

03 February 2022

The Secretary  
Legislative Council Environment and Planning Committee  
Parliament House, Spring Street  
EAST MELBOURNE VIC 3002  
Via email: [planninginquiry@parliament.vic.gov.au](mailto:planninginquiry@parliament.vic.gov.au)

Dear Sir/Madam

#### **INQUIRY INTO THE PROTECTIONS WITHIN THE VICTORIAN PLANNING FRAMEWORK**

CMPA is the premier representative body for the Victorian earth resources industry. It represents a broad spectrum of those involved in construction material processing businesses and has a membership base consisting of over 200 quarries across the industry. Together, these members employ approximately 1500 Victorians which underpins the construction industry of almost 240,000 employees (<https://liveinmelbourne.vic.gov.au/connect/victorian-industries/transport-defence-and-construction>).

CMPA members are typically small to medium sized family and private businesses, local government and utility providers. 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 2020/21, the sector supplied approximately 68.5 million tonnes (see Figure 1) of construction materials to the market, at a value of approximately \$1B directly supporting Victoria's \$80B Big Build (<https://bigbuild.vic.gov.au/about>) and the estimated 1.6M new homes required by 2050 (<https://earthresources.vic.gov.au/geology-exploration/industry-investment/joint-ministerial-statement-on-extractive-resources>). Small to medium quarries account for approximately half of this production and is submitted to be a vital industry supporting the ongoing economic prosperity of Victorians.

The CMPA supports the principle of responsible, balanced legislation that is in the best interests of the State of Victoria and Australia including the protection of resources that enable extraction of resources that is cost efficient to market and to the Victorian taxpayer who is ultimately the end consumer and beneficiary of that resource.

## Summary of Issues

- The replenishment of supply of extractive resources is not occurring which will lead to increasing costs for construction materials and hence, housing costs will continue to increase, as demand eventually outstrips supply – especially where competing demand for that resource is being consumed by large projects.
- Quarries need to be located close to where the construction material will be utilised thereby ensuring a lower carbon footprint and less impact on roads as well as cheaper haulage freight costs which carry through to the project and build cost.
- New quarries will provide greater accessibility, choice, quality, and competition in the construction material market that should flow through to improved project construction costs.
- New quarries' production would contribute towards the rate of supply of extractive resources which is currently not being replenished through approval of new quarries nor existing quarry work plan variations.
- New quarries and existing quarries' work plan variations would directly contribute to the increasing supply which is a key consideration given that demand is already greater than the highest prediction in the Extractive Resources in Victoria, Demand and Supply Study, 2015-2050 (<https://earthresources.vic.gov.au>) (note in other parts of this Study it grossly overestimated the extraction ready availability of construction materials).

## Submission

We provide the following submission on behalf of our members:

- The Committee should consider the opportunity to make the Minister for Planning the responsible authority for Extractive Industry land use in the same way that Renewable Energy Facilities are. This will centralise decision-making and better reflect the State-significance of these projects in facilitating key construction and infrastructure projects which are essential to the Victorian economy.

Any recommended change to the responsible authority for Extractive Industry land use must be accompanied by comprehensive guidance material for all applicants, developed in conjunction with key State government bodies such as Secretaries to the Departments of Jobs, Precincts and Regions, and Treasury and Finance, as well as key industry bodies. This will ensure a fair, transparent, and consistent assessment framework which ensures the correct balance is applied to planning decisions.

Further to this, the following referral and notice provisions are sought:

- Section 52 notice – relevant municipal Council.
- Section 52 notice - Secretary to the Department of Treasury and Finance.
- Section 55(4)(a) determining referral – Secretary to the Department of Jobs, Precincts and Regions.
- The way in which the spatial constraints of earth resources (those which exist in a specific location underground) are considered and weighted by the Victoria planning provisions should be reviewed by the Committee in order to ensure planning decisions for resource extraction are treated with better certainty and fairness.
- The Committee should examine the role construction materials play in the supply chain of affordable housing and how the *Planning & Environment Act 1987* and the Victoria planning provisions can better encapsulate this relationship.
- The visibility, understanding and consideration of the EIAs within the Victoria planning provisions by practitioners and local authorities should be reviewed by the Committee, particularly given the age of the EIA mapping is not reflective of the accuracy of the information (as is so often the case in other policy situations) given that resources, once identified, rarely move without significant natural force.

