

8 March 2017

Review of the native vegetation clearing regulations
Regulatory Strategy and Design
Department of Environment, Land, Water and Planning
Victoria

Dear Sir/Madam

CMPA Submission to the Review of Native Vegetation Clearing Regulations

Overview

The Construction Materials Processors Association (CMPA) is dedicated to the representation, advocacy 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, soil, and gypsum. CMPA members also operate recycling businesses. CMPA members are typically small to medium sized family businesses, local government and utilities. Many are regionally based employers (90%) and support the Victorian economy through providing for local construction, major infrastructure and road maintenance needs.

The Extractive Industry underpins growth and development in Victoria through supply of the construction materials described above. 50 million tonnes in 2014/15 was produced (~10 tonnes/person/annum in Victoria) to a value of approximately \$752 million excluding the cost of transport. CMPA members account for approximately half of this production, and more than half of this industry sector's employment. Also of import is the need to have supply of construction materials located in close proximity to their utilization to save on transport costs and reduce the carbon footprint.

The CMPA supports responsible, balanced legislation and community engagement that is in the best interests of the State and acknowledges Victoria's Aboriginal communities and cultural heritage.

Thank you for the opportunity to comment on the "Summary of proposed amendments to the Victoria Planning Provisions" and "Draft Native Vegetation Clearing Assessment Guidelines". This submission is further to the CMPA submission on "Review of the native vegetation clearing regulations outcomes report".

General comments

CMPA welcomes the continued use of the regulatory objective for "no net loss" in the Native Vegetation Clearing Regulations (NVCR). The introduction of "net gain" in the Native Vegetation Permitted Clearing Regulations in 2002 was clearly unworkable.

Despite the rate of clearing of native vegetation slowing and the native vegetation offsets outweighing losses due to permitted clearing [1], further tightening of the NVCR has been proposed by DELWP.

The CMPA supports the government's commitment to produce a framework of offsets on Crown land. This is a useful tool and should be implemented as a matter of urgency.

The CMPA requests the development of policy guidance material specific to the Extractive Industry and requests that the industry's views are sought during the development of such guidance. Industry specific issues need to be clearly addressed; for instance that rehabilitation works (required under the MRSDA) are recognized as a potential offset.

The range of offsets available should be broadened. The introduction of a financial based offset will improve the workability of the NVCR where a value is placed on a biodiversity unit which is then used to fund, for example, local community-identified biodiversity conservation projects.

CMPA has become increasingly concerned at the responsibility for the state's broader diversity objectives being passed onto the small number of already heavily regulated industries, in the CMPA's case, the Extractive Industries. Small to medium family run businesses want to invest in Victoria but are struggling under the weight of legislation, in particular NVCR.

For example:

- The cost of third party offsets on land is from \$120K - \$200K per biodiversity unit.
- A NVCR assessment commenced in 2013 and the Section 173 (which took 6 months) was not finalised until February 2017. This appears to be due to issues with lack of understanding/responsible authority between DELWP, DEDJTR - Earth Resources Regulation and the relevant Planning Authority.
- Conflict of interest: The accredited native vegetation assessor is registered to score the vegetation with DELWP but is also an offset broker.

Specific comments

The following points are made by CMPA:

"Summary of proposed amendments to the Victoria Planning Provisions"

p.5 "sensibly protect" This term needs to be defined

p.5 "improve operability of the regulations" In whose opinion?

p.6 1st dot point: This is seen as a further unnecessary and unrealistic "strengthening" of the native vegetation clearing regulations (NVCR) which will further hinder the extractive industry.

p.6 2nd dot point: Again, a further unnecessary and unrealistic strengthening of the NVCR through including identifying and removal of "high" in front of biodiversity.

p.6 3rd para: Inclusion of any "relevant strategies addressing biodiversity" will make the assessment even more complex and costly. Additionally, who determines the relevance?

p.6 3rd dot point: "appropriate consideration of impacts" This is an additional requirement and will again make the assessment more complex and costly.

p.6 6th dot point: "broaden the current strategy to cover the assessment of impacts..." This is an additional requirement and will again make the assessment more complex and costly.

p.7 1st dot point: "The "avoid" and "minimize" steps are to be considered for all native vegetation that is affected by the proposed land use and/or development". This is an additional requirement.

“Native Vegetation Clearing Assessment Guidelines”

p.13 Table 3: The Table further tightens the NVCR in that the extent of native vegetation for each location is reduced and/or refers to large trees. Additionally, there is now only one category with a basic assessment. This will again increase costs.

p.27 6.1: The ability to use site-based information to supplement mapped information is too tightly constrained.

Recommendations

Offsets recommendations

- The CMPA supports the government’s commitment to produce a framework of offsets on Crown land. This is a useful tool and should be implemented as a matter of urgency in consultation with the Extractives Industry.
- The use of rehabilitation to be undertaken by the Extractive Industry should be included in any offset calculations. Recognise and credit site rehabilitation as part of a site’s offsets package to remove duplication between various legislation.
- Ensure that likely future demand for specific offsets is considered when working to develop low availability offsets.
- The range of offsets available should be broadened. The introduction of a financial based offset will improve the workability of the NVCR where a value is placed on a biodiversity unit which is then used to fund, for example, local community-identified biodiversity conservation projects.
- An accredited native vegetation assessor registered to score the vegetation with DELWP should not be an offset broker as well.

Other recommendations

- Consultation should occur with the Extractive Industries sector when developing new policy guidance material to ensure its practicability for the sector.
- Assign a DELWP officer to work directly with referral authorities to ensure consistent and timely review of permit applications. A consistent case manager for managing referrals and a single point of contact for proponents throughout the life of a development will facilitate the NVCR process.
- Specify clearly in the guidance material that decision-makers must base decisions on data collected from site-based surveys rather than modelled information.
- Develop a central portal for biodiversity information, regularly updated in line with site based survey data.
- Introduce a process for regular independent review of the method used to manage biodiversity information tools.
- Limit membership of the proposed native vegetation advisory groups to members that regulate, use or support the regulations, not those who directly derive their income from the increasing of obligations.
- Focus the monitoring and reporting plan on increasing public understanding of the intent and operation of the regulations.

Please do not hesitate to contact me if you require further information.

Yours sincerely

A handwritten signature in black ink that reads "EM Gibson". The letters are cursive and somewhat stylized.

Dr Elizabeth Gibson
General Manager

References

[1] Draft Protecting Victoria's Environment – Biodiversity 2036, DELWP p.15