

21 October 2019

Linda Bibby
Director Policy & Legislation, Resources, Rural and Regional Victoria
Department of Jobs, Precincts and Regions
1 Spring Street,
Melbourne,
Victoria 3000

Via email: linda.bibby@ecodev.cvic.gov.au

Dear Ms Bibby

REGULATORY IMPACT STATEMENT FOR DRAFT EXTRACTIVE INDUSTRIES REGULATIONS 2019

The Construction Material Processors Association (CMPA) is dedicated to the representation and service of its Members in the Victorian Earth Resources industry. The CMPA represents a broad spectrum of businesses that extract and process hard rock, gravel, sand, clay, lime, and soil. CMPA members also operate recycling businesses.

CMPA members are typically small to medium sized family and private businesses, local government and utilities. Many are regionally based employers and service local construction, infrastructure and road maintenance needs. The extractives sector is a key pillar within the construction industry underpinning the growth and economic development of Victoria through supply of the construction materials.

In 2017/18, the sector supplied 58 million tonnes of construction materials to the market, at a value of approximately \$948 million. Small to medium quarries account for approximately half of this production.

The CMPA supports the principle of responsible, balanced legislation that is in the best interests of the State of Victoria.

Thank you for the opportunity to comment on the Regulatory Impact Statement (RIS) for the draft Mineral Resources (Sustainable Development) Extractive Industries Regulations (EIR).

The CMPA has been involved in the development of the risk based work plans since 2014 and despite CMPA input, comments and suggestions; the work plan approval process has become more and more complex to the point of being almost unattainable. This is evidenced by the chart in Attachment 1 of number of hectares and work authorities approved versus year approved with the

data available from GeoVic (<http://earthresources.vic.gov.au/earth-resources/maps-reports-and-data/geovic>) .

The CMPA has three major concerns with the RIS and EIR:

1. **Risk based work plan:** It is noted that the Code of Practice for risk management and Ministerial guidelines for work plans has not been included in the EIR. However, proportionality is glaringly absent with small to medium quarries subject to the same stringent work plan approval process as the Hazelwood coal mine.

The annual regulatory burden for the extractives sector appears to have been underestimated. Please see Attachment 2. CMPA paper “Financial impact of the introduction of risk based work plans on 8 December 2015”.

2. **Rehabilitation:** Of concern are the proposed changes including the review of rehabilitation plans for all licensees; the introduction of Ministerial guidelines on rehabilitation and the projected increase in rehabilitation costs of 20-30% (as predicted in the RIS for MIR). With regards to rehabilitation bonds, alone, this is equivalent to an increase of \$18 million - \$28 million on 2017/18 figures which could see an increase in the average construction material unit price from \$16/tonne to \$19 - \$21/tonne. The extractive industry has a good record of quarry rehabilitation over the past 20 years (~\$20K) in comparison to mines where government has had to spend ~\$10 million on rehabilitation. Additionally, the EIR does not allow for innovative end land use.

No evidence is given that justifies the same regulation as the minerals industries which is recognised elsewhere in the world, for example, a recent decision by the USEPA was affirmed in court. The USEPA decision not to require CERCLA (rehabilitation) Bonds at hard rock mines (quarries) was affirmed (October 2019).

3. **Reporting requirements:** Reserves information is available through the work plan and could be obtained by GSV once approved. Then deducting total annual reported tonnage from initial reserve estimates would provide the data. It is not necessary to add additional burden to small to medium businesses.

The Multi Criteria Analysis (MCA) was erroneously skewed towards the proposed regulations and should be amended.

It was noted that there were only token differences between the Mineral Industries Regulations 2019 (MIR)/RIS when compared to the EIR/RIS. Hence, it is disappointing that the RIS and EIR has not taken into account or even acknowledged the differences between mines and quarries: higher risk large coal mines (fires, heavy metals), gold mines (arsenic/cyanide/mercury) which leads to over-regulation of the lower and different risk extractive industry.

Concern is also held that the extractive industry may also be subject to restricted open competition which will lead to the detriment of the community through increased costs for construction materials used in major infrastructure Government projects.

“Given that the proposed regulations impose a significant burden on stakeholders”

As the Resources Division continues on its current path it will decimate small to medium quarry operators. Some have left and some are already planning their exit strategies.

CMPA does not support the EIR in its current form.

I would be happy to discuss our submission further at your invitation. Please see the specific comments below.

