

4 June 2020  
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Dear Dr Delaire

#### **COMMENTS ON THE PROPOSED EXTRACTIVE REHABILITATION PLAN GUIDELINE**

Thank you for the opportunity to participate in the new requirements for rehabilitation in the extractive industries videoconference on Thursday 28 May 2020. The CMPA has grave concerns about the impact of the MR(SD) Extractive Industries Regulations 2019 (Regulations) on the viability and certainty for investment for extractive industries operating in Victoria. The costs to the extractive industry will increase by at least 30% for rehabilitation (excluding proposed CPI increases for rehabilitation bonds). This will threaten small to medium operators that do not have the funds/resources to produce full risk assessments and detailed rehabilitation plans for every variation, therefore, potentially sterilising or restricting access to future reserves.

Implementation of the Regulations will result in an increase in construction material prices impacting, for example, the fulfillment of the Victorian Government's road to recovery after COVID-19 infrastructure program.

These concerns relating to rehabilitation are so great that Members wrote individually to the Minister for Resources. Their concerns were not ameliorated by the Minister's response nor in the rehabilitation videoconference.

#### **Comments on videoconference**

The changes in the Regulations were not being driven by any identified failure by the Regulatory Transition Taskforce (RTT) on the part of the extractive industry. This session was not open to considering further change to the Regulations. Additionally, the RTT has little understanding of the cost to the extractive industries on the introduction of these Rehabilitation Guidelines.

The purpose of the session was purely to scope extractive industry guidelines using as a base the [Guidelines for Preparation of Rehabilitation Plans for Mining and Prospecting Projects \(PDF - 6.1 MB\)](#) (73 pages, consultation draft 33 pages).

### Answers to questions raised by the Regulatory Transition Taskforce (RTT)

*Q: Do you have any concerns about the rehabilitation plan requirements?*

- Yes. As stated previously, historically, the extractive industry has an excellent track record in relation to rehabilitation. With respect to rehabilitation, over the past 20 years the Victorian Government has expended in the order of ~\$10 million rehabilitating mines which is still ongoing. With respect to rehabilitation of extractive industries, over the past 20 years ~\$20k has been expended on rehabilitating quarries. Even in the USA, recognition of the excellent track record of rehabilitation by quarries has been recognised and confirmed in Court\*. It should be noted that the CMPA has always supported the principle of **responsible, balanced legislation** that is in the **best interests** of the State of Victoria. The Regulations are neither responsible, balanced or in the best interests (social, economic, environmental) of the State of Victoria.

*Q: What support do you need in the guidelines?*

- Recognition in the Regulations that the extractive industry has a lower and different risk profile to the mining industry.

*Q: Are there any gaps?*

- Transition arrangements from the old rehabilitation plan have not been confirmed.
- Work plan variation versus notification was not clear. It is understood from the videoconference that any change on a site under an “old” rehabilitation plan will trigger a variation to the work plan.
- A clear understanding of the potential impact on rehabilitation bonds is required and has not been established.

*Q: In viewing the information requirements, which components do you require further clarity of expectations for?*

- The requirement for rehabilitation to consider additional community engagement and socio-economic impacts was concerning. It was apparent that the interaction being the *Planning & Environment Act* and *MR(SD)A* has not been considered, particularly in terms of land use, community consultation and socio-economic impacts. RTT need to engage with a statutory planner.

*Q: Is the step by step approach clear and logical?*

- No, it does not differ from the Guidelines for Mine Rehabilitation.

*Q: The extractive regulations require the rehabilitation plan to include an end land form that is “safe, stable and sustainable”. Would guidance on what is likely/unlikely to be acceptable assist in meeting this requirement?*

- Arrangements with landowners and their expectations need to be clear.
- The land use will need to be flexible giving community’s changing expectations.
- How is the extractive industry to judge what the opportunities and community expectations are 20-40 years in the future? Sites may have one use for example a park or gardens or multiple uses, during and after its life. For example, a former quarry site in Nicolson Street, Brunswick: Firstly there was (1) extraction, (2) filling, then the site was (3) Industrial/Retail and Residential and now it is (4) Medium Density Multi Level Residential, 30 years into the future it will then be (5) High Density Residential/Retail.

- There are very few communities/councils that want a quarry in close proximity. Current community expectations and preferences are to source construction materials from elsewhere.
- What will prevent a proposed landform that costs significantly more than the operation may have produced for the enterprise over its entire life?

*Q: The extractive industry requires the rehabilitation plan to include “criteria” for measuring whether rehabilitation objectives have been met. What guidance would assist with developing “criteria”?*

- The expectation to identify post-closure maintenance costs was highly speculative.
- Any discussion around timeframes should not talk in terms of years.

*Q: The extractive industries regulations require the rehabilitation plan to include “a description of, and schedule for, each measurable, significant event or step in the process of rehabilitation”. What guidance would assist with developing these?*

- Practicable, scaled to size of quarry operation, guidance.

*Q: Do you think these templates would be useful to include in the Guideline?*

- Consideration should be given to different material types such as sand and hard rock in addition to a template for a small quarry with low complexity and one for a more complex quarry.

I look forward to continuing consultation on the Extractive Industries Rehabilitation Guidelines.

Yours sincerely



Dr Elizabeth Gibson  
General Manager

\*Karl F. Kumli, RockLaw, 8 October 2019