

20 June 2014

Professor Ian Harper Chair, Competition Policy Review The Treasury Langton Crescent PARKES ACT 2600

Dear Prof. Harper

CCAA SUBMISSION TO THE COMPETITION POLICY REVIEW

Cement Concrete & Aggregates Australia (CCAA) is the peak industry body for the heavy construction materials industry in Australia including the cement, pre-mixed concrete and extractive industries.

CCAA members account for approximately 90% of the \$7 billion in revenues generated by these industries that, between them, employ 18,000 Australians directly and a further 80,000 indirectly.

CCAA members operate in competitive market environments that results in the ready availability of high quality cementitious, concrete and quarry products at competitive prices.

However, we believe that the competitiveness of this sector can be further improved through the equitable application of planning and development approval processes and regulation.

Heavy Construction Materials

Heavy construction materials are the foundation of our economy and way of life. Without cement, concrete and aggregates we would not have the roads, railways, bridges, ports, airports, hospitals, schools, workplaces or our homes that make up our built environment.

The heavy construction materials industry in Australia is highly competitive. The industry's structure is diverse and has many large and small participants competing to deliver product to Australia's building, construction and infrastructure markets. As a result Australian consumers have access to a wide range of quality products at competitive prices.

Inequitable Application of Planning and Development Approvals

The heavy construction materials industry is regulated by State, Territory and Local Governments, with each State and Territory and Local Government operating a planning and development approvals process that encompasses environmental and operational regulation that applies to the development and operation of concrete batching plants and quarries.

Unfortunately there are a number of examples where these processes are not equally applied to all market participants. For example:





- The New South Wales State road authority, Roads and Maritime Services (RMS), is permitted to develop an extractive operation for a road construction project without being subject to the Protection of the Environment Operations Act 1997. RMS need only complete its own environment impact assessment that is not subject to review or scrutiny by other relevant authorities. The financial and time costs of meeting these regulations and demonstrating compliance is not borne by RMS and is not available to the private sector who may otherwise competitively supply these materials to RMS.
- Local Governments in NSW and Victoria that propose to open an extractive operation that is not classified as a State or regional significant project are both the applicant and the assessor within the planning and development application process. This raises a number of conflict of interest issues and is definitely not available to private sector extractive operators who may compete against the Local Government operation. In Victoria, over 11 per cent of quarry operations are owned by local government so this is a significant issue.
- Queensland has experienced a number of examples where heavy construction materials have been extracted during the construction of roads and other infrastructure and sold into the open market, in direct competition to the extractive industry. This is an issue, as these Government infrastructure projects are selling significant amounts of heavy construction materials without being subject to the same planning and development approvals as a private sector quarry. This regulatory exemption provides the seller of these materials with significantly reduced costs and an enormous competitive advantage.
- In South Australia the *Local Government Act 1999* exempts Local Government from requiring a mining tenement or any other authorisation to obtain minerals from crown or private land. In fact, all that a Local Government needs to do to obtain minerals is provide a 48 hour notice and pay the owner for damages, rent and appropriate compensation. A Local Government in South Australia can effectively open a quarry in competition to the private sector without being subject to the burdens arising from the planning and permitting process and not be subject to the same regulation as a private sector operator.
- The Tasmanian regulatory framework splits the extractive industry into two categories, namely:
 - Level 1: extract 5,000 m³ or less of construction materials per annum.
 - Level 2: extract over 5,000 m³ of construction material per annum.

The level 1 quarries are regulated by Local Governments and receive minimal regulatory control. Level 2 quarries are regulated by the Environmental Protection Authority and receive rigorous oversight by a compliance officer through regular inspections.

CCAA contends that a quarry extracting less than 5,000 m³ construction materials per annum cannot be commercially viable based on these production levels. As such, if a level 1 quarry is being operated for commercial purposes we contend it is doing so outside the 5,000 m³ limit, therefore, it must be receiving favourable treatment relative to others.

The different standards applied to these Government operations effectively distorts competition in the market for heavy construction materials and limits the ability of the industry to competitively supply products.

We firmly believe that regulation must be equitably applied to all market participants to support competition.





Conclusion

The affordable supply of heavy construction materials in Australia is dependent on the maintenance of open and competitive markets, which is largely realised within Australia.

However, CCAA believes that there is further opportunity to level the playing field between Government and the private sector through the equitable application of planning and development approval processes.

CCAA, on behalf of the heavy construction materials industry, is committed to working with the Governments of Australia to support the reform of the regulatory regime in which the heavy construction materials industry operates, as reform will further the supply of affordable heavy construction materials that will provide a strong foundation for Australia's future.

CCAA thanks Treasury for this opportunity to make a submission on the Competition Policy Review and we look forward to further consultation on this matter.

Yours sincerely

KEN SLATTERY
Chief Executive Officer

CEMENT CONCRETE & AGGREGATES AUSTRALIA