Yours sincerely



Dr Elizabeth Gibson
General Manager

Page number	RIS	Comment
p.2 2 nd sentence	Executive Summary	The relevance of the finalisation of the MIR to the development of the EIR is not understood.
p.2 1 st para	<i>"...Government's commitment to a modern fit-for-purpose regulatory regime built around increased investment and community confidence."</i>	It is contended that the proposed EIR is not modern or fit for purpose and is in fact an excuse for the continual addition of regulatory burden because legislators apparently lack the understanding of their proposals on the impact on the extractive industry as shown by Attachment 1 where previous decisions namely the introduction of risk based work plans have led to a dramatic fall in Work Authority approvals.
p.2 6 th dot point	<i>"Support innovation in exploration, extraction and end use of landforms after quarrying"</i>	The Work Authority holder is not necessarily the land holder and as such the land holder will be responsible for decisions on the end land use.
p.2 last para	<i>"The overall purpose of the extractive resources legislation is to encourage mineral stone exploration"</i>	
p.3 1 st dot point		Remove reference to <i>"mineral"</i>
p.3 6 th dot point	<i>"Appropriate compensation is paid for the use of private land for exploration or mining"</i>	Not relevant to extractive industries: remove
p.3 7 th dot point	<i>"Conditions in licences work authorities and approvals are enforced"</i>	

p.3 dot point 8	<i>“Dispute resolution procedures are effective, fair, open and transparent”</i>	
p.3 1 st para	<i>“The objectives of the proposed Regulations are to create an efficient framework for the collection of information to allow for the efficient and effective management of the economic and environmental risks and to increase public confidence in extractive activities in Victoria”</i>	The following objective should be included <i>“to encourage continued investment in the extractive industry”</i>
p.3 2 nd last dot point	<i>“Wording changes surrounding requirements for risk management plans (as part of work plans)”</i>	The RIS for the introduction of risk based work plans was never conducted and should be presented first before moving forward with further word changes.
p.3 last dot point	<i>“Requirements to include objectives in rehabilitation plans that would act as performance measures”</i>	No evidence of need is presented in the RIS
p.4 2 nd para	<i>“Given the limited availability of data to quantify benefits, the overall assessment of the Regulations uses a multi criteria analysis (MCA decision tool)”</i>	There is overreliance on the MCA with the scoring being subjective.
p.5 Option A.2	<i>“...provides greater clarity to work authority holders than the current Regulations and is outcome-focussed”</i>	The MCA is very subjective and comes from a Regulator’s perspective. The <i>“greater clarity”</i> conversely will manifest itself in further regulatory burden to the industry
p.5 Option B.2	<i>“This (amendments to rehabilitation plan information requirements) will better support the objectives of the Act, protect public and infrastructure and reduce financial risks for the State”</i>	No evidence of need is presented in the RIS for the proposed changes.
p.5 2 nd para	<i>“In the 2017-18 financial year, Victoria’s 881 extractive industries work authorities delivered a total reports sales value o \$947.8 million”</i>	Only 491 actually reported.
p.5 2 nd para	<i>“The estimated regulatory burden imposed on work authorities by the Regulations during this year was up to \$10.3 million per year.”</i>	This is a gross underestimate of the costs (see Attachment 2) where on introduction of the risk based work plan it was calculated conservatively that the extractive industry incurred annual costs of \$23.9 million per annum.
p.5 3 rd para	<i>“For the preferred option the proposed Regulations related to work plans are likely to decrease the burden on small business while the proposed Regulations in other areas are likely to increase this burden”</i>	There is little certainty to small businesses as to the overall cost of the EIR. There are very few examples of introduced Regulations reducing costs for small businesses.

p.5 5 th para	<i>"...these additional (reporting requirements) may also require small businesses to explore their land more fully to collect data on reserve amounts."</i>	Generally, small businesses may not own the land and it is a gross imposition to require further exploration. The inability of small businesses to supply the required information may lead to the work authority holder exiting from the market.
p.6 1 st para	<i>"...main restrictions on competition contained in the legislation relate to granting exclusive rights to explore or exploit a given area of land"</i>	Does this just refer to Crown land in the case of exploration?
p.7 Table 2	<i>"Work Plan – Risk Management Plan"</i>	The proposed changes are said to <i>"Reduce regulatory burden"</i> and <i>"Risks are managed effectively and proportionately"</i> , however, no proof or evaluation is given that this will occur. The proposed changes given are the same as for MIR and do not take into account the lower and different risk profile of quarries.
p.7 Table 2	<i>"Rehabilitation plan"</i> <i>"long term risks arising from rehabilitated land are included only vaguely under the work plan requirements"</i>	The <i>"current state"</i> , <i>"change"</i> , <i>"policy objective"</i> and <i>"impacts"</i> are exactly the same as in MIR and do not take into account the lower and different risk profile of quarries. The extractive industry has a good record of quarry rehabilitation over the past 20 years (~\$20K) in comparison to mines where government has had to spend ~\$10 million on rehabilitation. Additionally, there is evidence of rehabilitated quarries in Melbourne that commenced from settlement.
p.8 Table 2	<i>"Reporting requirements"</i>	The impact of the requirement for resource estimates are stated as being a <i>"Minor increase in compliance and administrative costs"</i> . However, this will not be the case for small to medium work authority holders.
	1 Background	
p.17	<i>"The Minister may return a bond to the authority holder once satisfied that the land has been rehabilitated. If not satisfied, the Minister may carry out rehabilitation using finances from the bond"</i>	A time limit for the return of the bond needs to be reintroduced. The satisfaction of the land holder as to the rehabilitation of the site.

