

21 September 2015

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Dear Minister

## **CMPA's Submission on the Victoria's Future Industries Construction Technologies Discussion Paper**

Thank you for the opportunity to comment on the Victoria's Future Industries Construction Technologies Discussion paper. The development of a Victorian construction industry technologies strategy is a very worthwhile endeavor.

### **Overview of CMPA**

The Construction Material Processors Association (CMPA) is dedicated to the representation, advocacy 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 businesses, local government and utilities. Many are regionally based employers (90%) and support the Victorian economy through providing for local construction, major infrastructure and road maintenance needs.

The Extractive industry underpins growth and development in Victoria through supply of the construction materials described above. 47 million tonnes in 2012/13 was produced (~10 tonnes/person/annum in Victoria) to a value of approximately \$737 million. CMPA members account for approximately half of this production, and more than half of this industry sector's employment. Also of import is the need to have supply of construction materials located in close proximity to their utilization to save on transport costs and reduce the carbon footprint.

The CMPA supports responsible, balanced legislation and community engagement that is in the best interests of the State and acknowledges Victoria's Aboriginal communities and cultural heritage.

### **Specific comments**

p.5 Scope 2<sup>nd</sup> para: "...or of the mining sector" should be replaced with "...or of the extractives or quarrying sector – outputs such as sand or aggregate"

p.9 2<sup>nd</sup> para: There should be mention that one of the major reasons for the “high unemployment, weak productivity growth and flat business investment in Victoria” is due to the overwhelming legislative framework.

p.9 1<sup>st</sup> dot point: “Building more productive and liveable cities and regions through transport, infrastructure and land use planning”. There needs to be certainty generated in the extractive industry by an ongoing pipeline of infrastructure projects from Government. This is necessary due to the long lead times (years) to obtain State and Local Government approvals to undertake quarrying to enable the supply of construction materials.

p.13 2<sup>nd</sup> column: “Many construction materials such as quarry materials and bricks are bulky, of relatively low value, and expensive to transport. Production of materials of this type is usually through a plant with economies of scale within proximity to major markets to economise on transport costs. Expansion and internationalisation of businesses producing these products will likely be through investment in plant in proximity to new markets, rather than expanding production from existing plant in Victoria. The internationalisation model of Australian construction coined ‘multi-domestic’ – essentially is the consolidation of regional plants within one operating company. Economies of scale are generated through management, marketing and innovation rather than in production.” The CMPA strongly disagrees with this paragraph, mostly due to being anti-competitive in nature and due to not being supportive of small to medium sized family businesses that are so important to the Victorian economy.

p.15 Figure 5: The number of employees for “Gravel and Sand Quarrying”; and “Other Construction Material Mining” (which should read as “quarrying” and not “mining”) depicted is approximately 250. This figure is wrong with number being closer to a factor of 10 greater (see WorkSafe statistics).

p.17 2<sup>nd</sup> para: The CMPA had input into the Productivity Commission Inquiry into Public Infrastructure in which the CMPA highlighted the need for regulatory reform. Below are some examples of issues negatively impacting the construction materials industry.

### **1. Sequence for the Work Plan Approval Process**

In order to obtain an endorsed Work Plan (licence to quarry), up to hundreds of thousands of dollars may be spent on consultants reports yet there is no certainty that the planning permit (i.e. that the land will be suitable for the proposed extractive use) will be issued by the Planning Authority (typically the local Council) where the decision is often politically influenced and not based on sound technical, environmental or planning merit.

The regional and State significance of a project can be too easily overlooked in such decisions which often result in the proponent seeking costly recourse at VCAT.

The CMPA believes planning approval (i.e. issue of a preliminary Planning Permit), subject to the project obtaining a DEDJTR endorsed Work Plan to be preferable – determine whether the proposed Extractive Industries use is permitted on the land, prior to embarking on a costly Work Plan endorsement.

