

12th November 2009

Ms Naomi Oosting
Program Manager Environment
Earth Resources Regulation
Department of Primary Industries

Dear Naomi

Code of Practice for Small Quarries

Overview

The Construction Material Processors Association (CMPA) welcomes the opportunity to comment on the Code of Practice for Small Quarries (the Code).

The Code is clearly written and covers a number of quarry design and operational features, albeit without providing any regulatory guidelines.

It is reasonable to infer that a 5ha, 5m deep extractive operation controlled by a competent manager is a low risk activity and it appears the Code is designed to cover this situation. The unspecified assumption is that low risk operations require less overview by DPI's Regulation Branch than a higher risk operation.

The level of risk can be assessed at the consultation and design stages. For example a dry, compacted sand operation is a lower risk operation than where a site is producing washed sand using more complex screening with the operation of slimes dams.

Consequently for the Code to work effectively there needs to be full disclosure of the proposal by the Applicant at the consultation and design stages.

The Code has a similar model to the EPA's *Environmental Guidelines for Extractive Industries Draft V1.1*. The Code needs to educate and inform and in this respect it would be useful to flesh out many of the generalised statements with some more specific details and lots of photos of good practice and non compliant examples without being too prescriptive. The EPA document contains a useful check list (Appendix 4) that relates Issues with Objectives and appropriate Guidelines.

However, it is clear the Code may not make the application process any simpler and this is the real difficulty for small operators. It is still a two staged process- Work Authority Approval and Planning Permit approval.

It is of concern to the CMPA that local councils may still need the detail of the activity proposed for a site (i.e. a Work Plan) to approve the planning permit application. If this was to occur it would negate any reduction in regulatory burden that may flow from the introduction of the Code. CMPA strongly encourages DPI to work closely with local councils to ensure they properly understand how the Code will be implemented and the role of DPI as a regulator to stop duplication and achieve a real reduction in regulatory burden for the proponent.

Given that the *Extractive Industry Development Act* (EIDA) is almost to be repealed, reference to the EIDA should be replaced with the *Mineral Resources (Sustainable Development) Act*.

Comments on specific sections of the Code

1. Introduction

It may be worthwhile to place the Glossary and Abbreviations at the back of the report. This will reduce the number of pages to read before the real information of the document is reached.

There is no one place in the document that all the requirements of the Code are listed together. This may be worthwhile to place in the front of the document as a summary.

2. Purpose of the Code

The Code will exempt the work authority holder from the requirement to work to an Approved Work Plan. (AWP) The Code creates obligations on the Work Authority holder to meet certain environmental performance standards without providing the criteria in generally understood guidelines (e.g. such as dust fall guidelines, freeboard on slimes dams, daylight working hours).

It may also be worthwhile stating that proponents may still gain value from engaging professional support to ensure proper planning of the proposal to ensure the development covers all the required issues.

3. Application Process

There is the potential for the Code not to make the Approvals Process any simpler as it is still a two stage process requiring planning approval.

It is the CMPA's wish that a detailed Work Plan will not need to be developed when the Code is applicable. The simplified Work Plan that accompanies the Planning Permit application should consist of the Work authority details, outline of the extractive limits and an outline of the key operational infrastructure. CMPA strongly encourages DPI to work closely with local councils to ensure they properly understand how the Code will be implemented and the role of DPI as a regulator to stop duplication and achieve a real reduction in regulatory burden.

The Code should also clarify which regulatory body is responsible for which aspect, e.g. WorkSafe for onsite OHS, DPI for environmental and operational compliance with the Code, Council for offsite Planning Permit conditions.

Some more technical comments on specific aspects of the Code follow.

Section 3.1.3 – R6 should also include an exemption for the application of the Code if there is a common boundary situation with an adjoining Work Authority. This will limit Mum, Dad and the three kids having 5ha each, and running the one operation over the several different Work Authorities.

Section 3.2.3 – The flow diagram on page 9 shows the Cultural Heritage Management Plan (CHMP) being required before the Planning Permit application. A CHMP could cost more than all the other application works (\$40,000 to in excess of \$100,000) and then the Planning Permit could still be refused. The obtaining of a CHMP should be a condition of the Planning Permit and Work Authority to limit early, unnecessary expenditure. It does not need to be obtained before the Work Authority is granted since the *Aboriginal Heritage Act 2006* states that the activities approved in the Planning Permit and Work Authority cannot be undertaken until a CHMP is approved.

4. Quarry Design

Section 4.1.3 – text in third dot point does not appear to relate to Figure 2.

5. Operational Management

Introduction – should be some mention of the appropriate quarry operational management system and record keeping that is required to show compliance and required record keeping.

Section 5.3 – inclusion of a weed reference chart or link to a weed identification website would assist proper identification of these weeds.

Section 5.2.2 – R14 is not practical for washed sand operations where sluicing is used. Controlled failure of the excavation face is the extraction method. Some guidance of expected stockpile height limits may prove useful.

Section 5.2.3 – it is unclear what is meant by orienting the benches to take into account the underlying geology. The working face slopes suggested and face heights recommended are not practical, especially in washed sand operations. Typically working faces are developed using excavators, scrapers and dozers. Near vertical working faces of 3 – 5 m height are common.

Section 5.10 – should be mention of the required noise levels within all operating equipment and statement that operation should be compliant with relevant legislative requirement and EPA SEPP.

Section 5.11 – rock type should be identified to determine likelihood of silica dust issues at the site. Mention should also be made of water storage and carting issues and management. Mention of the management practices to monitor the health and safety of employees with respect to dust and noise should also be mentioned.

Section 5.13 – There is little evidence in the quarrying sector that formal community consultation will reduce costs to the operator. There are several examples within the extractive industry of this formalised community interaction costing significant amounts of money and additional expenditure on a variety of issues without providing the certainty of ongoing operation. It is the extractive industry's experience that vexatious objectors will go to extreme lengths, including secondary boycotts, to inflict additional costs on the operator in an effort to close the quarry site.

The CMPA has previously indicated to DPI on several occasions their deep concern at the potential cost of developing and maintaining Community Engagement Plans. Formalised community consultation obligations beyond that currently enshrined in the planning process will result in significant additional financial imposts to operators. This will severely jeopardise many operators sustainable viability, as it will impact most adversely on operators who are unable to amortize such costs over their limited tonnage outputs, especially in these small quarries that this Code is intended to apply to.

6. Rehabilitation

Section 6.1 – fencing of progressive rehabilitation areas should also be mentioned.

Section 6.2.2 – R41 requires leaving the site in a free draining state which is not possible if an excavation is below natural surface level. A water storage or wetland should be an option. The land form should also be designed to limit erosion as also outlined in Section 5.4. Figure 6 should be consistent with stated slope gradient. Parts of Figure 6 appear steeper than 1:3.

Section 6.3.2 – leaving an excavation surface in a rough or uneven state could contribute to saturation and slope failure.

7. Decommissioning

Introduction – delete reference to mines, this document relates just to quarries.

Section 7.1 – comment required on time taken to return rehabilitation bond.

Section 7.2.3 – the requirement to break up and remove concrete slabs should be qualified with “unless required for future use”.

9. Reference Material

There are a number of Extractive Industry Guidelines in the public domain. A useful one that could be added to the list is Extractive Industry *Good Practice Guidelines* published by Groundwork September 2001, available for download from <http://www.groundwork.com.au/pub.php>.

The CMPA looks forward to discussing our comments with you in more detail.

Yours sincerely

A handwritten signature in black ink, appearing to read "Roger Buckley". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Roger Buckley
Executive Director
M: 0434 692618
E: roger.buckley@cmpavic.asn.au