		There is very little evidence of the Minister carrying out rehabilitation for the extractive industries over the past 20 years (~\$20K).
p.18 2 nd para	<i>"...ERR aims to streamline regulatory processes so that community's expectations are met in a timely way and at the lowest cost to business."</i>	Planning permit community engagement obligations have not been considered. ERR and Earth Resources Policy and Programs (ERPP) have very little understanding of the impact of decisions and policy changes on costs to the extractive industry.
p.18 2 nd para	<i>"Much of ERR's focus over the past few years has been on implementing a risk-based approach to regulation, particularly through approvals processes."</i>	Changes were made to legislation/regulation to introduce risk based work plans without a RIS despite ERPP verbally acknowledging that there would be an increase in costs for the preparation of work plans.
p.18 4 th para	<i>"ERR has an annual recurrent budget of \$8.4 million."</i>	Note that the extractive industry funds ERR through payment of fees somewhere between \$3.6 million (minimum) to \$106 million (maximum).
p.19 2 nd para	<i>"...ongoing rehabilitation bond interest expense."</i>	This is new with ERR proposing a 17.8% increase in bonds due to CPI and it is not included in the regulatory cost Table 7.
p.19 Table 7	<i>"Work authorities (441)"</i>	There are 881 work authorities according to ERR 2017-18 Statistical Report. Additionally, costs may be overly underestimated due to very few Greenfield sites being approved.
p.20 1 st para	<i>"...to encourage economically viable extractive industries which make the best use of resources..."</i>	Performance measures need to be set in consultation with industry.
p.21 6 th para	<i>"In the absence of Regulations applicants may not be informed of the information required by the Department to assess an application. This may result in multiple iterations of applications, delays and inconsistencies across applications."</i>	Even with the current Regulations this still occurs. The risk adverse decision making due to lack of experience, expertise and support from senior management needs to be resolved not compounded with further changes as per the EIR.
p.22 10th dot point	<i>"Increased risk of fire in the area"</i>	There is no evidence to say that this is an issue for the extractive industry

p.22 2 nd para	<i>"A rehabilitation bond...that ensures that rehabilitation can be undertaken by the Department should the operator be unable to meet their rehabilitation requirements."</i>	Due to the Departments inexperience in rehabilitation costs are calculated at greater than commercial rates and furthermore it is questionable whether the Department has a right to access to the site.
p.22 3 rd para	<i>"Under the Regulations, the rehabilitation requirements are largely enabling, which make them difficult to interpret, administer and measure consistently."</i>	There is little evidence of failure of rehabilitation in the extractive industry in Victoria that justifies changes to the current regulations. Increased experience and expertise in extractive industry rehabilitation within ERR would assist the issue.
p.23 1 st dot point	<i>"Lack of planning around the possible end use of the site"</i>	A quarry in operation for 25-50 years would only be able to give a possible end land use and this would be the landholder's decision. No evidence of need exists for the remaining 7 dot points either. The Regulations being proposed are due to the failure by ERR to manage the coal mines which are utterly unrelated to the lower and different risk extractive industry.
p.23 3 rd para	<i>"Information provision under the Act informs the public and specifically ensures that holders of work authorities meet their obligations and report risks"</i>	Where are work authority holders obliged to report risks and should it only be where there is a change in risk to high or very high? Is it the case for declared quarries only?
p.24 4 th para	<i>"Inspectors have powers to serve an infringement notice on anyone they have reason to believe may have committed an offence under the Act"</i>	Inspectors must only be appointed if they have the appropriate qualifications and experience S80 (2) MRSDA.
p.25 3 rd para	<i>"This exercise (assess fees, rents, royalties and levies) will be subject to a full RIS and public consultation."</i>	Support provided there is demonstrable work plan/work plan variation/work plan notification approvals performance in terms of increased tonnages of stone produced per annum and that compliance and enforcement is equitable, consistent and just.
p.27 4 th para	<i>"In May 2018, ERR released Statement of Operating Change..."</i>	In the Statement the work plan notification pathway did not require letters of approval from referral authorities in particular