#### Recommendations

- The issue of the sequencing of the Work Plan approval process – interface between the *Planning and Environment Act (1987)* and the *Mineral Resources (Sustainable Development) Act 1990 (MRSDA)* be discussed.
- Demarcation in the roles of the Responsible Authority to only deal with the USE of the land for Extractive Industry and the DEDJTR to deal with the DEVELOPMENT of the land for that use.

## 2. Proposed risk based Work Plan

The EDIC inquiry recommendation and Government response was to “*Introduce changes to work plan requirements in the minerals regulations that are more risk based and less prescriptive, **where such an approach is effective and practicable***” Whilst the idea had merit, there are several issues with the new risk based Work Plan. In its current format it is far too complex for smaller sites (although larger than those sites covered by the Code of Practice for Small Quarries) and does not lead to a stream lined and simplified process that leads to decreased costs through a reduction in:

- Time taken to approve proposals;
- Number of Work Plan variations;
- Number of duplicative conditions placed by authorities;
- Number and cost of VCAT hearings;
- Number of reiterations and rewritten Work Plans submitted to DEDJTR;
- Number of consultancy reports per Work Plan;
- Number of variations sought by DEDJTR;
- Number of variations sought by operator; and
- The unnecessary over use and cost of consultants

The proposed risk based Work Plan format will not lend itself to being a tool for the Quarry Manager to use in the day to day operation of a quarry as occurs with current Work Plans. Also of concern is the prospect of risk based Work Plans being applied retrospectively which will lead to the decimation of the small quarry with a loss of regionally based jobs and an increased cost for those using extractive resources.

### Recommendations

- That there is not sufficient evidence demonstrated that the above criteria are met by the new risk-based Work Plan form and so it should be withdrawn.
- Alternatively, that a core group of experienced and qualified persons (industry panel) be established to assess Work Plans to ensure consistency in the endorsement and approvals process.

## 3. Extractive Sector Rehabilitation Bonds:

Rehabilitation Bonds are payable as part of the Work Authority approval process. The bond value is determined by a formula which calculates the cost of rehabilitating the work site in the event of the Work Authority holder relinquishing responsibility for the site. Bond reviews using the Bond Formula can lead to increases of over 1000% despite the extractive industry (not mines) having a low risk profile and an extraordinarily good site rehabilitation record. Bonds are provided to the State Government in the form of a Bank Guarantee at a typical cost of 2.3% per annum. Additionally, where land is offered as security, the bank will only provide surety for approximately 70% of that value. Most importantly this impost restricts working capital (via financial institution borrowing) available for best practice operations.

### Recommendations

- Remove the unreasonable responsibility on the Minister by removing section 83(1)(c) from the MRSD Act, for the extractive sector. For example, Western Australia does not require a rehabilitation bond/levy where extraction of stone, sand and gravel occurs on private land, after evidencing that the rehabilitation arrangements are reflected in the commercial treaty.

- In the event a bond is still necessary, review the bond formula to ensure that the remaining reserves value and end value of the land is incorporated and only “safe and stable” issues are addressed.

#### **4. Aboriginal Cultural Heritage Legislation**

The CMPA recognises the importance of protecting and maintaining Aboriginal cultural heritage in Victoria. However the current system of protection, as administered under the *Aboriginal Heritage Act 2006* and *Aboriginal Heritage Regulations 2007*, impacts heavily on the construction materials industry in a manner that is disproportionate to the heritage issues at stake and any benefits that are realised for local Aboriginal communities.

The average cost of a Cultural Heritage Management Plan (CHMP) to our members in 2011 was approximately \$100,000 with the average time for completion and approval being 9.5 months. An Aboriginal Cultural Heritage industry of consultants has arisen up around this legislation, which has taken on a life (and cost) of its own with no checks and balances in place and no significant benefits flowing to local Aboriginal communities. This is not in the best interest of the State nor for preservation of the reputation of Aboriginal Cultural Heritage.