- The Committee should review the adequacy of the *Planning & Environment Act 1987* and the Victorian planning provisions, including related guidance material, in providing an appropriate assessment mechanism having regard to existing processes under the *Mineral Resources (Sustainable Development) Act 1990* and the role of the Department of Jobs, Precincts and Regions in administering this Act. This should particularly examine opportunities to remove duplication and provide streamlining between MRSDA and P&EA matters.
- The Committee should familiarise itself with the supply and demand issues currently being experienced by the extractive resources industry and investigate the appropriateness of standard notice and review practices in the context of the State-significant role resource extraction plays in Victoria's economy.

### Discussion

Over time, population growth within Victoria has seen a significant impact on urban settlement boundaries as successive State governments strive to maintain affordable housing and provide infrastructure to support residential communities as they grow. Unfortunately, this has occurred at the detriment of the extractive resources industry and related businesses as residential housing needs have been prioritised over the need to ensure a continuous and sustainable supply of extractive resources.

This has been a short sighted response to increase housing supply which should in theory drive down prices however, it has removed access to the resources required to service that new community's settlement which has in turn pushed up the pricing of that supply.

As I am sure the Environment and Planning Committee (the Committee) is aware, extractive resources are an essential part of the housing solution. Our members extract, process, and distribute materials which are utilised in:

- New residential estates;
- High rise apartment buildings;
- Essential community facilities such as libraries, schools, sports pavilions, hospitals, and arts centres; and
- Road and rail construction such as the Level Crossing Removal Program, Metro Tunnel Project, West Gate Tunnel Project, Suburban Rail Loop, and many more.

Our members include those with large, vertically integrated business models, as well as small-scale suppliers who can respond nimbly to supply gaps.

The proposed Inquiry into the protections within the Victorian Planning Framework (the Inquiry) has been instructed to consider the adequacy of the *Planning & Environment Act 1987* and the Victorian planning framework in relation to planning and heritage protection. The terms of reference have requested the Committee specifically focus on matters of housing affordability, environment, certainty and fairness in decision making, protecting heritage, and ensuring residential zones are delivering appropriate housing outcomes.

Considering this, we highlight the following:

- The terms of reference have a heavy focus on residential development and fail to consider the diverse needs of our urban areas and our economy, including the provision of extractive resources.
- The role of the extractive resources industry in supplying construction materials to support housing supply and essential infrastructure has been entirely omitted from the terms of reference.
- No connection has been made between the affordability of housing and the provision of construction materials within the terms of reference.

This is largely reflective of the way in which extractive resources have been managed through the *Planning & Environment Act 1987* and the Victoria planning provisions to date. This includes systemic sterilisation of Extractive Industry Interest Areas (EIAs) by urban development over the past 30 years, particularly within the Melbourne Urban Growth Boundary (UGB), and a breakdown in the capacity for local government municipalities to adequately understand, assess and respond to proposals for new extractive resources applications, particularly in areas with good market access (i.e. existing urban areas).

This is further hampered by local opposition to new extractive resource applications, facilitated by the notice provisions of the current Victorian planning policy controls, and consistently leading to political decision making by local government Councillors. At best, this creates an ad hoc decision making process for our industry.

Whilst rights of appeal exist in the planning scheme, the consistent need to attend the Victoria Civil and Administrative Tribunal creates time and cost implications for operators. Far from being a one-off, the need to appeal planning decisions at the Tribunal is now considered an embedded part of the planning process for many operators, which simply should not be the case.

We would submit that not only should the Minister for Planning become the responsible authority for Extractive Industry land uses, but that practitioner expertise should be developed within the Department of Environment, Water and Planning in the same way that it has been developed for renewable energy facilities. Accompanied by clear and transparent guidance material for operators, this has the potential to reintroduce a centralised assessment team for the extractive industry, improve knowledge sharing across State government ministries with regard to State-supply and infrastructure priorities, reduce duplication / introduce streamlining between the MRSDA and P&EA, and provide greater opportunity for monitoring of the sector to ensure Victorian's have continued and sustainable access to construction resources.

