	removal of water from the site anticipation of flood events.
TE04 The extent of clearance and buffers around no-go areas will be clearly defined to avoid disturbance within areas to be retained.	No-go zones should be identified where possible in these measures to include Saplings Morass, the areas surrounding the Ferndale Road sidings and sensitive gullies not included in the mining area.
TE27 Additional targeted surveys for specified species, including the Giant Burrowing Frog (active searching, installation of song meters over multiple days after significant rainfall) as part of approval conditions recommended through the EES assessment process. 3 Standards Australia. 2004. AS 1940:2004. The Storage and Handling of Flammable and Combustible Liquids. Standards Australia. Sydney, New South Wales. 4 Environment Protection Authority Victoria. 20152018. Bunding Guidelines. Liquid Storage and Handling Guidelines Publication 347.1.1698 Environment Protection Authority Victoria, Southbank, Victoria. 5 Department of Economic Development, Jobs, Transport and Resources. 2017. Technical Guideline, Design and Management of Tailings Storage Facilities. Department of Economic Development, Jobs, Transport and Resources. Earth Resources Regulation. April 2017.Fingerboards Mineral Sands Project Environment Effects Statement 754-ENAUABTF11607_Attachment H_Mitigation_Rev0 August 2020 25 Identifier Mitigation measure [Partially in response to recommendations made by Aaron Organ in TN013 No.6 and partially in response to the evidence of Brett Lane regarding changes to the advisory list]	No time is nominated for this activity. It should occur as soon as possible if an EES were approved and before the approval of the relevant sub-plan.
Traffic and transport	The clarification that no pre-Avon route is now pursued is welcome and noted. Options 1 and 2 should be clearly defined so at that the scope of the project is understood.

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Proposed measure	Comment
<p>TT03 - Standard road lighting will be provided at the following intersections to increase the visibility on approach to the intersection and improve safety:</p> <ul style="list-style-type: none"> • Fernbank-Glenaladale Road and Bairnsdale-Dargo Road (if required under the road and rail scenario). (Both Options, noting that this lighting also required for construction phase) • Lindenow-Glenaladale Road and Princes Highway. (Option 2) • Fernbank-Glenaladale Road and the private haulage road (Option 1). • Racecourse Road and Princes Highway (if required under the Bairnsdale rail scenario) (Option 2). [see evidence statement of Paul Carter, pp 28-29 which explains these changes] 	<p>It is noted that if an underpass is provided in accordance with Mr Hunt’s evidence it is likely that the lighting requirements would be reduced – amendments would depend upon the IAC’s recommendations.</p>
<p>TT10 Diverted and realigned roads will be constructed to the same or better standard as existing roads.</p>	<p>Add:</p> <p>All roads and or surrounding or road related infrastructure altered, diverted or realigned will be constructed to a standard approved by the relevant road authority at no cost to the relevant Council or Secretary to DoFT.</p>
<p>TT32 Option 1: Upgrade of the Fernbank-Glenaladale Road / Private Haulage Road intersection to a signalised control with advanced warning signs upstream of the intersection location and consideration of appropriate spacing between intersections to reduce the risk of highspeed vehicle collisions and providing awareness of the hazard. [evidence statement of Paul Carter, p 28.]</p>	<p>As acknowledged by Kalbar this drafting would require amendment if the underpass option were preferred.</p>
<p>VL14 A program of voluntary landscape mitigation works must be offered, and if accepted, made available, to the owners of dwellings within 1km of the mine. The offered mitigation works must include planting and/or other works on the owner’s land to reduce direct views of mining activity from dwellings. [as provided in TN010, Landscape and Visual, IAC RFI response, p 7, response to questions 95-96]</p>	<p>This is supported but it is not clear whether “direct views of mining activities from dwellings’ means only direct views of equipment from inside a dwelling or has more expansive definitions inclusive of views of infrastructure from other areas of adjoining properties. Clarification of which dwellings would be the beneficiaries of this measure would assist.</p>

<p>Environmental Management Framework</p> <p>Page reference</p>	<p>Comment</p>
<p>12.1.2 Baseline date</p>	<p>This should be updated to include all additional baseline data not produced during this hearing and/or committed to during the hearing of after it or arising from an “test pit” works and analysis.</p>
<p>Page 12.32 – Groundwater Page 12-33 – Surface water</p>	<p>Additional final sub-point:</p> <ul style="list-style-type: none"> • The results of all monitoring events and data relating to water quality and quantity received in accordance with these requirements must be made publicly available as soon as practicable after receipt of the information required.
<p>Page 12-33</p> <p>– The quality of water released from mine water storages will be monitored at the point of discharge, at the nearest accessible point to receiving water and (if applicable), upstream of the water storage. Water quality monitoring would be done at least daily during discharge and for a minimum of 5 days at upstream and downstream sampling locations following cessation of [TN13, Item 4].</p>	<p>The final word appears to be missing.</p>
<p>Page 12.37</p> <ul style="list-style-type: none"> • Specific requirements and timing: – Prior to commencement, ambient (Leq, L10 (including L101,8hr for traffic purposes) and Lmax) and background (L90) noise surveys to characterise baseline conditions to enable comparison during construction and operations and fix relevant criteria for compliance purposes. 	<p>L_{101,8hr} – appears to be a typographical error and should be L_{10 18hr}.</p>

