

Terms of Reference

Goschen Mineral Sands Project
Inquiry and Advisory Committee



Department
of Transport
and Planning

Version: July 2023

The Goschen Mineral Sands and Rare Earths Project Inquiry and Advisory Committee (IAC) is appointed to inquire into, and report on, the proposed Goschen Mineral Sands and Rare Earths Project (the project) and its environmental effects in accordance with these terms of reference.

The IAC is appointed pursuant to:

- section 9(1) of the *Environment Effects Act 1978* (EE Act) as an inquiry; and
- part 7, section 151(1) of the *Planning and Environment Act 1987* (P&E Act) as an advisory committee.

The IAC will also provide advice that can be used to inform the Environment Protection Authority's (EPA) consideration of the development licence application under the *Environment Protection Act 2017* prepared by the proponent for the project.

Name


1. The IAC is to be known as the 'Goschen Mineral Sands and Rare Earths Project IAC'.

Skills

2. The IAC members should have the following skills:
 - a. groundwater and surface water;
 - b. biodiversity and ecology;
 - c. rehabilitation of minerals sands mines, soils and erosion;
 - d. amenity including noise and air quality; and
 - e. land use and socio-economic impacts.
3. The IAC will comprise an appointed Chair (IAC Chair) and other members.

Purpose of the IAC

4. The IAC is appointed by the Minister for Planning under section 9(1) of the EE Act to hold an inquiry into and report on the environmental effects of the project. The IAC is to:
 - a. review and consider the environment effects statement (EES), the other exhibited documents, and submissions received in relation to the project;
 - b. consider and report on the potential significant environmental effects of the project having regard to the evaluation objectives in the EES scoping requirements and relevant policy and legislation;
 - c. consider and report on potential significant impacts on relevant matters of national environmental significance protected under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act);
 - d. identify any project modifications or additional measures beyond those identified in the EES the IAC considers necessary and effective to avoid, mitigate or manage the environmental effects of the project consistent with relevant policy and legislation;
 - e. advise on how these modifications or measures should be implemented through the necessary approvals and consents for the project; and
 - f. review the development licence application and relevant submissions and provide advice that can be used to inform the EPA's consideration of the application prepared by the proponent for the project.
5. The IAC is also appointed as an advisory committee under section 151(1) of the P&E Act to:
 - a. review draft Amendment GC218 to the Gannawarra and Swan Hill Planning Schemes (PSA), which is proposed to facilitate the project;

- 
- b. consider any relevant issues raised in public submissions received in relation to the draft PSA;
 - c. recommend any changes to the draft PSA that it considers necessary to ensure consistency with relevant policy and legislation.
6. The IAC is to produce a report of its findings and recommendations to the Minister for Planning to inform the Minister's assessment under the EE Act, which will be considered by statutory decision makers for the project.

Background

Project outline

7. The project proposes to develop the Goschen Mineral Sands and Rare Earths Project which has an approximate mining area of 1,480 hectares and is located approximately 20 kilometres south of Swan Hill in north-west Victoria. The proposed mining methods involve open pit mining to extract approximately 5 million tonnes of ore per annum over a projected mine life of 20-25 years. Mine products are proposed to be transported via road or rail for export overseas.
8. The key components of the project include:
 - a. the development of a mineral sands mine;
 - b. mining unit plants;
 - c. wet concentrator plant;
 - d. rare earth mineral concentrate flotation plant;
 - e. hydrometallurgical plant;
 - f. water supply infrastructure, including a 38-kilometre pipeline from Kangaroo Lake and onsite water storage;
 - g. in-pit tailings disposal; and
 - h. additional site facilities, such as a 9.5 MW power station, administration building, warehouse, heavy equipment laydown area, workshop, laboratory, security guardhouse, lighting, chemical and fuel storage, vehicle washdown and weighbridge.
9. The project's proponent is VHM Limited, who is responsible for preparing technical studies, consulting with the public and stakeholders and preparing the EES and draft PSA.

EES assessment process

10. In response to a referral under the EE Act from the proponent, the then Minister for Planning determined on 10 October 2018 that an EES was required for the project and issued his decision with procedures and requirements for the preparation of the EES as specified in **Attachment 1**.
11. The EES was prepared by the proponent in response to the EES scoping requirements issued by the Minister for Planning in May 2019.
12. The EES will be placed on public exhibition for thirty (30) business days, together with the development licence application and the draft PSA. This public comment process is in accordance with the procedures and requirements issued for this EES by the Minister for Planning. VHM Limited is responsible for public notice of EES exhibition.

