

18 February 2019

Planning Systems Department of Environment, Land, Water & Planning
8 Nicholson St East
Melbourne
VIC 3002

Via email:

Dear Sir/Madam

COMMENTS ON PLANNING FOR BUFFERS AND SEPARATION DISTANCES

The Construction Material Processors Association (CMPA) welcomes the opportunity to comment on Planning for Buffers and Separation Distances. 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 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 also supports responsible, balanced legislation that is in the best interests of the State.

1) Planning Policy

- Current planning policy does not adequately deal with managing land use conflicts. There are numerous cases of encroachment in the extractive industry:
 - Sensitive uses into buffers for existing extractive industry sites risking the continuity of supply of extractive resources;
 - Sensitive use in a buffer for an extractive industry that is in the process of seeking approval; and
 - Sensitive use into designated Extractive Industry Interest Areas.
- Planning policy can be improved with prevention of encroachment being the key.

- Apply the 'Agent of Change' principle to existing quarries putting the onus on the applicant proposing a new use or development that encroached within the buffers of an existing quarry to take measures to mitigate any impacts from those existing or planned activities. (Joint Ministerial Statement Extractive Resources, August 2018).
- Apply the 'Agent of Change' also to a potential greenfield quarry site; and
- Recognition/identification of potential quarries, extractive industry interest areas and strategic extractive resource areas in precinct structure plans.

2) Reverse Amenity

- The Victoria Planning Provisions (VPP) should include specific mechanisms to protect industrial, warehouse or infrastructure uses from encroachment of sensitive uses such as the 'Agent of Change' above. The extractive industry contributes to the economic growth of Victoria through competitively priced quality construction materials, provides employment and, therefore, needs to be protected.
- The VPP can be improved by preventing sensitive uses development (including industry) from encroaching into buffers or separation distances for the extractive industry.
- Ownership or control of the buffer area may be an area of contention and reference is made to the extract below:

Extract: Major Hazard Facility Ministerial Advisory Council Discussion Paper: p.28 Table 8

<p>Where possible, buffers or separation distances should be in the control or ownership of the emitter.</p>	<p>With greenfield industrial development or in a regional locations this may be relatively simple to achieve and gives the industry greater control if sensitive uses are approaching. However in many instances a buffer or separation distance extends well beyond the property owned by the emitting industry.</p> <p>In these circumstances the balance again must be sought in net community benefit terms as to whether land use planning should resolve the issues in favour of protecting an industry or facilitating the growth in sensitive uses. Again the policy framework becomes paramount.</p>
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It is extremely unlikely that buffer or separation distances would be in the control or ownership of the extractive industry even with a greenfield industrial development or in a regional location. It is **not** relatively simple to achieve due to the impact on land values apart from for very small rural extractive industry sites. Care must be taken to ensure that the policy framework does not exclude extractive industries within Victoria. The extractive industry provides jobs and precedes development (e.g. residential) underpinning economic growth in the State.

- An extractive industry is not a permanent land use though some may be present for several generations and once rehabilitated can contribute towards net community benefit.
- The planning system can manage new development in areas where sensitive uses are already established in the buffer area by not compounding a poor planning decision through preventing further sensitive use development within the buffer.

3) Threshold distances

Extract: Major Hazard Facility Ministerial Advisory Council Discussion Paper: p.28 Table 8

Even best practice source emission control does not guarantee there will never be offsite adverse amenity impacts.

Separation distances should be designed to ensure offsite amenity impacts are reduced to an 'acceptable' level, not to the point where there will never be an offsite impact, as this may be a very great distance.

- The above extract should lead to realistic setting of buffer or separation distances so that they are not so great that extractive industry development would never be able to proceed. EPA Recommended separation distances for industrial residual air emissions (#1518) 2013 should be a Guideline and there should be the ability to reduce separation distances where it can be demonstrated that any impacts are mitigated.
- The separation distances should also apply to the construction material recycling industry which use the same processing plant as the extractive industry.
- Separation distances must be measured from the extractive limits and not from the Work Authority boundary

Extract: Major Hazard Facility Ministerial Advisory Council Discussion Paper: p.28 Table 8

Information in plain English about potential amenity impacts should be readily available to the community, industry and decision-makers.

Whether through planning schemes or other mechanisms, the presence of potential amenity impacts should be clearly identified to inform decision making at the societal and individual level.

- As per the above Paper decision guidelines on potential amenity impacts should be developed in consultation with industry, government and the community.

Other comments

“Improving Planning Responses For Buffer/Separation Distances” ERM Technical Report, 8 August 2018.

A major issue is that the report became somewhat confusing by referring to dated legislation/provisions such as the:

- Environment Protection Act 1970 instead of the Environment Protection Act 2017: 28 August 2018;
- Victorian Planning Provisions Clause 52.10 instead of Victorian Planning Provisions Clause 53.10: 31 July 2018; and
- No reference to the Joint Ministerial Statement Extractive Resources: 16 August 2018.

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

Yours sincerely

A handwritten signature in black ink, appearing to read "EM Gibson". The signature is written in a cursive, flowing style.

Dr Elizabeth Gibson
General Manager