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4th July 2011

Mr Antony Nolan
Senior Policy Officer
Department of Primary Industries
GPO Box 4440
MELBOURNE VIC 3001

Dear Tony,

RE: MINERAL RESOURCES (SUSTAINABLE DEVELOPMENT) ACT 1990 REVIEW

I refer to the Mineral Resources (Sustainable Development) Act 1990 review currently in progress and in particular the phase two of the review for which a discussion paper on Financial Assurances was sent out to various stakeholders on Tuesday 21 June 2011 seeking their comments.

The attached documents are the Construction Material Processors Association comments on these discussion papers.

We thank you for the opportunity to comment on the discussion papers and would be willing to discuss our comments, concerns with the relevant staff at their convenience.

Yours sincerely

Bruce McClure

Bruce McClure RFD, psc(r)
C.P. Eng., AIMM
General Manager CMPA

CMPA Response to DPI Discussion Paper No.5
Rehabilitation Bonds

Introduction

The following response is a continuation of the "Rehabilitation Bonds Working Group – CMPA Concept Policy Paper" as provided to the Working Group on 28 March 2011. The CMPA's policy on rehabilitation bonds has not changed since that paper, and the intention of this paper is to address the specific issues raised in "Discussion Paper No5 – Rehabilitation Bonds".

Ten Guiding Principles

The DPI (through its consultant KPMG) established the ten guiding principles that are documented in the draft. The CMPA has no issue with these points but considers that the guiding principles need to include the following:

- The system should hold the land owner/manager jointly accountable with the Work Authority holder for rehabilitation risks and for land management, that is, control of pests and noxious weeds.
- The system should place value on the site. This should include consideration of the value of the rock reserve, generated airspace, position and permits held – all of which would be 'owned' by the DPI if the bond were to be called-in.
- The Government needs to accept that it has a responsibility towards good stewardship of extractive products and therefore ensure that sources are fully exploited within appropriate limits for the betterment of the State.
- Financial assurances should be able to be expensed.
- The system needs to recognize the distinction between terminal and non terminal faces with the bond amount reflecting this.

The five principles above should be considered as part of a rehabilitation bond system.

Discussion on Alternatives

It is essential that the model selected provides the best possible match to all the Guiding Principles. It needs to recognise that private capital from small family businesses needs to be available for that business to expand without being tied up to satisfy unreasonable and unnecessary regulations.

The industry recognises that there is a need for balances and checks but the Department has a responsibility to ensure that good operators are not penalised and are given incentives to continue good practices whilst those operators who are do not undertake good practices or put in place steps to reduce the possible risks are made accountable.

The model selected needs to be a win/win for all involved or otherwise we will still be debating the problems and unsatisfactory consequences on the industry for the next ten years.

The following are brief comments are the alternatives put forward.

a. Alternative One – Discounted Performance Bond System

The CMPA considers that this option has some merit and could be suitable with further refinement and development. The discount offered would need to reflect the low risk involved and would need to be sufficient to allow the operator to utilise his capital for improvements to his operation. The industry needs to be rewarded for good past behaviour and performance.

There would also be the need for a major review of the bond calculator. The calculator has to factor in for example; plant and equipment, residue value for stone and realistic consideration of value of scrap metal, building etc. It is essential that a quarry operator can get established on site and working without tying up his capital on a bond. The operator needs an incentive to address the rehabilitation issues from the start of the project but to not be penalised financially.

This option would benefit from further investigation.

b. Alternatives Two and Three – Sinking Fund Model

The CMPA does not support a sinking fund model as it considers it would be too hard to administer and provide a fair and equitable outcome for its members. The risk from a mine or large quarry (bigger than any of our member's operations), could place a very large impost on our members.

The CMPA would not support a fund where the risks of mining rehabilitations are lumped with the extractive industry.

Without commitment from the DPI to separate the mining, large extractive and small extractive sites, the CMPA is not willing to discuss further.

c. Alternative Four – Predefined Liability Proportion Performance Model

The CMPA considers this alternative to be of merit and possibly the best of the alternatives raised. It would benefit from a more detailed discussion. All comments stated for Alternative One would also apply to this alternative. The main advantage of this model is that it would aid the new entrants into the industry and not impose financial restraints at the very time a site requires maximum access to funds.

Performance criteria should be applied to be part of this scheme and based on financial stability; credit rating; past performance; years in industry; management experience; community benefit; compliance to Work Plan (as assessed by the DPI presently); and reference checking.

This option would benefit from further investigation.

d. Alternative Five – Insurance Based Scheme

The CMPA does not support this model as it does not believe such a scheme would be currently viable for the extractive industry due to changes made to this sector when merging to the MRSDA, resulting in the bond being open-dated.

Without evidence of this being a real possibility, the CMPA is not willing to discuss further.