Commonwealth assessment process

13. Because of its potential impacts on matters of national environmental significance, the project was determined to be a controlled action for the purposes of the EPBC Act on 19 December 2018. The relevant controlling provisions under the EPBC Act relate to Ramsar wetlands (sections 16 and 17B); listed threatened species and communities (sections 18 and 18A) and nuclear actions (section 21 and 22A).
14. Under the bilateral agreement between the Australian and Victorian governments, the Victorian EES process is serving as the accredited process for the assessment purposes of the EPBC Act. The assessment of environmental effects to be made by the Victorian Minister for Planning will be provided to the Commonwealth Minister for the Environment and Water to inform the approval decision under the EPBC Act.



Planning approval process

15. The IAC is to consider and provide advice on draft PSA GC218 which proposes planning controls and provisions for the various works and activities outside of the mining licence area. The PSA is proposed to apply a special controls overlay to the pipeline and road upgrade areas for the project and to regulate the use and development of the project in accordance with an incorporated document to be included in the Gannawarra and Swan Hill planning schemes.

Development licence process

16. A development licence application for the project has been prepared in accordance with the provisions of the *Environment Protection Act 2017* (EP Act). The development licence application will be jointly advertised with the EES, in accordance with section 70A of the EP Act.
17. Section 52(2)(e) of the EP Act provides that: *if the notice for the proposed development licence is intended to be combined under section 70(a) with a notice for works given under the Environment Effects Act 1978, any submissions... must be made together with any submissions made for the Environment Effects Statement relating to the works; and must be made within the time limits within which the submissions must be made for that Environment Effects Statement.*
18. The EPA may appoint the Chair of the IAC as the convener of a conference of interested persons as per section 237 of the EP Act, enabling the IAC to also be a conference of interested persons under section 236 of the EP Act.
19. The IAC is therefore, to provide advice that can be used to inform the EPA's consideration of the development licence application prepared by the proponent, consistent with section 238 of the EP Act. The IAC may request any further information from the proponent that it considers necessary to assist it to provide that advice. The advice should recommend avoidance, mitigation or management measures that the IAC considers are necessary to ensure compliance with any relevant legislation and/or policy pertinent to the development licence application.

Other approvals

20. The project will require other statutory approvals and/or consents, as outlined in the EES, including:
 - a. a mining licence and approved work plan under the *Mineral Resources (Sustainable Development) Act 1990* (MRSD Act);
 - b. an approved cultural heritage management plan under the *Aboriginal Heritage Act 2006*;
 - c. approvals under the *Water Act 1989* for extraction of surface water and groundwater;
 - d. approvals under the *Radiation Act 2005*;
 - e. a permit to remove listed flora and fauna under the *Flora and Fauna Guarantee Act 1988*;
 - f. an authority to take or disturb wildlife under the *Wildlife Act 1975*; and
 - g. consents for works on or over waterways under the *Water Act 1989*.

Process

Stage 1 – Submissions

21. Submissions on the EES, development licence application and draft PSA are to be provided in writing on or before the close of submissions. Submissions will be collected by the office of Planning Panels Victoria (PPV) through the Engage Victoria platform. All submissions must state the name and address of the person making the submission. Submissions will be collected and managed in accordance with the *'Guide to Privacy at PPV'*.
22. Petition responses will be treated as a single submission and only the first names from a petition submission will be registered and contacted.
23. Pro-forma submitters will be registered and contacted individually if they provide their contact details. However, the IAC may encourage pro-forma submitters who want to be heard at the hearing to present as a group, given their submissions raise the same issues.
24. All written submissions and other supporting documentation or evidence received through the course of the IAC process may be published online, unless the IAC specifically directs that the submission or other material, or part of it, is to remain confidential.




25. Electronic copies of each submission on the EES, development licence application and draft PSA are to be provided to the proponent, Department of Transport and Planning (DTP) (Impact Assessment and Regional Planning Services), Gannawarra Shire Council and Swan Hill Rural City Council.
26. As each submission on the joint process may be relevant to the development licence application, electronic copies of each submission, including the contact details of submitters are to be provided to the EPA. The EPA may contact submitters regarding matters related to the development licence application.
27. PPV will retain any written submissions and other documentation provided to the IAC for a period of five years after the time of its appointment.

