

20 May 2005

Ms M Sewell
General Manager
Safety, Taxation and Projects Branch
Resources Division
Department of Industry Tourism and Resources
GPO Box 8939
CANBERRA ACT 2601

RE: MCMPR FISCAL COMPETITIVENESS STUDY

Dear Ms Sewell

On behalf of the CMPA, I have the honour in presenting to you the CMPA's submission concerning the Ministerial Council on Minerals and Petroleum Resources study into the fiscal environment in which our industry operates.

The concerns held by the association and discussed with Mr Peter Livingstone are documented in the following pages and have been reviewed by the members of the Association's Management Committee.

If you or anyone within the Safety, Taxation and Projects Branch would like to discuss the CMPA's response further, please do not hesitate in contacting me directly on 03 9745 2132.

Yours sincerely

Ron Kerr
CMPA Honorary CEO

Encl 2

cc. Dr Richard Aldous, Executive Director, Minerals & Petroleum, Department of Primary Industries (Vic)

SUBMISSION TO THE
SAFETY, TAXATION & PROJECTS BRANCH
RESOURCES DIVISION
DEPARTMENT OF INDUSTRY TOURISM & RESOURCES

REGARDING ITS STUDY INTO THE FISCAL
ENVIRONMENT IN AUSTRALIA'S MINERAL &
PETROLEUM INDUSTRIES OPERATE

BY THE

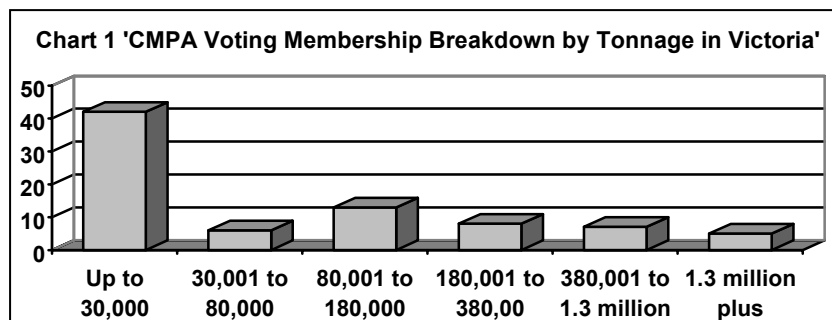
CONSTRUCTION MATERIAL
PROCESSORS ASSOCIATION (CMPA)
VICTORIA

20 MAY 2005

The following submission has been based upon the verbal comments provided by Mr Ron Kerr, Honorary CEO of the Construction Material Processors Association (CMPA) to Mr Peter Livingston on numerous occasions and consultation with the CMPA's Management Committee.

1. Introduction

The CMPA represents owners of private capital involved in quarrying and processing of construction materials such as hard rock, gravel, sand, masonry, clay, lime, soil, gypsum or recycling throughout Victoria. It has over 80 quarrying members ranging in size from employing between two to several hundred persons, and processing under 30,000 to over 1,300,000 tonnes per annum as seen on Chart 1 below. Many of its members are family businesses. The CMPA was formed about five years ago to represent the small owners of earth resource businesses.¹



The CMPA has found that many of its members are struggling to cope with the burden of increasing government regulation and are seeking to exit the industry. The reasons for this are complex but include the following.

2. Training/Education

There is a skills shortage within the industry which causing considerable cost to the industry. This is further compound with training policy being largely federally driven and the current competency based assessment process being fundamentally flawed.

Furthermore, the resource materials available for the units particularly in Certificate II to IV in the Extractive Industries Training Package (MNQ03) are grossly inadequate however the cost of independently developing and conducting training is prohibitive (at around \$30,000 per person to complete Certificate III). This is particularly inhibitive when it is considered that 15 units in total are required to complete up to Certificate III out of a possible 63 units.

