

24th November 2012

Mr John Ginivan
Acting Executive Director
State Planning, Building Systems and Strategy
Department of Planning and Community Development
GPO Box 2392
MELBOURNE
VIC 3001

Dear Mr Ginivan,

REFORM OF VICTORIA'S ENVIRONMENTAL IMPACT ASSESSMENT SYSTEM

The Construction Materials Processors Association (CMPA) welcomes the opportunity to provide input into the proposed reforms to the Environmental Impact Assessment (EIA) system. In particular we thank you for the opportunity to attend the stakeholder consultation session on 8 November 2012.

It is our understanding that to date only one member of the CMPA has been involved with the EIA process. Very few Work Authority applications require an ESS as the Industries environmental footprint is so miniscule.

The following comments are provided in response to the information provided at the consultation session.

System objectives

- The CMPA generally supports the proposed system objectives, in particular the need to provide for timely assessment and efficient integration with assessment procedures under other legislation.
- The CMPA does not object to EIA processes being more transparent and providing for opportunities for third party participation. However given the role which the planning system plays in the assessment of extractive industry proposals and the opportunities it provides to third parties to address amenity issues there should be less emphasis on third party rights in a system which is focused to the objective assessment of environmental impacts.

The proposed framework

- The tiered risk-based approach is considered an improvement to the present system and is supported. However this approach should not result in additional referrals nor should it result in more matters proceeding to be assessed and regulated under the EIA system. It should result in less matters needing a full EES.
- The Victorian planning system and the Statutory Endorsement process under the MRSDA presently provide a high level of assessment of extractive industry proposals with respect to environmental matters and this should be acknowledged in the implementation of the new system, particularly in defining the levels of risk.

- As a general principle assessment under the new EIA system (at any level) should only be invoked where assessment under other legislation (eg. PE Act or the MRSD Act) is inadequate to address the environment issues at stake.
- The lower levels of assessment (DRI or EMD) should not overlap or replicate the assessment that currently occurs under other legislation, in particular the *Planning and Environment Act 1987*.
- The success of this approach will ultimately depend on how the risk levels are defined however no detail has been provided as to how this will be done. The CMPA would be deeply concerned and could not support the new proposed process if the proposed risk levels identifying the number of WA referred to an ESS increases from the current historical trends for our sector. If the risk identification proposed generates a higher referral to an ESS this will guarantee the restriction of entry to all small to medium business in this sector.

Timeframes

- Unless there are to be consequences (eg. deeming provisions) if timeframes are not met then any proposed timeframes are meaningless, whether they are statutory or not. This aspect of the reforms does not deliver the certainty or efficiency claimed.

Costs

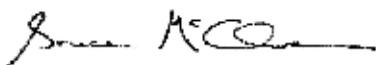
- It is understood that the reforms will seek to enable DPCD to recover processing costs from proponents, including for processing referrals, administration of assessment processes and for monitoring of compliance.
- The CMPA strongly opposes any approach to costs that could present the perception where the objector feels that there is not an arms length arrangement between the proponent and the authority. The DPCD has a responsibility to monitor and enforce its approvals under the EIA process and it is the Government's responsibility to ensure that it is properly funded to carry out these tasks. To ask proponents to pay for DPCD to police its own decisions is unreasonable and has no precedent eg. Councils cannot charge permit applicants to monitor compliance with planning permits, they simply have a public duty to monitor and enforce their decisions.
- It is important that costs associated with the EIS process should be borne by litigious objectors whose efforts result in the wasting of a proponent's time and resources.

Sovereign Risk

- Proponents need to be clearly informed at the first stage of application that the undertaking of an ESS does not guarantee an outcome even if all the scientific evidence can be proven supporting the application as political input in the past has resulted in applications not being approved after considerable capital expenditure has been fritted away with no avenue available for this to be redressed.

The CMPA asks that you consider these comments in finalising the policy position in preparation for drafting the final legislation. We also look forward to a further opportunity to comment on the final drafting of the bill in due course.

Yours sincerely



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