Stage 2 – Public hearing

28. The IAC must hold a public hearing and may make other such enquiries as are relevant to undertaking its role.
29. When it conducts a public hearing, the IAC has all the powers of an advisory committee that are specified in section 152(2) of the P&E Act.
30. Prior to the commencement of the public hearing, the IAC must hold a directions hearing to make directions it considers necessary or appropriate as to the conduct, scope or scheduling of the public hearing.
31. The IAC may inform itself in any way it sees fit, but must review and consider:
 - a. the exhibited EES, development licence application and draft PSA;
 - b. all submissions and evidence provided to the IAC by the proponent, state agencies, local councils and submitters;
 - c. the views of Traditional Owners and Registered Aboriginal Parties (if known);
 - d. any information provided by the proponent and parties that respond to submissions or directions of the IAC; and
 - e. any other relevant information that is provided to, or obtained by, the IAC.
32. The IAC must conduct its process in accordance with the following principles:
 - a. The public hearing will be conducted in an open, orderly and equitable manner, in accordance with the principles of natural justice.
 - b. The public hearing will be conducted with a minimum of formality and without legal representation being necessary for parties to be effective participants.
 - c. The IAC process and hearing itself is to be exploratory and constructive, with adversarial behaviour discouraged and with cross-examination / questioning to be regulated by the IAC in the context of these three principles.
33. The IAC may limit the time of parties appearing before it.
34. The IAC may direct that a submission or evidence is confidential in nature and the hearing be closed to the public for the purposes of receiving that submission or evidence.
35. The IAC may conduct a public hearing when there is a quorum of at least two of its members present or participating through electronic means, one of whom must be the IAC Chair.
36. If directed by the IAC, an audio recording of the hearing must be undertaken by the proponent. If recorded, the audio recording will be provided to PPV as a weblink and would be made publicly available as soon as practicable after the conclusion of each day of the hearing, or otherwise as directed by the IAC.
37. Any other recording of the hearing by any other person or organisation may only occur with the prior consent of, and strictly in accordance with, the directions of the IAC.

Stage 3 – Report

38. The IAC must produce a written report for the Minister for Planning containing its:
 - a. analysis and conclusions with respect to the environmental effects of the project and their significance and acceptability;
 - b. findings on whether acceptable environmental outcomes can be achieved, having regard to legislation, policy, best practice, and the principles and objectives of ecologically sustainable development;

- 
- c. recommendations and/or specific measures that it considers necessary and appropriate to prevent, mitigate or offset adverse environmental effects;
 - d. recommendations as to any feasible modifications to the design or management of the project that would offer improved environmental outcomes;
 - e. recommendations for any appropriate conditions that may be lawfully imposed on any approval for the project, including with respect to the content of a work plan or conditions that might appropriately be attached to approval of a work plan if issued under the MRSD Act;
 - f. recommendations as to the structure and content of the proposed environmental management framework, including with respect to monitoring of environmental effects, contingency plans and site rehabilitation;
 - g. recommendations with respect to the merits, structure and content of the draft PSA;
 - h. recommendations with respect to the development licence applications, including conditions that might appropriately be attached to the development licences if issued; and
 - i. specific findings and recommendations about the predicted impacts on matters of national environmental significance and their acceptability, including appropriate controls and environmental management.

39. The report should include:

- a. information and analysis in support of the IAC's findings and recommendations;
- b. a list of all recommendations, including cross-references to relevant discussions in the report;
- c. a description of the public hearing conducted by the IAC, and a list of those persons consulted with or heard;
- d. a list of all submitters in response to the exhibited EES; and
- e. a list of the documents tabled during the proceedings.

Timing

- 40. The IAC should hold a directions hearing no later than 20 business days from the final date of the exhibition period.
- 41. The IAC should commence the hearing no later than 50 business days from the final date of the exhibition period.
- 42. The IAC must submit its report in writing to the Minister for Planning within 40 business days from its last day of its proceedings, unless the report writing period spans the Christmas-New Year period, in which case 50 business days will apply.
- 43. The DTP's Impact Assessment Unit must liaise with PPV to agree on the directions hearing and hearing dates, which are to be included on all public notices.

Minister's assessment

- 44. The Minister for Planning will make an assessment of the environmental effects of the project after considering the IAC's report as well as the EES, submissions and any other relevant matters.
- 45. PPV will notify submitters of the release of the Minister for Planning's assessment and IAC report.

Fee

- 46. The fees for the members of the IAC will be set at the current rate for a panel appointed under part 8 of the P&E Act.
- 47. All costs of the IAC, including the costs of obtaining any expert advice, technical administration and legal support, venue hire, accommodation, recording proceedings and other costs must be met by the proponent.

Miscellaneous


- 48. The IAC may apply to the Minister for Planning to vary these terms of reference in writing, at any time prior to submission of its report.
- 49. The IAC may retain specialist expert advice, additional technical support and/or legal counsel to assist if considered necessary.
- 50. PPV is to provide any necessary administrative support to the IAC. In addition, the proponent is to provide any necessary administrative or technical support to the IAC in relation to the conduct of the hearing (if required).



SK

Sonya Kilkenny MP
Minister for Planning

Date: 7/8/2023



The following information does not form part the Terms of Reference.

Project Management

1. For matters regarding the IAC process, please contact Planning Panels Victoria, by phone (03) 8624 5712 or email Planning.Panels@delwp.vic.gov.au.
2. For matters regarding the EES process please contact the Impact Assessment Unit in DTP by phone (03) 8508 2276 or email environment.assessment@delwp.vic.gov.au.