Other limiting factors associated with training include:

- The lack of available resource materials to underpin units of competency
- The lack of Registered Training Organisations specialising in our industry
- The poor marketing of the concept of training existing company employees
- The inability of the industry to access the apprenticeship system for the training of older employees
- The lack of regional and rural training opportunities; particularly for small, regionally based businesses
- The cost incurred by a business for staff time off to attend training,
- The lack of expertise and real commitment by Training Recognition Consultants towards the extractive industries in ensuring that training produces the required outcomes.

¹ See Appendix One 'CMPA Summary Information'

3. Cost of Complying with Safety Regulations

The occupational health and safety compliance obligations required to be met by Work Authorities are not achievable and there is a need to realistically match the expectations of regulators with the financial ability and collective skill level of the industry. At the same time, it needs to be recognised that risks and hazards in the industry must be minimised without creating a retribution mentality.

The regulators' expectation of the industry to comply with a profusion of paperwork and hold meetings prior to every task for a risk assessment to be completed is simply unattainable. Rather, every effort and attention should be put towards preventing major and serious incidents.

Secondly, the physical cost of complying with the risk assessment process for the thousands of individual tasks in extractive operations is becoming prohibitive. In many instances sites do not have the skills to complete such risk assessments, however the cost of engaging a consultant is relevantly expertise at about \$1,500 to \$2,000 for each assessment.

Thirdly, non-owner managers are exiting the industry, as the goals set by the regulators are unattainable. The industry is attempting to address this by increasing managers' salaries but this is throwing money at a symptom rather than addressing the problem.

As a result of these combining factors, it is both impractical and financially impossible for the industry to achieve and maintain a complete level of compliance without jeopardising their businesses' fiscal success.

4. Company Tax Depreciation Allowance

The changes to the depreciation allowances for long life assets introduced with the New Tax System and more specifically the Taxation Ruling TR2000/18C5² have impacted negatively on small business in the extractive industry. The depreciation lives of many assets were increased from 10 to 20 years in 2003 which has resulted in the need for businesses to generate more wealth to replace long life assets (particularly for the acquisition of new assets that are safety driven). The inability to generate the wealth required creates an incentive to buy inferior assets with the aim of writing them off over a shorter asset life. Subsequently, extractive businesses are now investment restricted. The industry tends not to invest in new long life processing equipment but into shorter life assets such as low quality or second-hand equipment, or purchased through unproven suppliers.

What is required is shorter effective lives for depreciation purposes or, alternatively, incentives for investments which reduce safety hazards or hazardous emissions.

5. Need for more information/balance for industry to support government objectives

While there is often a lot of talk from bureaucrats about how industry should support government objectives, the cost of acting upon these objectives is, in most instances, fully borne by industry. There is a need therefore for more balance in the sharing of the costs of achieving government objectives and more information about how to implement changes. Partnerships between government and industry to share information and conduct research and trials would be preferable to current situation where industry largely bears the full cost of implementation.

² Industry – “Construction Material Mining (14110 to 14190)” . Available from www.ato.gov.au

6. Regulation Impact Statement

Furthering the previous point, it is important that when industry invests considerable time and money to provide comment upon a government objective, that the information provided is treated with due respect and taken fully into account by powers to be.

That said, it is equally important that the industry itself is guided and supported thoroughly when developing such a submission to ensure that they provide the right type and amount of information. It should not be the objective of a government to only put effort into seeking information that will further support the objective, it is essential that all negative information also be sought to ensure that the correct decision for the wider community is achieved.

A particular example of the low level of effectiveness of the current method was during the NOHSC review of the occupational exposure standard for crystalline free silica³. The CMPA established with a high degree of certainty fundamental flaws in the supporting data (being a study from Western Australia selected for its support of the proposal). When these concerns were presented, the CMPA saw no review of the approach being taken by government. Furthermore during the same review, the CMPA presented detailed financial information at considerable cost to the association to see it discredited on a number of occasions by NOHSC without them firstly contacting the CMPA for clarification.

When both of these points are considered, it would be anticipated that the objectives put forward by government will be both more equitable and achievable for industry whilst at the same time taking into account the wider communities concerns.