		Local Planning Authorities unlike the Guidelines for Work Plans and Work Plan Variations December 2018. At the last Stakeholder Reference Group meeting (August 2019) it was stated that the Statement would be withdrawn.
p.31 1 st para	<i>“Status Quo” “...This information is the same as included in the current Regulations.”</i>	Due to costs being imposed by the proposed EIR, status quo is the preferred option.
p.32 1 st para	<i>“The proposed Regulations prescribe less information in a work plan, with the main change being wording changes surrounding requirements for risk management plans. This is to reduce regulatory burden to industry when completing work plans.”</i>	The proposed changes around wording for risk management plans is more likely to lead to confusion and increased red tape for the industry unless evidence is otherwise presented.
p.33 Table 11 Risk Management Plan	<i>“Under this option, a risk management plan must have:</i> <ul style="list-style-type: none"> • <i>Measures to be applied to eliminate or minimise the risks as far as reasonably practicable</i> • <i>Performance standards to be achieved by either individual measures or some combination of measures</i> • <i>Management systems, practices and procedures that are to be applied to monitor and manage risks and compliance with performance standards</i> • <i>An outline of the roles and responsibilities of personnel accountable for the implementation, management and review of the risk management plan.”</i> 	The proposed EIR prescribes new requirements for the risk management plan. Where is the evidence of need to further complicate the risk based work plan process?
p.34 Table 13 Rehabilitation Plan	<i>“In addition to the requirements for a rehabilitation plan in Option B.1. - Status quo, under this option a rehabilitation plan must:</i> <ul style="list-style-type: none"> • <i>Identify proposed post-quarrying land uses and a safe, stable and sustainable land form to support that future use</i> • <i>Include rehabilitation objectives</i> • <i>Include criteria for measuring whether rehabilitation objectives have been met</i> • <i>Include a description of, and schedule for, rehabilitation milestones</i> • <i>Include an identification and assessment of any relevant risks that the rehabilitated land may pose.</i> <p><i>This option also proposes a 12-month transition for these requirements, and the</i></p>	There is no evidence of need for the proposed changes to the rehabilitation plan for the extractive industry. The private land holder would be more appropriate for <i>“Identifying proposed post-quarrying land uses...”</i> The RIS does not analyse the predicted cost to the extractive industry for the proposed EIR and the barrier to entry will be too high for small to medium businesses. However, later on in the RIS it states that all rehabilitation plans

	<i>changes only apply to new or varied work plans.”</i>	will be transitioned “ <i>within 5 years</i> ” (p.63 para 3).
p.36 Table 15 Reporting Requirements	<p><i>“Reporting must be completed electronically.</i></p> <p><i>Annual report:</i></p> <p><i>As well as reporting on production data required under Option C.1. - Status quo, annual reports must include data on resource estimates of the amount of stone resource available for extraction at a later date. The information that is required includes:</i></p> <ul style="list-style-type: none"> • <i>Estimate of amount of stone resource available for later extraction (selecting either proven or probable)</i> • <i>Resource estimate (selecting either inferred, indicated or measured)</i> • <i>Rock and commodity in-situ and ex-situ densities (to convert between volume and tonnage)</i> • <i>Stratigraphic unit</i> • <i>Depth drilled</i> • <i>If the work authority is undertaking activities on crown land.</i> <p><i>This option proposes a 12-month transition period for these requirements.</i></p> <p><i>The requirement to provide estimated stone resources and the amount of resource available for later extraction in work plans is still in place in the proposed Regulations. The estimations in work plans, however, are initial estimated made before work commences.</i></p> <p><i>Information relating to injuries arising out of work done under work authority: Same as C.1. - Status quo, but there is no requirement to include a statutory declaration.”</i></p>	<p>Quarries do not always have access to internet due to site topography and NBN is not available in all rural and regional areas in Victoria.</p> <p>Whilst the necessity for resource estimates for Government infrastructure projects etc. is understood the prescribed requirements proposed here for resource estimates will be beyond the affordability of small businesses (greater than the code of practice for small quarries).</p> <p>Additionally, electronic reporting will also be an issue for some.</p> <p>Note, this has not been a requirement for the past 10 years with WorkSafe taking over this role.</p>
p.39 1 st para	<i>“...if the Regulations prescribe greater detail on the need to include objectives for rehabilitation to be able to assess milestones and other measures, the number of work authorities that complete effective</i>	No evidence is given of non-compliance in rehabilitation by the extractive industry.