The CMPA also has a much broader concern with the dangerously low threshold for registration on the Victorian Aboriginal Heritage Register that a recent example has set and that it may be more frequently used as a tactic for opponents of our industry to stymie earth resource approvals and to create significant uncertainty for existing businesses, potentially jeopardising much needed business investment into rural and regional Victoria. The use of the legislation against existing businesses in this manner is not only highly unfair and unreasonable but will ultimately undermine public confidence in and weaken the system of Aboriginal heritage protection in Victoria.

Recommendation

That the Aboriginal Cultural Heritage Legislation be reviewed in light of the concerns that the construction material industry has.

#### **5. Native Vegetation Permitted Clearing Regulations**

A meeting was held recently as part of the consultation by DELWP for the Native Vegetation Permitted Clearing Regulations Review that was an election promise for the new Government. The following are issues raised by CMPA

- The definition of “Native Vegetation” is different between Federal (50% cover) and State (25% cover). This has a huge implication on our sites.
- The exemption to “artificial substrate” has been removed, now it is the 25% rule.
- Biodiversity Assessment Guidebook (Sec 9.6.2) for timber allows for offsets to be achieved through regeneration, but this is not allowed when quarrying.
- There is no review process to challenge the modelled data for a threatened species at a particular site (other than VCAT).
- The hypocrisy of the 10 year rule, i.e. a quarry cannot claim offsets for rehabilitation, however, if they rehabilitate an area with natives, waited 10 years, then went to go back into that area, they would need to secure offsets to remove the vegetation they had planted.
- There needs to be a mechanism to challenge the biomaps.
- The timing of the assessment is important.
- The 1 Ha for 4-5 Ha offset is unsustainable.
- A value needs to be placed on the resource.
- There is an issue of quality and consistency between consultants.

## 6. Catchment Management Authorities (CMA)

A recent report commissioned by a CMA has assessed nine Work Authorities, three of which have surrendered their operations with 6 remaining current. The remaining Work Authority holders have been issued with Section 110 Notices under the MRSDA requiring the Work Authority holder to take action or to stop work. Applying of any Notice which brings about potential closure or exorbitant costs must be fully investigated. This report has the potential to negatively impact all sand and gravel extraction on floodplains in Victoria.

### Questions for our consideration

Only the following questions were answered as being relevant to CMPA.

1. "How might technology uptake be increased in the Victorian Construction Sector?"  
Technology uptake by the construction materials industry would be facilitated by addressing the previous legislative concerns that would enable the freeing up of scarce capital resources for this purpose. Areas that could be explored for development would be in the area of monitoring (such as for dust or air blast) which is extremely time consuming and expensive at present.
10. "How can Victoria's construction materials and technology firms better capitalise on its strong research base in materials science?"  
There is little research ongoing in Victoria in resource construction materials due to the nature of the industry: extremely competitive; high volume; low price product. Though some quarries are introducing recycled materials into their products. There is need for better industry and research (including academia) collaboration. This may occur through the introduction of Government grants that would allow small to medium sized businesses or Industry Associations to access researchers.
11. "How can better industry and research collaboration be facilitated?"  
The CMPA holds Workshops and General meetings where there are opportunities for the latest technology from service organisations to be presented. These sessions could also include research presentations where relevant. There is difficulty with internet usage in rural areas where many quarries are located which hinders collaboration.
14. "Are there regulatory or attitudinal barriers that inhibit the uptake of new materials or processes on Victorian Construction Projects?"  
VicRoads sets the standards for road infrastructure in Victoria that is also adopted by Local Councils. The approval processes are necessarily slow due to wanting certainty surrounding the lifetime of the road infrastructure. There are regulatory barriers in say monitoring for dust in that the regulator will only accept those that meet Australian Standards which take a long time to develop.

Thank you again for the opportunity to comment and we look forward to working with you for the future growth and development of this priority sector. Please do not hesitate to contact me if you would like to discuss our submission further.

Yours sincerely



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