7. Rehabilitation Bonds

Rehabilitation Bonds applied to Work Authorities within Victoria are assessed by the regulator on the basis of their potential liability to the state should the business undertaking the work fail. Past experience suggests that such exposure is small as outright business failure is rare with failing businesses often being taken over by other businesses, and there are usually alternative uses for abandoned work sites.

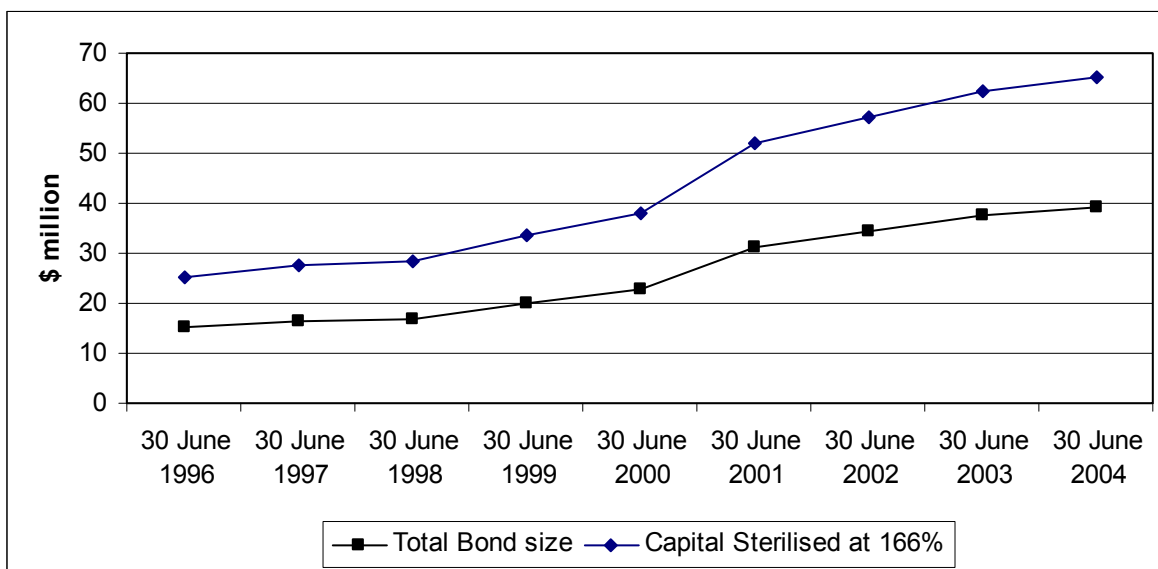
Entry into the extractive industries is restricted by the regulatory requirement that the value of the rehabilitation bond is made available before works commence on the site. It is often very difficult for an unproven business to access the funds for a rehabilitation bond when they are in the initial site establishment phase. Although this may be appropriate in other industries where the failure rate at the embryonic stages is high, in the extractive industries there have not been any instances that the CMPA is aware of where the Department of Primary Industries has been required to pick up any obligations for at least ten years.

The size of bonds has been growing from between \$22.78 million at 30 June 2000 to \$39.17 million at 30 June 2004, which does not include the historically larger rises from earlier years (See Chart 2). The bonds are normally provided by in the form of a bank guarantee with a cost of 1% establishment fee, 2% on-going fees, and security of up to 166% of the guarantee being required – the extent depending upon the characteristics of the firm⁴. Having such a large proportion of the industry's assets (up to \$65 million) tied to bank guarantees leads to a significant sterilisation of private capital.

³ *Regulation impact statement on the proposed amendments to the national exposure standards for crystalline silica*, March 2004, NOHSC

⁴ *An economic analysis of the rehabilitation bond system*, April 2001, Dr D Prentice

Chart 2 'Value of Rehabilitation Bonds held by the State and Maximum Capital Sterilisation between 1996 and 2004'



A national approach to providing for bonds or the costs of rehabilitation is required whereby the end users bear the cost of bonds or rehabilitation. This is difficult to achieve as rehabilitation largely occurs at the end of the project life and, if future costs are built into current prices, the proceeds are taxed. Future rehabilitation costs should be built into current prices and recognised in tax legislation as 100% deductible to allow the build up of sufficient funds to meet future liabilities.