<p>Risk Treatment Plan: Water quality and hydrology</p> <p>Page Reference</p>	<p>Comment</p>
<p>Page 20</p> <p>9. Monitoring The purpose of environmental monitoring for the project is to verify impact predictions made in this report and to demonstrate regulatory and licensing compliance. Where necessary, corrective action will be taken should monitoring indicate that management measures are not effective. Monitoring will also inform day-to-day operation of the mine and will enable periodic updating of this risk treatment plan and the hydrological models upon which it is based</p>	<p>The qualification “where necessary” should be removed from this section. Many or most of the requirements are to achieve minimum requirements and corrective action should be made at any time monitoring indicates that management measures are not effective – without the need for an additional qualification. The paragraph should be amended to:</p> <p>9. Monitoring The purpose of environmental monitoring for the project is to verify impact predictions made in this report and to demonstrate regulatory and licensing compliance. <u>Where necessary</u>, corrective action will be taken should monitoring indicate that management measures are not effective. Monitoring will also inform day-to-day operation of the mine and will enable periodic updating of this risk treatment plan and the hydrological models upon which it is based.</p>
<p>Page 24 – Groundwater levels – preconstruction.</p>	<p>Consistent with the evidence of Dr Webb the location and extent of monitoring bores at least indicatively should be specified.</p> <p>Council notes that the proposed change and that at 4 removes any commitment to a specified level of pre-commencement monitoring.</p>
<p>Page 29 New element 22</p> <p>Quantity and quality of water intercepted by in-pit seepage collection system.</p>	<p>Information gathered should be made publicly available.</p>
<p>Additional clause The total water use for which a licences is proposed to be obtained must be limited to 2800ML.</p>	<p>This accords with information provided in part (e) of TN 039. It is noted that while matters such as the water balance appear under headings including the term “agreed” it is not clear who is purported to have agreed to any descriptions provided.</p>

Noise	
Page Reference	Comment
<p>Page 5</p> <p>Noise Control Guidelines – EPA Publication 480 Night – Monday to Sunday (10:00 p.m. to 7:00 a.m.) noise should not be above the background sound inside any adjacent residence.</p>	<p>This should not be removed. This requirement indicates that noise should not be above background noise levels. The EPA Publication 1834, Civil construction, building and demolition guide imposes a higher standard that noise is inaudible at night but allows the permission for f ‘unavoidable works’ and ‘low-noise or managed impact works’.</p> <p>Working together this allows some flexibility for works to be approved up to background noise levels in adjacent rooms. There is no demonstrated need for additional night-time noise levels to be exceeded.</p>
<p>Page 6</p> <p>NV11 Activities such as overburden movement will be restricted to day and evening periods during Year 1 to avoid noise propagation during the night. Mine schedule; haulage records</p>	<p>This requirement does not appear to have been carried over to TD505 (ie into the new mitigation register document).</p>

TD 506 - Air Quality RTP

PDF – 15	It is undesirable to have this referring to a draft AQMP in an expert evidence statement. This should be repeated in the document.
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Use of the term “where reasonably practicable”.

The document continues to use the term “where practicable” – on 32 occasions. This should be removed on each occasion. It is not a mitigation measure to do something where this its implementation is contingent on unidentified factors for example:

GHG02 Energy efficient technology will be used where practicable, including low energy lighting (e.g., LEDs).

GHG07 The amount of land clearance will be minimised as far as practicable to reduce greenhouse gas emissions.

This is essentially meaningless if interpreted to mean that it is impractical to install a more expensive product.

In the following example:

RD07 Runoff and erosion of soil (which could contain ore) will be minimised through:

- Adequate bunding of operations and storage areas to avoid the transport of spilled or stored material into the surrounding terrestrial, freshwater or marine environment.

- Constructing stockpile slope angles **as low as practicable** and mulch materials and contour ripping will be strategically used.
- Locating stockpiles to avoid overland flow pathways.
- Diverting runoff from stockpiles to the process water dams for reuse.
- Vegetating overburden stockpiles where appropriate to minimise erosion.

The term “as low as practicable” could be replaced with as low as can safely be constructed.

Mitigation measures

In many cases the mitigations are in fact no more than acknowledgements of the need to comply with existing law or standards. The role of these statements should be clarified and a general statement made at the commencement of the document that the mitigation standards do not derogate from the requirement to comply with any and all legislative requirements and requirements of other approvals.