

5 May 2008

Statutory Planning Systems Reform
Department of Planning & Community Development
via email - PEActreview@dpcd.vic.gov.au

— Dear Sir/Madam

RE: MODERNISING VICTORIA'S PLANNING ACT

Members of the Construction Material Processors Association (CMPA) appreciate the opportunity to provide comment on the review of the *Planning and Environment Act* (PE Act) and particularly the associated discussion paper.

The CMPA represents a broad spectrum of those involved in construction material processing businesses engaged in the extracting processing or otherwise working in hard rock, gravel, sand, masonry, clay, lime, soil, or recycling. Many of these businesses operate under the *Extractive Industries Development Act* and have additional responsibilities under the PE Act.

Our Members are particularly concerned about the cost and time required for a planning permit to be processed. Their experience in applications is showing increasing costs, particularly if applications end in VCAT, and are experiencing a timeframe of a little over a year before a decision is made for larger applications (excluding VCAT hearings).

We understand that there is currently a review of the operation of VCAT and will be making a submission to them on this matter specifically.

Over the following pages, we have made comments in relation to specific parts of the discussion paper.

If there is any further information we can assist you with, please do not hesitate in contacting the undersigned.

Yours sincerely



Sarah Andrew
Project Manager

Review of the Planning and Environment Act 1987
Comments in relation to the discussion paper

By the Construction Material Processors Association

April 2009

Planning Permit Process

The planning permit process is not something that is one size fits all.

Our Members enter the planning permit process once their application for a Work Authority has been endorsed by the DPI, however the responsible authority (i.e. local council in most instances) is involved in the process from the initial site consultative meeting. This endorsement involves consultation with a variety of referral bodies.

The dual application process undertaken by the *Extractive Industries Development Act* (EID Act) and the PE Act in its present form is generally supported, however requires fine tuning as it can be time consuming and inefficient in a number of areas. Many of these areas have been identified in the discussion paper.

It would be beneficial for Government to take on the role of reporting publically the time and if possible the cost of each stage of the process and also reasons for any delays. This information should be assessed by an independent agency (such as the Victorian Auditor-General) to assess performance against these timelines. Over time, such a report would identify road blocks in the process and allow these to be acted upon.

Streamlining Applications – Alternatively Sourced Referrals

Our Members regularly report that the referrals undertaken by the DPI during the Work Authority endorsement are not being accepted by the responsible authority, resulting in duplicated works and delays.

It would be a positive step for the planning permit process, and therefore the responsible authority, to accept those referrals undertaken by the DPI or applicant during the Work Authority endorsement phase. This would minimise delays and reduce the legislative burden upon planning officers.

Objections

As suggested in the discussion paper, the term 'objections' should be changed to 'submissions' encouraging those in the community who support a project to put this in writing providing a more holistic community view.

There should be greater onus placed upon the objectors. At present, scurrilous objectors with little or no claim can delay the process and impose unnecessary costs. The objector is not required to substantiate the claim, holds no accountability and to them the process is almost cost free.

It is therefore essential that the responsible authority is able to reject objections that are frivolous, vexatious or irrelevant as these can cause significant time and cost delays on the part of the applicant. The objections need to provide specific information about their complaint assisting applicants in addressing concerns.

Referrals & Time Limits

All parties in applications should be held accountable for providing information within set timeframes ensuring that the process keeps moving. As mentioned previously, this information should be assessed by an independent agency (such as the Victorian Auditor-General) to assess performance against these timelines. Parties with accountabilities would include the applicant, the responsible authority, referral bodies and objectors. Breaches to set time limits would need to have clearly specified results.

Review of the Planning and Environment Act 1987

Making a Decision

In any decision making process, it is essential that where possible the human factor is eliminated ensuring consistent decisions are made, particularly where the responsible authority is also a potential competitor to the Work Authority. The reasons given to refuse an application need to provide specific details, rather than motherhood statements. Such statements do not assist the applicant in improving their application or addressing concerns.

Planning Scheme Amendments

Challenging Amendment Decisions

The inability to challenge amendment decisions is an issue and there should be a means by which this can occur. Unfortunately, at this stage, we are not able to provide any preferred options.

State Significant Projects

Assessment Process Options

As our Members operate under the dual application process of the EID Act and the PE Act, they are aware of advantages and disadvantages of a twin approvals system. The most notable advantage of this system is that the initial application process (i.e. Work Plan endorsement) is carried out by specialist regulators who understand such businesses and how they operate.

There are several shortcomings with the present arrangements, however it is generally agreed that these can be addressed with changes such as those suggested in the discussion paper.

One issue that has not been raised in the discussion paper, and may prove worthy of further investigation, is the improved protection of strategically located extractive resources particularly near to major population centres that require these resources for their development. If this is identified for further investigation, the CMPA would be willing to provide a more detailed discussion on the topic.

Members without exception do not wish to see any extension of the requirement to conduct an EES. This process is cost and time prohibitive, and does not necessarily result in better decisions for the community.

Governance and Decision Making

Registration of Planners

Being only a small proportion of the planning permit applications made to most responsible authorities, our Members (and their consultants) often report that they are finding themselves training the planning staff responsible for their application. General information is available through the '*Planning Practices Notes*', however this does not always assist especially in complicated applications. This is clearly not satisfactory for either party, however does highlight the need for planners to have specialist skills.

One means of addressing this in times of skills shortages, would be to have specialised, skilled planners who manage extractive planning permits being shared across a number of responsible authorities.