8. Land Tax

Local rates in Victoria are at market sale value or above, whereas five years ago they were about one third less than the sale value. There is a need for a common formula to assess valuations of our industry sector across Australia. Figures could be determined on business turn over rather than market value. There is an inequity on the treatment of extractive business such as quarrying compared to the mining industry which does not pay land tax. This leads to further inequities in which the by-products of mining are competing in the market with products from the extractive industry⁵.

The industry is carrying an excessive burden as the land is simply impossible to achieve the revenue that the same amount of land in a central business district is able to achieve (e.g. Rialto Tower's land).

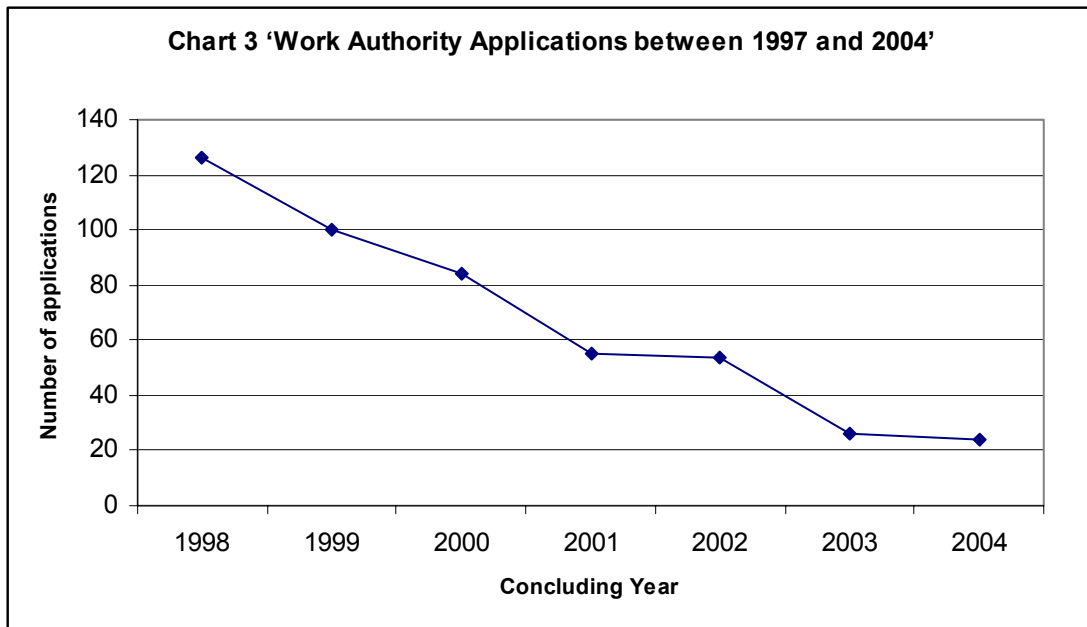
9. Diesel Fuel Excise Rebates

The primary producers, forestry and mining industry also gets favourable treatment under the existing diesel excise rebate system compared with the treatment of extractive industries. These and many more industries qualify for rebates of excise on diesel fuel, whereas quarrying activities do not qualify. This creates an inequity when mining products compete in the market with quarrying products.

⁵ Supporting information available from [http://www.sro.vic.gov.au/sro/srowebsite.nsf/revenue/8315B358D3EEDA1CCA256FAB001FDF2F/\\$File/publication-LTX-005.pdf](http://www.sro.vic.gov.au/sro/srowebsite.nsf/revenue/8315B358D3EEDA1CCA256FAB001FDF2F/$File/publication-LTX-005.pdf)

10. Restricting and Sterilising Entry

There has been a proliferation of government compliance requirements applying to the extractive industry (Native Vegetation, Native Title, and occupation health and safety). However, there is little or no quantitative evidence that desired outcomes are being obtained efficiently. Anecdotal evidence suggests the compliance requirements are not necessarily obtaining outcomes and have in fact imposed additional and unrealistic costs upon industry. This can be demonstrated by the dwindling number of application being sought for Work Authorities as seen in Chart 3 below.



