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smart.planning@delwp.vic.gov.au

Re: Reforming the Victoria Planning Provisions - A discussion paper

The Minerals Council of Australia Victorian Division (MCA Victoria) welcomes the opportunity to comment on the *Reforming the Victoria Planning Provisions* discussion paper. MCA Victoria has also participated in the suite of reviews referenced in the discussion paper over the past 20 years.

Victoria's minerals industry

Victoria's minerals industry includes precious metals, base metals, lignite (brown coal) and mineral sands operations across the state and mining services and support hubs in Melbourne, Geelong, Ballarat and Bendigo. Together the combined mining and mine equipment, technology and services (METS) sector contributed \$13.6 billion to the Victorian economy in 2015-16 – representing four per cent of the state's total economic activity and supporting approximately 121,700 jobs.¹

Intersection with the planning regime

The minerals industry intersects with the planning regime in a number of ways, directly, through exemptions, referral through minerals law and through the *Environment Effects Act 1978*.

Under the *Mineral Resources (Sustainable Development) Act 1990* (MR(SD) Act), exploration work can be undertaken without the need for a planning permit. Mining projects are however required to gain planning approval before the work plan (which can cover project and operational development) can be approved. Planning approval can be gained through a planning permit issued by the local government authority or through an Environmental Effects Study (EES) completed under the direction of the Minister for Planning.

As such, industry must engage with both State and Local government for approval to undertake specific works. While we acknowledge this demarcation of responsibilities, there is often very little communication and knowledge sharing across the levels of Government to enable efficient, effective and timely decision making. This may be due to the absence or devolution of formal channels and arrangements.

MCA Victoria further acknowledges the need for planning schemes to reflect the use, development, protection and conservation of the relevant land. However there continues to be inconsistency in planning schemes across local council borders that often contradict each other but also do not reflect

¹ Deloitte Access Economics, [Mining and METS: engines of economic growth and prosperity for Australians – Victorian focus](#), Melbourne, July 2017, p. 3.

the State interest. A single framework would assist to eliminate such contradictions. It is important that consideration of regional use, development, protection and conservation of land be considered within planning schemes and that the Minister responsible ensures State interests are maintained over local interests to the extent that it is practical.

Integrating and simplifying the State's planning policy frameworks is therefore supported. Improving both the policy objectives and institutional arrangements under which regulators operate can have a big impact on reducing red tape and delays.

Protecting the state's minerals resources

The State Planning Policy Framework provides critical protection for the state's mineral resources. Clause 14.03 - Resource exploration and extraction states that

- "Planning schemes must not impose conditions on the use or development of land that is inconsistent with the *Mineral Resources (Sustainable Development) Act 1990...*"

Furthermore, Particular Provision 52.08 - Energy and Earth Resources specifically states the objectives of the provision are:

- To ensure that mineral extraction, geothermal energy extraction, greenhouse gas sequestration and petroleum extraction are not prohibited land uses
- To ensure that planning controls for the use and development of land for the exploration and extraction of earth and energy resources are consistent with other legislation governing these land uses
- To encourage land to be used and developed for exploration and extraction of earth and energy resources in accordance with acceptable environmental standards

As such, exploration and mining are permitted activities under all planning schemes. This provides enormous certainty to exploration and mining companies as well as signalling that projects will be assessed on their merits rather than through an arbitrary zoning of land.

In consolidating the State and Local planning policy frameworks into one framework, the protection afforded to the State's earth resources must be maintained.

The MR(SD)A Act essentially mirrors the State planning policy framework by including a range of provisions detailing the exemptions from and limitations on planning requirements under the *Planning and Environment Act 1987*.

- s42(6): a planning permit can be granted for mining proposed under a mining licence regardless of whether the planning scheme prohibits mining on that land.
- s43(3): a planning permit is not required for exploration regardless of whether the planning scheme prohibits exploration or requires a permit for it.

Areas of concern

The proposed reform of the specific provision that relates to mineral resources (52.08) as detailed in Appendix 2 of the discussion paper presents a number of concerns for the minerals industry:

- Minimising conflict and overlap with requirements under the MR(SD) Act is, of course, supported however as written, the review would not consider mineral projects as these do not require a Work Authority (Work Authorities apply to quarrying activity).
- Combining 52.08 and 52.09 would not remove duplicated processes the quarrying and minerals industries are quite different and managed discretely under the MR(SDA Act and therefore do not overlap.

Furthermore the strong protections under 52.08 for the minerals industry are due to the Crown ownership of the resource. This does not apply equally to quarry products.

MCA Victoria recommends that the proposed reform to 52.08 be reconsidered in light of the concerns raised above. More information is also required as to how permitted triggers and exemptions would be rationalised.

Yours Sincerely

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