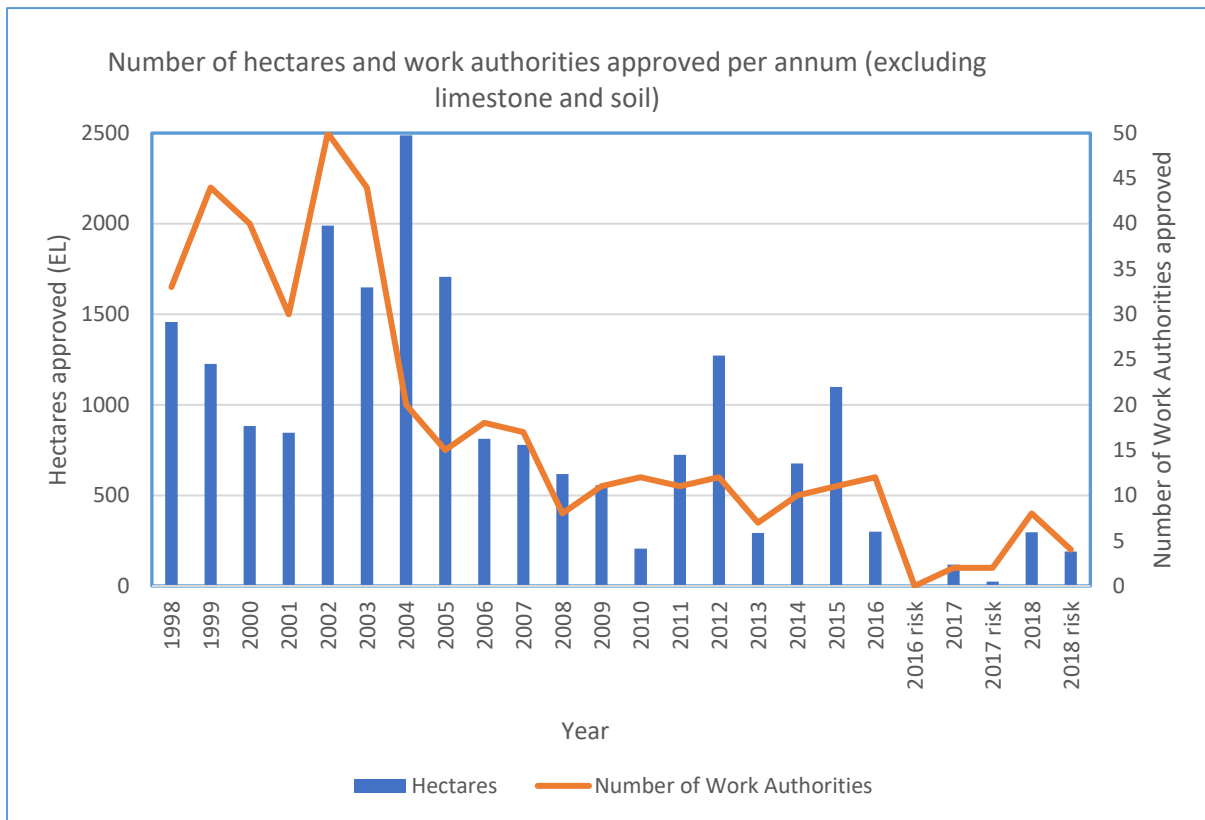
	<i>rehabilitation – and in turn comply with the Regulations – is expected to rise.”</i>	
p.41 Table 18 MCA Work plans - effectiveness	<i>“Status quo - Risk management plans can reveal unidentified or poorly managed risks on site, but the high costs associated with preparing these plans are suggested to have discouraged some operators from completing them. This could pose risks to the environment, members of the public or infrastructure if these risks have not been identified or have been ignored.”</i>	A risk management plan is not required prior to December 2015. Where is the evidence that there has been systematic failure in the extractive industry?
p.42 Table 18 MCA Work plans - cost to government	<i>“Status quo - It goes some way to providing work authority holders and applicants with further clarity around the requirements of a work plan, meaning that the likelihood of questions and queries being posed to the Department is reduced.”</i> <i>“However, this is not strongly positive because the current Regulations do not provide clear guidance to industry about what is required in obtaining an approved work plan, creating a level of additional unnecessary cost to government in approving work plans (particularly in relation to risk management plans and variations)”</i>	The “status quo” scenario has yet to be given sufficient time to be embedded into ERR. With appropriately experienced and qualified staff “questions and queries being posed” would be able to be answered by ERR. The Work plan/ work plan variation Guidelines December 2018 should be the focus.
p. 44 2 nd para	<i>“Proposed regulations - The burden of completing work plans is marginally reduced for both industry and the State Government under this option, as information surrounding risk management requirements provide greater clarity. This should contribute to reduced work plan approval times, which helps to minimise delays in extraction activities commencing for industry.”</i>	For the perceived benefit of burden to government and industry being marginally reduced and the ability/capacity of ERR to implement change, the proposed regulations are more than likely to greatly increase burden of completing work plans.
p.45 Table 19 MCA Work plans - effectiveness	<i>“Proposed regulations - With clearer requirements prescribed in the Regulations for work plans under this option, work plans are more outcome-focused and better aligned with the Act than A.1. - Status quo – hence providing a moderate increase in effectiveness in the proposed Regulations.”</i>	The RIS does not analyse in detail the impact of “clearer requirements” and the assigned score (5) in the MCA is too high
p.45 Table 19 MCA Work plans – cost to industry	<i>“Proposed regulations - This may reduce the number of queries for the Department to improve the standard or work plans and reduce the work plan approval time (as risk management plans would generally be clearer). This last point may in turn decrease the risk of delays for work authorities in</i>	Appropriately qualified and experienced staff would be able to answer questions in a timely manner negating the need for change. Due to ERR’s past history of implementation of changes to Regulations (i.e.

