

31 January 2005

Mr M Riley
Senior Project Manager
Indigenous Land & Resources Management Policy Unit
P O Box 500
EAST MELBOURNE VIC 3002

RE: INDIGENOUS LAND MANAGEMENT FRAMEWORK

Dear Mark

I write to you today on behalf of the Construction Material Processors Association (CMPA) in response to the discussion paper titled "Indigenous Land Management Framework" as released at the Stakeholders Consultation meeting held on November 11th 2004.

The CMPA represents a broad spectrum of those involved in construction material processing businesses engaged in the extracting processing or otherwise working in hard rock, gravel, sand, masonry, clay, lime, soil, gypsum or recycling; industry consultants, industry suppliers and any industry worker. It is in this light that we provide the following comments to the discussion paper.

Firstly the CMPA would like to thank you for granting an extension to our comments until today. This was greatly appreciated and without it the association would have struggled to make any contribution to this important discussion paper.

Overall, the CMPA has found it exceptionally difficult to provide comment upon the discussion paper due to the difficult, and sometimes unclear, points of contention and limited explanations on how points are to be implemented. This has resulted in the association providing comments without being able to fully investigate industry's options. Please also recognise that due to the lack of clarity in the paper, it cannot be taken that no comment on a particular issue indicates that the association is in agreement with or lacks interest in that issue, it is more probable that the issue has not been clearly defined within the discussion paper.

Caring for Country

- 2.4.1 *How could land and resource managers ensure effective engagement with Indigenous Victorians?*
- 2.4.2 *How should Indigenous Victorians be engaged in land and resource management?*
- 2.4.3 *How can Indigenous perspectives be best integrated into land and resource management?*

The CMPA has been advised that many of the issues raised in this section could be addressed through reviewing the guidance given and operation of Aboriginal Affairs Victoria (AAV) particularly when assisting the non-Indigenous Victorian community with a clear understanding of the following such issues before a party commences a project such as a Work Authority proposal, extension or variation:

- What is expected and required of the party concerned from AAV;
- The minimum and other potential costs;
- The minimum and maximum timeframes; and
- Who conducts any archaeological survey and their qualifications (i.e ensuring that surveys are completed with a sound understanding of the local nation/s and Aboriginal archaeology).

Although essentially already in place, these points need to be agreed to and supported by both the Indigenous and non-Indigenous communities to ensure that projects are completed as projected. There are a number of projects that the CMPA can cite which have been stalemated as a result of such issues.

Access to Country

- 3.4.1 *Should Indigenous Victorians be given Aboriginal cultural access rights to land and natural resources? If so [answer points a – c]*
- 3.4.2 *Should Aboriginal cultural access include:*
- a *Access for commercial purposes?*
 - b *Access to threatened species?*
 - c *Restrictions on catch, possession and equipment?*
 - d *Access to protected areas, including parks and nature conservation reserves?*
 - e *Exemption from payment of fees?*
 - f *Exemptions from the needs to hold licences or other necessary authorities?*

The CMPA holds reservations in relation to the point regarding ‘Cultural access to natural resources for commercial purposes’ and how this could affect the extractive industries. Would this mean that existing or proposed work authorities will be foregone in favour of replica stone axes, ochre-based cosmetics or replica spear points without recourse to compensation for the Work Authority holder? The CMPA looks at this concept with concern due to the potential impact upon both our members, who are Work Authority holders, and the communities in which they operate.

Ownership of Country

4.4.1 Should Indigenous Victorians:

- a Be assisted in acquiring and managing land and natural resources?*
- b Be allocated revenue from the use of land and natural resources?*
- c Receive natural resource allocations?*

4.4.2 How should rights of others with an interest in Crown land and resource management be considered?

4.4.3 How would sustainable management of land and natural resources be maintained?

This entire section of the discussion paper presents the CMPA with concepts, issues, and solutions that it could not agree to in their present form without individual consultation with all members due to the wider social dislevel that implementation would cause. That said, the association feels that it is important to comment upon the key points in this section relevant to the extractive industries.

The potential for royalty payments in addition to or as an alternative to the present Crown or landowner requirements would cause a great deal of concern amongst CMPA members.

That is, if the case were to be that the government paid a proportion of their royalty payments from Work Authority holders to the relevant Indigenous communities, the CMPA would have no say on the matter as it would be an issue between the State and the wider community. On the other hand if additional royalties for the Indigenous community were to come from the enterprises concerned, the CMPA could not justify to its members how it supported such a concept.

Regarding the issue of natural resource allocation, the CMPA feels it is inappropriate to comment upon as the extractive industries are not limited by government quotas, rather sites are limited by the feasibility of their operation. Secondly, it would be highly difficult, if not impossible; to arbitrarily transfer operating sites Work Authority and Planning Permit to Indigenous communities as a site's Work Authority and Planning Permit are linked to a particular person or company.

Learning and Working for Country

The CMPA would like to highlight the fact that as far as the association is aware, there is no quarry in the state that would not employ a person based solely upon their cultural heritage be it Indigenous, non-Indigenous or otherwise; as this would be a clear breach of Equal Opportunity Laws. We would encourage all Indigenous Victorians to apply for any job they see advertised in the extractive industries.

I would like to thank you for providing the CMPA the opportunity to make comment on this discussion paper and look forward to providing further comment upon the draft framework when it is released.

If you would like to discuss any of these points further, please do not hesitate in contacting me on the number above or the Association's Project Manager, Ms Sarah Kerr.

Yours sincerely

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Ron Kerr
Honorary CEO
cc. Ms J Wolcott, Department of Primary Industries
Mr J Mitas, Department of Primary Industries