

COMMONWEALTH OF AUSTRALIA
Trade Practices Act 1974 - Subsection 88 (1)

AGREEMENTS AFFECTING COMPETITION:- APPLICATION FOR AUTHORISATION
FORM B

To the Australian Competition and Consumer Commission:

Application is hereby made under subsection 88(1) of the Trade Practices Act 1974 for an authorisation under that subsection.

- X to make a contract or arrangement, or arrive at an understanding, a provision of which would have the purpose, or would have or might have the effect, of substantially lessening competition within the meaning of section 45 of that Act.
- X to give effect to a provision of a contract, arrangement or understanding which provision has the purpose, or has or may have the effect, of substantially lessening competition within the meaning of section 45 of that Act.
1. (a) *Name of Applicant* - Clay Brick and Paver Institute for itself and on behalf of the Concrete Masonry Association of Australia (Letter of endorsement Attachment 4).
- (b) *Short description of business carried on by applicant* – The Institute undertakes the research and technical role for the clay brick industry. It produces technical literature on design and construction for specifiers and builders. As required by members it also coordinates lobbying and promotion on issues affecting the industry.
- (c) *Address in Australia for service of documents on the applicant* - P O Box 6567, Baulkham Hills Business Centre, NSW 2153.
2. (a) *Brief description of contract, arrangement or understanding and where already made, its date:*
The Institute members as stated in 2(b) are proposing a levy of \$2.00 per thousand to be added to the price of bricks with the levy amount matched dollar for dollar by all members of the institute. Also proposed is a levy of 10 cents per sq metre for all blocks sold by members of the Concrete Masonry Association of Australia with the levy amount matched by the manufacturers. Members of the Clay Brick and Paver Institute manufacture 1.8 billion bricks per annum and this represents in excess of 99% of the total market whilst members of the Concrete Masonry Association manufacture 2 million tons of bricks and blocks which represents 80% of the total market. The levy is to be used to subsidise the employment of apprentice bricklayers and will be charged and appear as a separate item on all invoices. It is proposed the levy apply to bricks and blocks sold in the states of New South Wales, Queensland, West Australia and South Australia and the Australian Capital Territory.
- (b) *Names and addresses of other parties or proposed parties to contract, arrangement or understanding -*

The Austral Brick Company Pty Ltd, P O Box 550, PENRITH NSW 2750.
Operates plants in New South Wales and Queensland.
Bristle Limited, Locked Bag 100, MIDLAND WA 6936.
Operates plants in West Australia and South Australia.
Boral Bricks Pty Limited, Locked Bag 70, PENNANT HILLS NSW 2120.
Operates plants in New South Wales, Queensland, and West Australia.
CSR Building Products Limited, Lot 7 Cecil Road, CECIL PARK NSW 2171.
Operates plants in New South Wales, Queensland and South Australia.

The following plants operate in New South Wales;
AJ Baker (Wingham) Pty Limited, P O Box 51, WINGHAM NSW 2429.

3. *Names and addresses (where known) of parties and other persons on whose behalf application is made:*
Concrete Masonry Association of Australia. PO Box 572 St Leonards NSW 1590
Ph: 02 99037760 Fax: 02 94379703 (Membership list attached marked Attachment 2)

4. (a) *Grounds for grant of authorisation:*
(b) *Facts and contentions relied upon in support of those grounds:*

See Attachment 1.

5. *This application for authorisation may be expressed to be made also in relation to other contracts, arrangements or understandings or proposed contracts, arrangements or understandings that are or will be in similar terms to the above-mentioned contract, arrangement or understanding -*

- (a) *Is this application to be so expressed?*
(b) *If so the following information is to be furnished:*
(i) *the names of the parties to each other contract, arrangement or understanding:*
(ii) *the names of the parties to each other proposed contract, arrangement or understanding which names are known at the date of this application:*

Question 5 is not applicable to this application.