	<i>commencing extraction and the consequent loss of revenue.”</i>	introduction of risk based work plans 2015 which ERR and the industry are only beginning to come to terms with) any introduced change would decrease the performance of ERR not in statutory time frames but in work authority approvals. As such the option is not <i>“slightly more favourable”</i> and so the score (-4) in the MCA should be more negative.
p.46 Table 20 MCA Work plans Summary of scores	“Proposed regulations - The MCA assessment indicates that Option A.2 (the proposed Regulations) is preferred.”	Taking into account the comments above <i>“status quo”</i> would be the preferred option.
p.46 Table 22 MCA Rehabilitation plan	<p><i>“Status Quo - ...specific information to be included in the plans and can even result in unidentified risks that can eventuate from poor rehabilitation. This may mitigate the positive impact for members of the public, the environment and surrounding land, property and infrastructure.</i></p> <p><i>...the Department to make an informed, consistent assessment of rehabilitation plans, including a final assessment of whether rehabilitation is complete. This compromises risk management and reduces industry incentives to invest in rehabilitation planning and execution.</i></p> <p><i>...The legislation fails to sufficiently address residual risks that endure after rehabilitation is complete, such as where a final land form requires ongoing monitoring and maintenance or generates other safety, stability or sustainability issues.”</i></p>	A number of sweeping statements are made concerning current perceived rehabilitation practices of the extractive industry. Factual evidence needs to be provided and not assumed statements.
p.47 Table 22 MCA Rehabilitation plan - effectiveness	<i>“Status quo - Due to difficulties in pricing uncertainty in the assessment, the liability assessments likely reflect only a portion of the true costs to rehabilitate, resulting in potential under-bonding and a significant financial risk to the State.”</i>	The current rehabilitation bond calculator leads to excessive costs in comparison to market rates for rehabilitating sites and so the statement in the RIS does not recurrent reality. The assigned MCA score (2) is too low.
p.48 Table 22 MCA Rehabilitation	<i>“Status quo - However, the information requirements are unclear under the current system, which may create additional unnecessary costs to industry, for example</i>	This could be seen as a combination of inexperienced ERR staff and the lack of Guidelines.

plan – cost to industry	<i>requiring multiple revisions of a proposed rehabilitation plan before it is approved.”</i>	
p.50 Table 23 MCA Rehabilitation plan - effectiveness	<i>“Proposed regulations - ...it is expected that this additional level of detail will allow rehabilitation liability to be more accurately estimated, which will lower the potential financial risk to the State.”</i>	As with the majority of this RIS it differs little from the Minerals Industries RIS. No evidence is given that justifies the same regulation as the minerals industries which is recognised elsewhere in the world, for example, a recent decision by the USEPA was affirmed in court. The USEPA decision not to require CERCLA (rehabilitation) Bonds at hard rock mines (quarries) was affirmed (October 2019). Hence the MCA assigned score (5) is too high.
p.50 Table 23 MCA Rehabilitation plan – cost to industry	<i>“Proposed regulations - The requirement to include objectives and performance measures in rehabilitation plans is expected to increase the time taken to complete the plans. There may be additional burden placed on smaller authorities under this option, given that they may not have the same level of resources to source and complete this information.”</i>	There is no evidence of chronic failure of rehabilitation by the extractive industry in Victoria given in the RIS. The increase in regulatory burden (with proposed increased costs to industry of 20-30% as per the Mineral Industries RIS) is not reflected in the MCA score (-3)
p.51 Table 23 MCA Rehabilitation plan – cost to government	<i>“Proposed regulations - This is expected to reduce the likelihood of the Government having to financially support rehabilitation works, providing a cost saving in the future”</i>	The likelihood of the government having to financially support rehabilitation works is low as per the past 20 years where only ~\$20K has been spent on rehabilitating quarries whilst for mines the figure is ~\$10 million. The assigned score MCA (2) should be lower.
p.53 1st para MCA – Reporting requirements	<i>“Status quo - In the first instance, holders of work authorities may be unwilling to disclose certain events, such as those with occupational health and safety implications. In the second instance, there are no private market incentives for holders of work authorities to provide data on available resources or information to the Government; in fact, there are disincentives, since withholding information may confer commercial advantages.”</i>	Given that the OHS Act s9 (1) (a) applies to all work authority holders the necessity for further reporting on OHS to ERR is redundant (15/02/09). This clause should be removed. Where has the withholding of information conferred commercial advantage and how prevalent is it?

