

15 June 2022

Mr Tony Chappel
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NSW Environment Protection Authority
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Dear Tony

POEO (CLEAN AIR) REGULATION 2022

Thank you for the opportunity to comment upon the Regulatory Impact Statement (RIS) for the Draft Protection of the Environment Operations (General) Regulation 2022.

Cement Concrete & Aggregates Australia (CCAA) is the peak industry body for cement manufacturers, concrete suppliers and extractive operators throughout New South Wales. Collectively known as the heavy construction materials industry, our members are engaged in the quarrying of sand, stone and gravel, the manufacture of cement and the supply of pre-mixed concrete to meet New South Wales's building and construction needs. These businesses range from large global companies to SMEs and family operated businesses.

Cement, concrete, stone and sand are the critical materials that enables the \$56 Billion New South Wales construction industry, employing 370,000 workers and contributing 45% of the New South Wales taxation revenue base. CCAA notes that the COVID-19 pandemic has had a significant impact upon the economy of New South Wales and we believe that the construction sector, supported by an efficient heavy construction materials supply chain is playing a pivotal role to deliver an economic rebound.

Our industry is committed to the protection and improvement of environmental values and minimising environmental impacts when they arise and we strongly believe that we have an obligation to supply construction materials in an environmentally responsible and sustainable manner. We work within a very complex array of Federal, State and Local Government legislation which aims to protect Australia's unique biodiversity, natural landscapes and lifestyle and we are keen to continue to work with the NSW Government and the community to maintain these protections.

The objectives of the proposals to replace the existing Protection of the Environment Operations (Clean Air) Regulation 2021, outlined in the Regulation Impact Statement are understood and we offer the following comments in response to Part 5 of the proposed regulation:

Risk based approach

CCAA has been a long-term advocate for risk-based regulation which prioritises improvements to environmental standards and emissions settings, targeting those operations and facilities that are most likely to contribute key air pollutants such as nitrogen dioxide (NO₂) and sulfur dioxide (SO₂) which impact upon local and regional air quality.

We note that under Part 5 of the existing regulation, all new activities and plant on scheduled premises have had to meet the more stringent Group 6 emissions standards and that this regulation has contributed to positive environmental outcomes and health improvements without penalising industry for operating older facilities which were constructed to comply with past emissions standards.

The proposal does not appear to consider the risk of the specific activities and plants across the state of New South Wales other than reference improved health benefits across the Sydney Greater Metropolitan Region.

No retrospectivity

Our industry does not support the setting of new, retrospective regulation which seeks to depart from the present, risk-based approach. We believe that penalising industry for maintaining the upkeep of older facilities constructed under more different emissions standards is heavy handed regulation and fails to incentivise industry to innovate to improve its own credentials with the environment.

CCAA remains concerned that the proposed regulation will lead to the phasing out of otherwise efficient facilities which have served the broader industry well and which are not necessarily high-volume particulate emitters.

Support for maintaining the existing regulation

The proposal to transition activities and plant on scheduled premises that belong to Groups 3 and 4 to those standards of Group 5 of the Regulation by 1 July 2025 and to Group 6 by 1 July 2030 is not supported by CCAA.

In many cases, having to upgrade plant to meet a new standard which may have very little impact on overall air quality will trigger the need to seek planning approval and by its very nature will open up the site to a whole range of additional and costly requirements not related to the environment. The reality is that most companies will need to go through this process for other reasons as dictated by business requirements and will then need to meet the standards at that time.

We argue that the existing regulation continues to offer opportunities to industry to improve its own credentials and to work with Government to provide innovative solutions to deliver stronger environmental and health outcomes. The transitioning of all activities and plants to Group 6 emissions standards removes the incentive for innovation that presently exists within the existing regulation.

Thank you again for the opportunity to comment upon the Regulatory Impact Statement (RIS) for the Draft Protection of the Environment Operations (General) Regulation 2022.

We would appreciate the opportunity to discuss this matter with you in further detail. Accordingly, I can be contacted on 0448 848 848 or email Jason.Kuchel@ccaa.com.

Yours sincerely,



JASON KUCHEL
State Director, New South Wales & South Australia