6. (a) *Does this application deal with a matter relating to a joint venture (see section 4J of the Trade Practices Act 1974)?*
(b) *If so, are any other applications being made simultaneously with this application in relation to that joint venture?*
(c) *If so, by whom or on whose behalf are those other applications being made?*

Question 6 is not applicable to this application.

7. *Name and address of person authorised by the applicant to provide additional information in relation to this application:*

Bob Rushton, Clay Brick and Paver Institute, P O Box 6567, Baulkham Hills Business Centre, NSW 2153.

Signed by/on behalf of the applicant

R. F. RUSHTON

**ROBERT FRANCIS RUSHTON
EXECUTIVE DIRECTOR
CLAY BRICK AND PAVER INSTITUTE**

Date:

ATTACHMENT 1

1. In 1999 the Clay Brick and Paver Association was granted a three year Authorisation No A90676 to introduce a levy of \$1.00 per thousand bricks sold by members of the association and delivered to sites within the New South Wales postcode area. The levy was to be used to subsidise the on-costs of apprentice bricklayers hosted by small contractors particularly in the housing sector of the building industry. That Authorisation was revoked in 2002 and replaced with a new Authorisation No A90830 which was to run for a further three year period.
2. The levy commenced in March 2000 and affected over 10000 brick purchasers throughout New South Wales. From that number only six purchasers raised concerns about the levy, however, after contact and discussion they agreed the levy and subsidy should be introduced. The levy has continued to be charged since that time and the Brick Industry Group Training Company presently employs 165 first, second, third and fourth year apprentices all of whom are working with host contractors. The acceptance of the scheme is borne out by the fact that the greater majority of the apprentices remain with the same contractor throughout the apprenticeship and at any one time there are 20-30 contractors who are looking to host an apprentice. As mentioned previously the fact that 95% of the apprentices are hosted in the housing sector by small contracting teams indicates that the levy has made it economically viable for these small teams to use an apprentice.
3. The Brick Industry Group Training Company is staffed by a manager, one field officer, two full and one part time administrative employee's and forecast expenditure for this financial year (not including workers compensation premiums) is \$377000, these costs are covered by the contribution made by clay brick manufacturers. Unfortunately workers compensation premiums (\$217000 per year) have risen to the extent that they now represent approximately 20% of the combined levy/manufacturer contribution or 40% of the authorised levy contribution and this has severely curtailed the number of apprentices the company can employ. When the Clay Brick and Paver Association made the original application for an Authorisation we were aiming to employ 100 apprentices per year, however due to the cost of workers compensation premiums the group training company is only employing half that number.
4. Since the scheme was introduced in New South Wales it has become apparent that a major shortage of skilled bricklayers exists in other states as well. This position is supported by the National and State Skill Shortage List Australia 2003 (copy Attachment 3) which indicated that bricklaying is the one construction trade considered to be a national crisis. This application seeks authorisation to introduce a levy of \$2.00 per thousand bricks sold (doubling the levy granted for New South Wales) and 10 cents per square metre for all concrete blocks sold, with the levy matched by the members of CBPI and CMAA. The levy would be paid by the purchaser of the product, who may be the builder, bricklaying contractor or the general public. Whilst I have no actual statistics the likelihood is that the levy paid by the builder is passed on to the consumer. As was the position with the New South Wales authorisation that levy to be matched by the manufacturers of clay and concrete bricks and blocks.
5. The application also seeks to have the authorisation cover manufacturers of clay and concrete bricks and blocks in the states of New South Wales, Queensland, West Australia, South Australia and the Australian Capital Territory. The state of Victoria has not been included as it is covered under a separate authorisation and has only recently introduced the levy. The Institute is cognisant of the fact that there is an inquiry underway to assess the costs involved with housing affordability, however the levy if granted would add approximately \$30 to the price of the average house and we would suggest that there is a greater cost through delays caused by the unavailability of bricklayers. If the authorisation is granted and a purchaser refuses to pay the levy then all manufacturers involved in the scheme will refuse to accept the order and no delivery will be made until the purchaser has agreed to pay the levy.
6. As stated earlier the Brick Industry Group Training Company has 165 apprentices being hosted by contractors, which is well short of the target of 300 across all three years. The reason the target has not been achieved is the income derived from the levy is not sufficient to subsidise the target number. To indicate the requirements for maintenance of bricklayer levels the following is the position in New South Wales, however