11. Resource Sterilisation

Resources are being sterilized by land being re-zoned for residential use. While this re-zoning may be appropriate, it needs to be combined with better identification and use of available resources both large and small. Resources need to be identified in a timely manner and kept track of to ensure that end market requirements can be met on a least cost basis while satisfying environmental concerns. Current re-zoning and planning practices that are sterilising potential sites and a lack of commitment to identify resources are resulting in local market shortages. Finally the release of known resources available for exploitation rather than holding in reserve would also assist new players in entering the market.

12. Importation of Earth Resources

Over the last two to three year those business that produce stone masonry products have been placed under financial pressure from overseas imports which do not need to comply with the same level of governance (i.e. regulations and obligations such as OHS, payroll and site management) or be charged the same level of government fees to operate.

Already the industry is witnessing existing Work Authorities close their processing systems and take up importing products, whilst other businesses within the industry go outside the country for masonry products at a lower cost to met customer cost demands.

13. Summary

There is a legitimate role for small, medium and large businesses in the market for extractive industries but government regulation is creating an environment that favours big business. There is a need for government to recognise the role of small and medium businesses and support that role.

If any supporting information is required on any of the abovementioned points, please do not hesitate in contacting the CMPA and the material will be supplied in the shortest possible time.

Appendix One – ‘CMPA Summary Information’

Members as at 12 May 2005:

84	Voting Members
5	Honorary Voting Members
64	Associate Members (i.e. Suppliers to the industry)
28	Workforce (i.e. Quarry Managers)

Work Authorities within Victoria:	848 (as at 30-6-04 according to DPI Annual Report)
Average business size:	9 persons per company
Average % females:	10%

General Information

The Quarry Industry in Victoria

A key component of the construction, building and in many cases manufacturing industries is the supply of competitively priced rock, stone, sand, clay and gravel products which are essential for the production of concrete, cement, bricks, tiles, asphalt, crushed rock products and a host of other applications. Stone is primarily used for construction of roads and buildings but it also has other uses in engineering and manufacturing.

While Victoria has an abundance of good quality extractive resources, unlike metallic minerals and ores, stone resources are low in value and therefore to be viable, extraction needs to occur close to market sources. Annually, the industry produces approximately 24 million tonnes of hard rock and stone products, 15 million tonnes of soft rock products. It has an annual turnover valued at \$446 million from 536 work authorities or quarry establishments.

The industry is characterised by relatively few large operators (3) and many medium and small operations. Adopting the Australian Bureau of Statistics definition of a small business as one that employs fewer than 25 people, it is likely that small businesses in the quarry industry in Victoria represent in excess of 85% of all quarry businesses. Many small-scale quarry operations have developed in rural and regional areas to satisfy local demand.

The CMPA represents many of the small to medium sized operations.

Role and Purpose of the Construction Material Processors Association (CMPA)

The CMPA represents a broad spectrum of those involved in construction material processing businesses engaged in extraction processing or otherwise working in hard rock, gravel, sand, masonry, clay, lime, soil, gypsum or recycling, industry consultants, industry suppliers and any industry worker.

The CMPA will:

1. Conduct its affairs with honesty and integrity;
2. Demonstrate its commitment to the:
 - Viability of the industry
 - Protection of the environment
 - Community in which it exists;
3. Vigorously pursue with the government and others issues of widespread concern to members;
4. Demonstrate leadership and a sense of direction for the industry;
5. Act as a resource and provide support to members through the delivery of cost savings and assistance in complying with legal obligations;
6. Foster unity and cooperation between members and others;
7. Promote continuous improvement through education, training, and other activities