

11 November 2008

Mr J Knight
VCEC
via email

Dear Jason

RE: CMPA CONCERNS WITH PROPOSED EID ACT REVISIONS

A key outcome of the CMPA's 'Statement of Purpose' is to demonstrate our commitment to the:

- Viability of the industry;
- Protection of the environment; and
- Community in which it exists.

Our members are small to medium enterprises (SME). Such SMEs are the driving force behind the extractive industries and hold a substantial percentage of the state's tonnage output. These operations are responsible for all new Work Authority applications made in the last two years and the majority in the last 10 years.

From the limited consultations that have been undertaken we have identified three areas that Members totally oppose – namely 'Duty to Consult', 'Rehabilitation' and 'Merging'.

CMPA contends that changes proposed will further reduce sustainable viability of these SMEs.

Duty to Consult

CMPA Members contend that introducing a further "Duty to Consult" obligation as presently within the MRSD Act beyond that currently enshrined in the planning process will result in significant additional financial imposts. This will severely jeopardise our Members' sustainable viability, as they will impact most adversely on SMEs who are unable to amortize such costs over their limited tonnage outputs.

Concerns regarding this additional obligation are highlighted by increases in legislative obligations for referrals over the last 5 years, which have already created an unpredictable and prohibitive financial impost, driving the number Work Authority applications down.

We would welcome the opportunity to work with the DPI to address the perceived information asymmetry that apparently gives rise to this proposed duplication. We have enjoyed working with the DPI to ensure the long term viability of SMEs in the extractive industry.

A previous example of the DPI and CMPA working in such a cooperative partnership has been the upgrading of OHS management which efficiently and cost effectively addressed the issues at hand.

In the absence of an opportunity to redress the proposed duplicity of obligations, our Members will be confronted with unbearable financial imposts that will negatively impact upon their businesses' to the probable extent of undermining their viability. Our Members have reiterated the consequence of this scenario there will be a reduction in the number of Work Authority applications and thereafter a shortage of construction materials to meet the State's ever increasing population and increasing needs will create a less competitive market.

Rehabilitation

Our Members do not support increasing their liability exposure to “any potential long term degradation”, introducing self assessment, and ceasing to return the rehabilitation bond within 6 years as presently within the MRSD Act.

Such changes will further jeopardise their sustainable viability, and will place inequitable and unfair outcomes upon SMEs as it is not definable, it is not limited in time, there are increased operational charges, there is no closure, the DPI has no accountability and redress is not provided for.

The Association maintains a continued interest in alternative methods to providing the security for the rehabilitation bond liabilities and again look forward to working with the DPI on any regulations which are developed whereby it is hoped this issue can be more satisfactorily addressed.

Merger

CMPA contends that the *Extractive Industries Development Act* has enhanced the quality of operator and the diversity of providers throughout the State since its inception in 1966.

Previous reviews did not give due consideration to the significant value gained by the State in maintaining a separate Act. Victoria enjoys a distribution of ownership not equalled in any other state resulting in a highly skilled workforce and competitive market.

CMPA feels that opportunity may have been lost as a result of focusing solely on merging the acts. Unproven issues and the resultant regulatory changes have been put forward in an attempt to address merging more so than improving legislation for the extractive industries.

Merging the EID Act into the MRSD Act to be consistent with other jurisdictions should not be the sole reason for decision making, especially where it will:

- Remove the appropriate ‘light touch’ regulatory approach;
- Increase our duties and therefore red tape;
- Create industry and community confusion; and
- Create additional and unnecessary fiscal imposts.

There are issues raised in discussions with DPI that are supported by the CMPA, and others raised previously that remain to be addressed.

Those suggested in discussions:

- Codes of Practice within the extractive industry
- Changes to Work Plan requirements linked to Codes of Practice
- Work Authority – Landowners consent
- Transfer and splitting Work Authorities

Those raised in the past:

- Protection and efficient use of resources
- Whole of government agreement reached for DPI to be the lead agency for approvals
- Royalty scheme be reviewed
- Prevention of Work Authority encroachment

Summary

Our limited discussions with Members have identified introducing a ‘Duty to Consult’, changing rehabilitation requirements, and ‘Merging’ as contentious issues. These issues, as proposed, present SMEs with high-risk financial imposts, both at application and on an on-going basis. The nature and projected extent of these imposts threatens the sustainable viability of many of our Members’ livelihoods and therefore their long-term participation in the State’s extractive industry.

On a final note, it must be fully understood that local SMEs maintain affordable housing and road networks by producing a competitive environment, and will be disadvantaged if the current suggestions are implemented and that ownership will be polarised over time to large, global, corporate entities at huge additional cost to the State.

Yours sincerely



Sarah Andrew
Project Manager