The current lengthy and costly approval process for quarries has been monitored by CMPA since its inception in 2000. Figure 1 illustrates that there is increasing demand for extractive resources. Conversely the number of current work authorities is declining. This is compounded in Figure 2 by the decline in approved work authorities. There are numerous difficult stages in the long journey for an approved work authority or work plan variation with the most challenging being the planning permit.

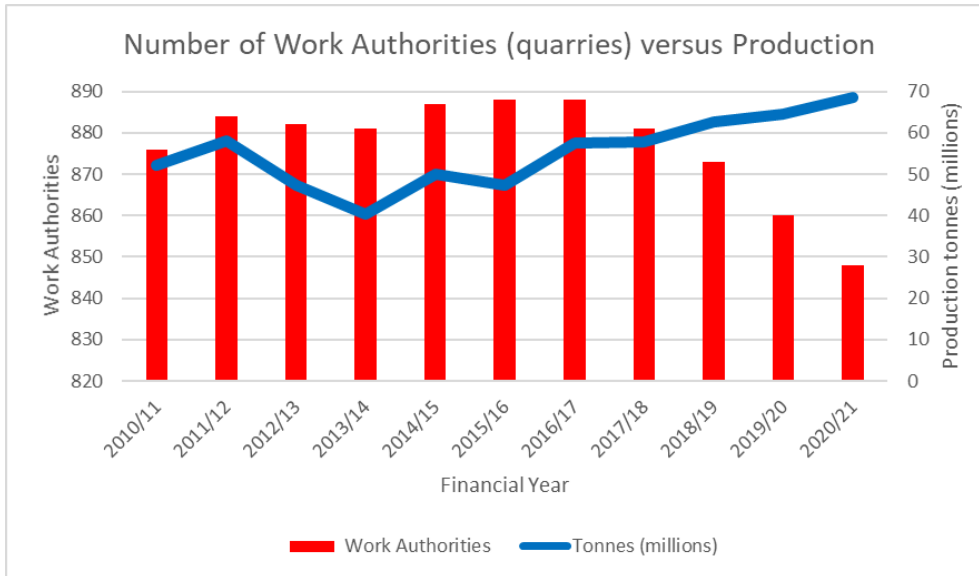


Figure 1 - Number of current Work Authorities versus construction material production 2010-2021 (CMPA, 2021)

Note:

- Accounting for a decrease of approximately 20% in quarries reporting production for 2020/21 the approximate production is 68.5 million tonnes (based on the inclusion of 97 quarries reporting production of 0.05 million tonnes in 2020/21) an increase of 6% on 2019/20 despite little immigration and COVID-19. Earth Resources Regulation Annual Statistical Report FY 2020/21, <https://earthresources.vic.gov.au/>.
- Not included in Figure 1 is the tonnages for the production of recycled construction and demolition waste which is approximately 6.5 million tonnes in Victoria for 2019/20, <https://www.sustainability.vic.gov.au/research-data-and-insights/waste-data/annual-waste-data-reports>.

In Figure 2 below the decline in approval of Work Authorities with each consecutive financial year is demonstrated. This is despite an increase in demand for materials over this time.