Attachment 1

Procedures and requirements issued under section 8B(5) of the *Environment Effects Act 1978* for the Goschen Mineral Sands and Rare Earths Project EES.

DECISION ON PROJECT: Goschen Mineral Sands Project**Decision under section 8B(3)(a) of the *Environment Effects Act 1978***

Assessment through an Environment Effects Statement (EES) under the *Environment Effects Act 1978* **is required** for the reasons set out in the attached Reasons for Decision.

Procedures and requirements under section 8B(5) of the *Environment Effects Act 1978*

The procedures and requirements applying to the EES process, in accordance with both section 8B(5) and the *Ministerial guidelines for assessment of environmental effects under the Environment Effects Act 1978* (Ministerial Guidelines), are as follows:

- (i) The EES is to document the investigation and avoidance of potential environmental effects of the proposed project, including for any relevant alternatives (such as for the mining extent, methods for mining and processing, water supply and transport of mining outputs), as well as associated environmental mitigation and management measures. In particular the EES should address:
 - a. Effects on biodiversity and ecological values within and near the site, and associated with adjacent road reserves, including: native vegetation; listed threatened ecological communities and species of flora and fauna; and other habitats values;
 - b. Effects on surface water environments, including local waterways and the broader catchment, as well as groundwater resources (hydrology, quality, uses and dependent ecosystems);
 - c. Effects on the land uses and landscape values of the site and surrounding areas, including the implications for agricultural productivity;
 - d. Effects on land stability, erosion and soil productivity associated with the construction and operation of the project, including progressive rehabilitation works;
 - e. Effects on Aboriginal and non-Aboriginal cultural heritage values;
 - f. Effects of project construction and operation on air quality and noise on nearby sensitive receptors (in particular residences);
 - g. Both positive and adverse socio-economic effects, at local and regional scales, potentially generated by the project, including increased traffic movement and indirect effects of the project construction workforce on the capacity of local community infrastructure; and
 - h. Solid and liquid waste that might be generated by the project during construction and operation.
- (ii) The matters to be investigated and documented in the EES will be set out in detail in scoping requirements prepared by the Department of Environment, Land, Water and Planning (the department). Draft scoping requirements will be exhibited for 15 business days for public comment, before being finalised and then issued by the Minister for Planning.
- (iii) The level of detail of investigation for the EES studies should be consistent with the scoping requirements issued for this project and be adequate to inform an assessment of the potential environmental effects (and their acceptability) of the project and any relevant alternatives, in the context of the Ministerial Guidelines.
- (iv) The proponent is to prepare and submit to the department a draft EES study program to inform the preparation of scoping requirements.
- (v) The department is to convene an inter-agency Technical Reference Group (TRG) to advise the proponent and the department, as appropriate, on scoping and adequacy of the EES studies during the preparation of the EES, as well as coordination with statutory approval processes.
- (vi) The proponent is to prepare and submit to the department its' proposed EES Consultation Plan for consulting the public and engaging with stakeholders during the preparation of the EES.

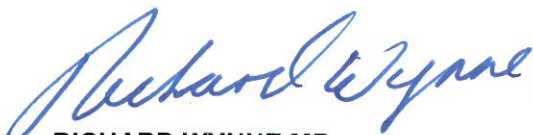
Once completed to the satisfaction of the department, the EES Consultation Plan is to be implemented by the proponent, having regard to advice from the department and the TRG.

- (vii) The proponent is also to prepare and submit to the department its proposed schedule for the studies, preparation and exhibition of the EES, following confirmation of draft scoping requirements. This is to enable effective management of the EES process on the basis of an agreed alignment of the proponent's and department's schedules, including for TRG review of technical investigations and the EES documentation.
- (viii) The proponent is to apply appropriate peer review and quality management procedures to enable the completion of EES studies and documentation to an acceptable standard.
- (ix) The EES is to be exhibited for a period of 30 business days for public comment, unless the exhibition period spans the Christmas–New Year period, in which case 40 business days will apply.
- (x) An inquiry will be appointed under the *Environment Effects Act 1978* to consider and report on the environmental effects of the proposal.

Notification

The following parties (proponent and relevant decision-makers) are to be notified of this decision in accordance with sections 8A and 8B(4)(a)(i) of the *Environment Effects Act 1978*:

- VHM Exploration Limited (proponent)
- Minister for Resources
- Minister for Water
- Minister for Energy, Environment and Climate Change
- Secretary of Department of Economic Development, Jobs, Transport and Resources
- Secretary of Department of Environment, Land, Water and Planning
- Executive Director of Aboriginal Victoria
- Executive Director of Heritage Victoria
- Rural City of Swan Hill
- Gannawarra Shire
- Grampians Wimmera Mallee Water Authority
- Environment Protection Authority



RICHARD WYNNE MP
Minister for Planning

Date:

10/10/18