p.56 Table 26 MCA Reporting requirements	<i>“Status quo - A lack of reserves information in this option limits the ability of the Victorian Government to take a strategic approach to resource allocation, as anticipated in the Extractive Resources Strategy.”</i>	Reserves information is available through the work plan and could be obtained by GSV once approved.
p.58 Table 27 MCA Reporting requirements - effectiveness	“Proposed regulations -	The MCA assigned score (7.5) too high especially when that information is already available in the work plan. It is noted that the requirement for a statutory declaration has been removed.
p.58 Table 27 MCA Reporting requirements – cost to industry	<i>“Proposed regulation - the regulatory burden for industry is slightly greater under this option. This is due primarily to the requirement for work authorities to provide information on extractive resources. For some, this could be a particularly burdensome task as they may not yet have resources estimates data, and further drilling would be required to prove a resource.”</i>	The cost to the extractive industry, especially small businesses, would be prohibitive. The MCA assigned score (-5.0) should be more negative.
p.63 3 rd para	<i>“The proposed regulations concerning rehabilitation plans do not impose new obligations on work authority holders. However, they will improve compliance which is likely to add to costs. Over time, all work authority holders will be required to update their rehabilitation plans, so incumbents will not have an advantage over new entrants in the longer term.”</i>	No evidence of need has been demonstrated for the extractive industry. Earlier on in the RIS a statement was made that the proposed regulations would only apply to new or varied work plans (para 2 p.49). Please explain.
p.66 last para	<i>“In the past five years there has been one prosecution under the Act and three are currently afoot. There have also been five warnings over the past year.”</i>	Do these relate to the extractive industry? ERR should release further information as it comes available so that the extractive industry has a better understanding of the compliance strategy.

Attachment 1.



Note that (year) “risk” identifies work authorities approved under the risk based work plan process.

Attachment 2.

Dear CMPA Members,

RE: Financial impact of the introduction of risk based Work Plans on 8 December 2015

The CMPA, as a member based association, is continually working towards fair and just outcomes for the industry; and to maintain a healthy, diverse and compliant sector.

The CMPA has always believed that the introduction of the risk based regulation i.e. risk based Work Plan required a Regulatory Impact Statement (RIS), however, this was discounted by the Government. CMPA further believes that this regulatory change has triggered an unplanned financial impact upon the industry, will compound as it inhibits future access, and will impact upon the State's proposed infrastructure programs.

The CMPA is in no doubt that the impact on our sector (given there are in excess of 1,400 Work Authorities (WA) registered with ~580 putting in returns) will be well beyond the Government's figure of less than \$2 million (stated at the Public Accounts and Estimates Committee 2017) and believes that a RIS must be urgently undertaken by the Government to fully understand the impact of this regulation on the industry and the Victorian economy.

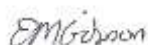
To understand the magnitude of this transition, if ERR were able to approve 10 WAs per month, this would take more than 10 years to fully implement without taking on board new WA and variations.

Below are the primary cost impacts for the industry resulting from the introduced legislation, RBWP guidelines and RRAMs platform on the current WP process:

Primary financial impact issue	Year 1	Year 2
Containment of all documentation on ERR's website	\$2.2 million	\$1.5 million
Necessity for engagement of third parties	\$16.2 million	\$12 million
Duplication of documentation storage	\$4.9 million	\$1.2 million
Requirement of varying reports for the same purpose	\$2.9 million	n/a
Delays in WP/WP variation approval process	\$7.5 million	\$7.5 million
Potential contraction of existing extractive limit	\$1.1 million	n/a
Existing WA may be lost during "transitioning"	\$4.0 million	n/a
Expanded opportunities for objectors to discredit	\$1.4 million	\$1.4 million
Increased documentation attached to planning permit	\$3.9 million	n/a
Loss of ease of use of the WA to the operator	\$3.8 million	\$0.3 million
Total	\$47.9 million	\$23.9 million

Please contact the Secretariat for further information on this matter and feel free to pass this correspondence onto any interested party such as your local Member of Parliament.

Yours Sincerely



Dr Elizabeth Gibson, General Manager

Further Information

Containment of all documentation on ERR's website:

Issues of Members connectivity; software and hardware purchases; training; upkeep and auditing. Time penalties incurred through attempting to access and platform stability.

Cost modelling: Only for the 580 WA that put in returns each year. To ensure a reasonable assessment is given the assumption is to use only 270 WAs. Set up \$8K x 270 WAs or more for entry and then ongoing use \$2.5K x 580.

Financial impact: \$2.2 million Year 1; \$1.5 million Year 2

Necessity for engagement of third parties

The legislation change requires additional documentation to be attached to the WP, e.g. previously a third party report to measure fly rock, air blast and ground vibration was not embedded into full risk management protocol as required under the introduced legislation.