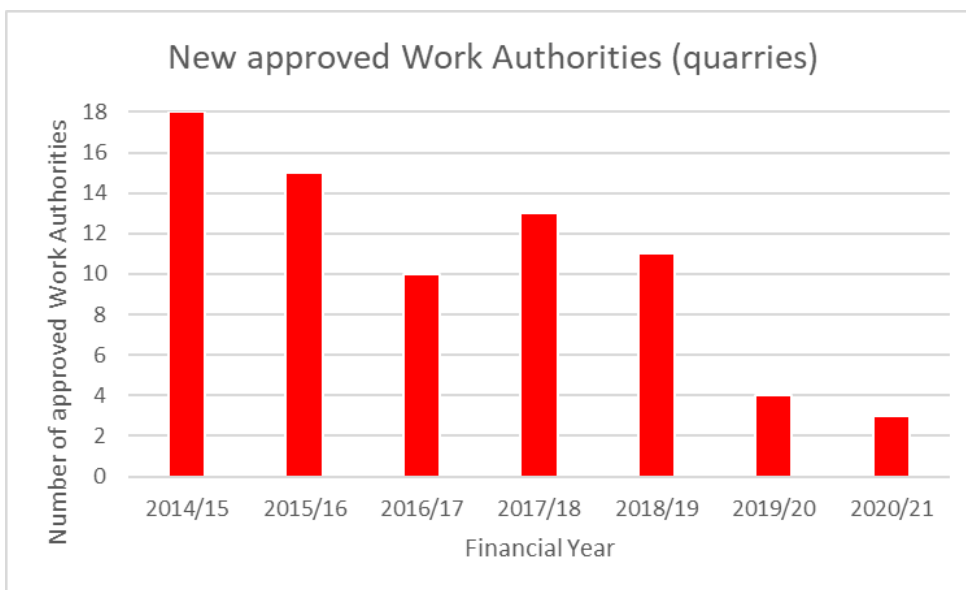


Figure 2 - Number of newly approved Work Authorities by financial year (CMPA, 2021)

Additionally, the current number of Work Authorities is expected to further decrease, an example of which is given in Appendix A, an article to be published in the CMPAs magazine *Sand and Stone Issue 120*.

**About the CMPA**

The CMPA Rules contain the following purposes of the Association which are to:

- (i) conduct its affairs with honesty and integrity;
- (ii) demonstrate its commitment to the:
  - viability of the Industry;
  - protection of the environment;
  - community in which it exists;
- (iii) vigorously pursue with government and others issues of widespread concern to members;
- (iv) demonstrate leadership and a sense of direction for the Industry;
- (v) act as a resource and provide support to its members through the delivery of cost savings and assistance in complying with legal obligations;
- (vi) foster unity and cooperation between members and others;
- (vii) promote continuous improvement through education, training and other activities.

As per purpose (vii) through the development of Guidelines, Checklists and Reference Manuals such as:

Guidelines	Checklists	Reference Manuals	Community publications
Noise Management	Excavator	Work Safely	Quarries Build Communities <a href="https://cmpavic.asn.au/community/">https://cmpavic.asn.au/community/</a>
Dust Management	Front End Loader	Conduct Laboratory-based tests	
Blast Management	Mobile Plant	Conduct Screening	
Bushfire Response	On Road Tip Truck	Service & Maintain Crushers	
Slimes Management	Watercart	Conduct Crushing	
Traffic Management	Haul Truck	Collect Routine Site Samples	
Working Safely with Geotechnical Risk in Quarries		Combined Crushing & Screening	

The Guidelines are made available **free to the community** on <https://cmpavic.asn.au/publications/support-sheets/>

The above CMPA profile highlights the seriousness with which the extractive industry undertakes its responsibilities including to maintain community confidence and a social license to operate.

Our association seeks to highlight through this submission the Committee's opportunity to holistically consider the factors influencing the rising cost of housing and construction costs across the State of Victoria.

I would be pleased to discuss these matters with you prior to the Inquiry. Please contact me on 0434 692 618 or via email at [elizabeth.gibson@cmpavic.asn.au](mailto:elizabeth.gibson@cmpavic.asn.au) in respect of any matter.

Yours sincerely

A handwritten signature in black ink that reads "EM Gibson". The letters are cursive and somewhat stylized.

Dr Elizabeth Gibson  
General Manager

## Appendix A

Front Cover – Heading: Chris Ryan Earthmoving – Exits the Quarry Industry

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Voting Members Spotlight

### ***Chris Ryan Earthmoving – Exits the Quarry Industry***

*Chris Ryan, owner of Ryan Earthmoving, explains why he decided to close his business down permanently in December just gone.*

After celebrating more than 30 years in business, Chris Ryan Earthmoving has been forced to pull up stumps permanently. *“We’ve had to put off three workers and sell two trucks but ultimately we have really had enough of the red tape involved in starting a new pit or applying for a variation,”* said Chris, Owner of Chris Ryan Earthmoving.

