

22th June 2012

Dr Danny Suster
Manager, Earth Resources Legislation and Reform
Victorian Department of Primary Industries
GPO Box 4440,
MELBOURNE VIC 3001

Dear Danny,

RE: MINERAL REGULATIONS REMAKE

I refer to the recent meetings and emails sent out regarding the Remake Minerals and Extractives Regulations proposed by the Department of Primary Industries (DPI).

The Construction Material Processors Association Inc (CMPA) does not support amalgamation of regulations between the Extractive and Mining sectors. Our members are not convinced that it would be to their benefit to have the regulations amalgamated as they do not believe that there will be any real benefits and actual cost savings to them to justify the amalgamation.

General:

Unless there are cost savings and greater efficiencies for our industry in a merged set of regulations there is no point in changing the status quo. The mining industry and the extractive industry are very different in their roles within society and their subsequent risk profiles. Because of these differences they need to be dealt with differently.

As currently occurs the mining industry extracts ore and refines low volume high value products mostly for supply to international markets and to a much lesser extent local markets. These markets are subject to variable demand and to fluctuating commodity prices. The mining industry also generates high volumes of waste and other residues which can be expensive and difficult to contain and treat. As a result of these factors the commercial and environmental risks associated with mining developments are high.

The extractive industries extract and process high volume low value products to largely supply the local building and construction industries with products for essential community development and maintenance. The nature of these industries is such that these materials need to be sourced as close as possible to their markets as their transport costs are a significant component of their value. Because of the local demand for these materials being driven by increasing population there is an ongoing need to maintain and increase competitive supply and replacement of these supply sources as close as possible to these markets. This requires long term planning and protection of these resources to ensure the communities are supplied with competitively priced construction products that are provided with the least amenity and environmental impact (which is largely a result of their transport to the markets).

As a consequence of the constant and increasing local demand for these construction products the commercial risk is very low and the minimal waste generated and the innocuous nature of these wastes means that the environmental risk is also very low. The siting of these depleted extractive sites close to population centres also allows them to have a high residual value for post extraction uses including recreational, industrial and commercial waste disposal.

The DPI's current attempts to align these two industries is forcing an unnecessarily and unjustifiably high risk rating on the extractive industries which is being imposed through their rehabilitation bond assessments and the increasingly complex requirements in their work plans and approvals processes

These two industries serve very different purposes and there are good reasons to separate their management and regulation. The original Extractive Industries Act and planning changes were designed to recognise and protect strategic extractive resources as an essential component for ongoing community development. This important and fundamental distinction has been lost in the current legislation and regulations.

Work Plan Proposals For Reform:

This area is in need of substantial reform as the current concept of one work plan being suitable for a planning consent and also for regulating ongoing operation of the site for the life of the resource leads to an unnecessary and prolonged process for approvals and inevitable updates or variations of the approved plans.

There needs to be a separation between the development plan approved for a planning approval for a new greenfields site or extension to an existing operation and the work plan currently required by DPI under the MRSDA. They have two separate purposes and that distinction needs to be clearly understood.

Development Plan for a Planning Approval

A development plan for a planning approval is to allow that site to be used for the carrying out of an extractive industry and needs to define the area within which the industry will be conducted and demonstrate that it can be conducted with acceptable amenity and environmental impacts. This plan needs to largely address the external impacts of the development and needs to show how those impacts will be contained or minimised. Transport of quarry products is often the major impact to the wider community and is not addressed in the current DPI process. The subsequent planning approval should set the broad constraints on the development and the amenity and environmental performance standards that have to be met.

There needs to be a recognition of the need and value of the resource to the overall community in the planning approvals process. The ongoing demand for these products is inevitable and their overall value to the wider community often has to be weighted against minor local amenity and environmental impacts.

DPI's current work plan process requiring a detailed operational plan and rehabilitation plan for the life of the resource is both unrealistic and impractical. The level of detail required in these when there is often very little reliable site information on which to base the plans means that they will almost always need to be varied soon after they are approved. Since these same plans are endorsed by Council as part of the planning approval there is a high risk that a new planning permit could be required for minor operational changes which have no discernible external impact.

The development plan for planning approval should be a much simpler version of what is currently required under DPI regulations.

DPI's work plan should be submitted for approval by DPI after the planning approval has been obtained. The work plan should be designed to ensure that the internal operations are carried out within the constraints set and to meet the performance requirements of the planning approval. The work plan will also address DPI's further operational performance requirements as set out in the Work Authority and that the operations are conducted in a safe manner.

The work plan should be separated into a number of operational components/chapters which can be separately updated as required rather than a wide ranging single document which becomes both long winded and expensive to change. In many cases now the work plan variations sought are often outdated by the time they are approved. For many operations the chapters/components could be a pick list of options similar to the code of practice currently used.

The work plan should include an internal site development plan which focuses on a shorter more realistic time frame say 5 to 10 years depending on the size of the operation. This component can be updated separately as required and should only need to be available for viewing by DPI inspectors when on site. Its value will be as much to the operator as it will be to the DPI inspector. The draft schedule provided for comment needs to be revamped to reflect the two tiered approach outlined.

Reporting Requirements

The reporting requirement proposed of including a rehabilitation estimate is pointless when DPI is already calculating the rehab liability. This requirement would be an extra imposition on small operators with limited time and resources.

A requirement to provide a confidential reserve tonnage estimate with the annual production figures would greatly assist in DPI resuming their role in maintaining an inventory of extractive resources.

Applications, Advertising and Licence Templates.

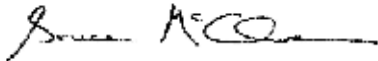
A form to initiate an application for a Work Authority needs to be put in place. This will ensure there is registration and ranking of an application when there are competing applications on adjoining or nearby land which are designed to frustrate the WA application. It will also help in dealing with other legislation or regulation changes which come into effect in the course of a WA application.

Another issue that need to be addressed is a clear definition of what is required for an updated plan of a extractive site. The request for a simple updated plan should not be treated as a Work Plan variation (which has been regularly occurring lately), but as the submission of a site plan showing current and proposed operations within the existing approved Work Authority. Involving local government in a site plan update is simply not acceptable and is resulting in unfair cost and stress on extractive site owners.

As a final comment a major concern that the CMPA has with recent proposed regulation changes across all departments has been the increase in red tape as the documents submitted have all tended to indicate. This is at odds with the current governments stated aim of a 25% reduction in government red tape.

We thank you for the opportunity to comment and would be willing to discuss our comments, concerns with the relevant staff at their convenience.

Yours sincerely



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