Cost modelling: Assuming only activate 5 management plans to be provided out of a total of 15. To ensure a reasonable assessment is given the assumption is to use only 270 WAs. 5 reports x 270 WA x \$12K additionally required monitoring: 8 audits per annum @\$4K x 270 WA; and document upkeep 1400 WA x 1 x \$2.5K for continuous improvement.

Financial impact: \$16.2 million Year 1; \$12 million Year 2

Note: excludes Native Vegetation which can assess at more than \$200k/Ha and excluding Aboriginal Heritage Cultural Heritage Management Plan \$10K/Ha.

Duplication of documentation storage:

Technically 1,400 copy of plans stamped and endorsed have to be transitioned and altered to attain standard required for a RBWP.

Cost modelling: Would apply to all 1400 WAs with the additional requirement of ongoing maintenance of the documentation. 1400 WAs x \$3.5K and ongoing maintenance of \$3.5K/4 x 1400 WAs

Financial impact: \$4.9 million Year 1; \$1.2 million Year 2

Requirement of varying reports for the same purpose

May not be limited to blasting let alone regulators different needs E.g. Blast Management Plan for Council, ERR and WorkSafe all have different requirements. In addition to third party reports required for the RBWP; these reports are also required by Council but they vary despite being for the same purpose.

Cost modelling: Minimum of 1 document for 180 WA sites x 2 additional reports x \$8K

Financial impact: \$2.9 million Year 1.

Delays in WP/WP variation approval process

Numerous CMPA Members and non-members have experienced lengthy delays in applications for WPs and WP variations with examples of delays in the excess of 2 years. These delays are impacting on the businesses being able to access resource, meet market needs and to purchase plant and

equipment. The site may be exposed to greater risk as working areas become restricted. Members are also finding difficulty in accessing the appropriate ERR officer to assist them through the process or even obtain competent direction as result of ERR's transition to RBWPs.

Cost modelling: Premature closure of site; loss of market opportunity; lack of raw material access; increased cost of materials handling (double handling). 50 WAs with delays of 12 months. \$.7-\$2.5/per tonne loss of opportunity average to \$1.5/tonne for 100K tonnes
Financial impact: \$7.5 million Year 1; \$7.5 million Year 2

Potential contraction of existing extractive limit

An example of the projected impact of this adjustment will be where a current WA will be required to decrease their extractive limits within the WA boundary to meet the geological risk assessment. This will be particularly pertinent to WAs whose extractive areas are contained through area and proximity to sensitive receptors. It would not be unreasonable to see a WA losing 30% of its available resource making it commercially unviable to hold on to the asset or continue to operate. This could also be applied to any other of the hazards (e.g. noise, dust).

Cost modelling: 50-80 WAs affected. A reasonable price for a current WA ~\$36K (upwards). \$36K x 30 WAs
Financial impact: \$1.1 million Year 1

Result in application much larger in size to ensure they are seen to be able to identify risk.

Existing WA may be lost during "transitioning":

The requirement by ERR for confirmation by the Shire/Council that a proposed transition to a RBWP does not require a Planning Permit amendment or a new Planning Permit could lead to the loss of both approvals (Permit and WA). Regardless of the outcome an application fee will be required ranging from \$1.6K - \$11K.

Cost modelling: 80-100 WAs affected. A reasonable price for a current WA ~\$20K x 90 WA
Financial impact: \$4.0 million Year 1

Expanded opportunities for objectors to discredit

There is a higher degree that the process will fail as recently seen in VCAT. There is no evidence that RBWP will increase the chance of success. This would therefore mean that there is a higher chance that the application will be rejected as the higher degree of information is provided e.g. Seymour Quarry case. More applications in the future as there is limited supply to markets.

Cost modelling: 8 VCAT cases and lawyer fees \$180K x 8.
Financial impact: \$1.4 million Year 1; \$1.4 million Year 2

Increased documentation attached to planning permit

Understanding of how the Planning Permit and the attached documents are managed. It is most likely that they will become public with no change able to be made without application for a new planning permit. Most of the management plans are live documents and industry will be locked into applying for new planning permit every time a change is required. Providing an expert report that is able to comply is totally different to the management plans.

Cost modelling: Management plans continually adjusted 60 WAs x \$65K

Financial impact: \$3.9 million Year 1

Loss of ease of use of the WA to the operator

Dual systems will have to be run: language based documentation for use by their managers and employees; a general document for Councillors and Council Officers and community which more closely represents the reality. Or devise a mechanism for providing the current reports into a format that will be able to be used. Some may choose to do nothing and run with the entered documentation in RRAMs but whether the outcome is currently to the same standard can only be assumed as improbable. Currently, some WA holders already run a second document for the planning process.

Cost modelling: 150 WAs x \$25K + 10 variations/new WA/annum

Financial impact: \$3.8 million Year 1; \$0.3 million Year 2