Chris started his family-run earthmoving business in 1989 in his hometown of Pyalong in central Victoria. He opened the family’s first granite sandpit back in 1990 and is now up to his sixth pit, the other five pits have been successfully rehabilitated (*High Camp Road on the front cover*) to farm grazing land. Although these pits have been successfully rehabilitated, there are still outstanding bonds that have not returned, due to red tape. Some of these bonds date back to more than 20 years.

As testament to the quality of Chris Ryan Earthmoving’s product, their gravel is specified into tenders and their material is used in iconic landmarks including the botanical gardens walking tracks, Federation Square and Birrarung Marr.

In an effort to keep his business going, Chris has in recent times applied for a new pit and also a variation to his existing work authority, but both were unsuccessful as a result of the increasing amount of red tape and costs involved.

*“VicRoads asked for access to the highway to be double laned with 40m of frontage to the highway. Between Wallan and Echuca there are 75 roads that come into the Northern Highway and I don’t think there would be three that meet the standard that they would want me to do for our gravel pit. There are different rules for a shire road compared to a gravel pit,”* said Chris.

In addition to the access road requirements, Chris would also have to navigate the unpredictable and constantly changing native vegetation requirements, prepare a land capability assessment, an assessment commonly used for assessing land for septic systems rather than gravel pits, and prepare an environmental management plan, duplicating most of the Work Plan – making starting a new quarry a very costly exercise.

Given the time and costs involved in establishing a new work site, Chris decided to apply for a variation to the original pit.

*“We applied to Mitchell Shire for a secondary consent for a work authority variation [to extend the extraction limits] but that was rejected, even though it is still in our work authority area. They asked for a whole new planning permit which involved getting a new land capability assessment together with an environmental*



*management plan, dust management plan, stormwater management plan, risk assessment and they also required us to maintain the shire road all the way back to the highway – that’s 3-4km of shire road that we would have to maintain,” he explained.*

Despite the costly and exhaustive requirements, Chris started on the variation but as he was working on the variation, he was made aware of additional and unexpected cultural heritage obligations.

*“The quote for cultural heritage on the 2.3 hectares was \$70,000 – so that was the real dealbreaker and we just had to say that enough is enough.”*

Chris calculated that in addition to the approximate \$55,000 that he has already spent on the process, it would cost at least another \$100,000 to complete the application which is just not feasible given that the extraction area is only 2.3 hectares and the gravel is only 1.5m deep.

*“Once you decide to dig a hole in the ground, you put a target on your back and every government department that can trip you up will have a crack at doing it – that’s the way it seems,” Chris exclaimed/detailed/explained stated.*

*“There is no common sense. If Earth Resources Regulation came and inspected our gravel pit, they will see that all the regulations are being met and they would have no issue, but they are so tied up in red tape that it makes it very difficult,” he said.*

When asked about how the system could be improved, Chris raised an interesting point about the way things were done 20 years ago, compared with today.

*“The permit system from 20 years ago used to work, unlike today’s which is too complicated and expensive. The way we remove our topsoil, the way we dig the gravel out, the way we screen it, the way we cart it out, nothing has changed in 30 years – just the red tape.”*

*“Looking back to 1990, it took three weeks to get our pit application through and it cost roughly \$600. In 1995, regulations were updated slightly and it took 6 weeks to get a permit but today, we are looking at 6 years – making it a very time consuming and expensive exercise. A bit of common sense and practical thinking would go a long way from government departments, that’s what needs to happen,” he said.*

According to Dr Elizabeth Gibson, from the CMPA, many other quarry owners are also in similar situations because it is simply not worth the risk and expense of trying to get approval for a variation.

*“This leads to a supply and demand issue – as demand for product is growing at record rates, there will be supply issues in the coming months and years ahead unless something changes,” she said.*

Elizabeth went on to highlight how accounting for a decrease of approximately 20% in quarries reporting production for 2020/21 (due to confusing changes in Earth Resources Regulation (ERR) reporting requirements) the approximate production is 68.53 million tonnes (based on the inclusion of 97 quarries reporting production of 0.05 million tonnes in 2020/21) an increase of 6% on 2019/20 despite little immigration due to the COVID-19 pandemic.<sup>1</sup>

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<sup>1</sup> Earth Resources Regulation Annual Statistical Report FY 2020/21, <https://earthresources.vic.gov.au/>