

18 January 2019

Ms Linda Bibby
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Earth Resources Policy and Programs
Department of Jobs, Precincts and Regions
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Via email: linda.bibby@ecodev.vic.gov.au

Dear Ms Bibby

**COMMENTS ON EXTRACTIVE INDUSTRY AND RESOURCES PLANNING PRACTICE NOTE 89
DECEMBER 2018**

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, soil, and gypsum. 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 2016/17, the sector supplied 57 million tonnes of construction materials to the market, at a value of approximately \$850 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.

We thank you for the opportunity to comment on the above draft publication Planning Practice Note (PPN) 89.

CMPA is pleased that a draft of the PPN 89 has been developed: it will be able to provide much needed clarity to the responsible authority (usually the local council).

However, the long awaited PPN 89 needs to reflect the strong statements made in the 2018 Joint Ministerial Statement “Extractive Resources – Rock solid foundations for Victoria’s growth” (JMS) by the former Minister for Resources Tim Pallas MP and the Minister for Planning Richard Wynne MP:

- Protection of the continuity of supply from existing quarries: currently where the use of a permitted quarry is continued for a period of two years the permit lapses - an amendment to the planning rules is stated in the JMS;
- Protection of quarries from incursion of new development into quarry buffer zones;
- Apply the 'Agent of Change' principle to existing quarries: this principle puts the onus on the applicant proposing a new use or development that encroaches within buffers of an existing quarry to take measures to mitigate any impacts from those existing or planned activities, including an approved area where future quarrying may occur.

Areas that would benefit from amendment:

p.1 1st sentence: "*extraction or removal of stone*": greater clarity would be given by including the definition of stone from the Mineral Resources Sustainable Development Act (1990) in a footnote.

p.2 2nd column 5th dot point: add "... **and air blast overpressure**".

p.2 2nd column: "...a submitted (endorsed) work plan should be accompanied by information explaining how it relates to matters the responsible authority must consider under clause 52.09-5 of planning schemes". Further strengthening needs to be given to the work plan and the responsible authority must not re-prosecute issues that have already been endorsed by Earth Resources Regulation (ERR).

p.3 1st column 2nd para: "*if the work plan is given to a referral authority, any future planning permit application for the work ~~is not required to~~ **must not** be referred to that referral authority.*"

p.3 1st column 2nd para last sentence: "*It is appropriate for a referral authority in responding to a work plan to have regard to relevant matters under the planning scheme that provide guidance on the suitability of works.*" Include "...**but not appropriate where the relevant matters have already been addressed in the endorsed work plan.**"

p.3 1st column 2nd last para: "*Statutory endorsement may be subject to conditions, including all **practicable and reasonable** conditions required by referral authorities*"

p.4 1st column 3rd dash point: "*give rise to a new or changed quarrying hazard which will significantly increase **(assessed under ERR's risk matrix — is assessed to be at a level above medium)** the risks posed*"

p.4 1st column 4th para: "*In this case, ERR requires evidence from the work authority holder that the responsible authority has advised whether the proposed changes to work that is subject to the notification requires a new or amended planning permit*" Remove this sentence (it is not in the ERR's Second Statement of Operating Change).

p.5 1st column 4th dot point: A site context plan is required by the responsible authority. This is not a requirement under VPP 52.09-03.

p.5 1st column 5th dot point: The majority of the information listed is contained in the endorsed work plan.

p.5 2nd column 1st para: "*Most of the above information will be included in a work plan that has been statutory endorsement **and the responsible authority must not request the above information where already provided in the work plan.***"

p.6 2nd column 2nd para: *“Most of the above matters will be addressed by a statutorily endorsed work plan or another approval **and the responsible authority must not request the information where already supplied in the work plan.**”*

p.7 1st column last para: *“A responsible authority may also include any other **practicable and reasonable** condition that it thinks fit”.*

P.7 2nd column 2nd last para: Mention could be made that the JMS is proposing to protect the continuity of supply of material from existing quarries by amending the planning rules providing greater flexibility on commencement of quarry activity or periods of inactivity of greater than two years (including under care and maintenance).


P.8 1st column: *“Protecting extractive industry operations”* Reference to the JMS including the “agent of change principle” should be incorporated under this section.

p.9 1st column 1st para: *“Minimising the distances that trucks transporting these resources need to travel helps to reduce traffic congestion, protect the amenity of local areas, ~~and~~ reduce wear and tear on roads **and reduce the carbon footprint.**”*

p.10 Figure 1: *“...and any other **practicable and reasonable** information required by the planning scheme or responsible authority.”* The arrows in Stage 2 (Planning Permit) need to be reworked.

I would be happy to discuss our submission further at your invitation.

Yours sincerely



Dr Elizabeth Gibson
General Manager