the situation is relevant in the other states. New South Wales has approximately 8000 licensed bricklayers with a loss rate of around 6% per annum through age or incapacity, therefore to merely keep pace with normal attrition the industry needs 500 new bricklayers exiting the training system each year. In 2003 apprentices completing their training through the NSW TAFE system numbered 156 combined with our own 41 apprentices gives a total of 197 exiting training this year. Through these systems there is a recognised drop out rate of approximately 40% of apprentices who do not complete their off site training but continue working as an unlicensed bricklayer and who do not appear in the above figures. Taking all of these groups into account there are about 280 new bricklayers entering the system and around 500 exiting. By increasing the levy by 100% and including the concrete masonry manufacturers we will have the opportunity to increase the number of apprentices to a level where the exit numbers from training are close to those of normal attrition.

7. It is envisaged that the states will introduce schemes similar to the one already operating in New South Wales, this would entail pre-vocational training with a registered training provider the employment of those trainees as bricklaying apprentices by a group training company incorporated for that purpose or using the services of a building industry group training company already in existence in that state. The apprentices would then be allocated to work with host contractors and the levy used to subsidise the apprentices wages. The subsidy would cover the following on costs:

- Annual Leave and Annual Leave Loading
- Sick Leave
- Public Holidays
- Workers Compensation Premiums and Rehabilitation costs
- Apprentice Tool Insurance
- Superannuation
- Off Site Training Costs (TAFE or Private Provider)

The apprentices would be indentured to the group training company for the term of the apprenticeship, presently four years and the subsidy would be based on 1st year – 100%, 2nd year – 75%, 3rd year – 50% and 4th year – nil, as was the case in NSW, or as agreed to suit the needs of manufacturers and hosts in the other states. There would be a need in all states to have staff on the ground to supervise the employment and training of the apprentices. As was the case with New South Wales authorisation any costs associated with administration would be taken from the contribution from the manufacturer and not from the authorised levy.

8. The object of the levy is to provide a subsidy of apprentice wages whilst they are being hosted by contractors, particularly small teams who mainly operate in the housing sector of the building industry. The program has been satisfactorily introduced in New South Wales during a very buoyant time in the housing industry, however, due to the severe shortfall in the number of skilled bricklayers this problem will not be fixed in the short term but will need to continue as a long term project through the buoyant and flat times in the industry. If the program is to be maintained through the flat periods it will be through the levy and wage subsidy that we will be able to maintain the continued employment of the apprentices.

9. The levy would be paid on the number of bricks sold in the individual state and the funds raised could only be used to subsidise apprentices in that state. The levy would form a separate item on the invoice and clearly marked as a training levy. Funds would be paid directly to the group training company, not to the Institute and the group training company would have the responsibility of allocating the levy funds to the appropriate areas.

10. Host employers will not require any affiliation with the Clay Brick and Paver Institute and all host employers will be eligible to receive the subsidy. This will mean that the host employer pays only for the time the apprentice works with them on site. Normally with a group training company the host not only pays for the time worked by the apprentice they also pay the on costs and an administration charge.

11. The members of the Institute supply bricks into both the residential and commercial markets, however, the greater majority of product is sold for use in the detached and multi residential dwelling market. As stated earlier the major manufacturers Austral, Boral and CSR operate in most of the states to be covered by the application and the members of the institute would manufacture at least 99% of all product in those states.

12. The focus of the program will be on the housing sector as it is this area that is dominated by small contracting teams who do not employ apprentices due to the difficulties with administration and cost. The subsidy will make the use of an apprentice a viable proposition and open a relatively untapped market to the employment of apprentices giving more opportunity for young people to enter the trade. Small contracting

teams in the housing sector do not usually employ apprentices due to the cost and paper work required and the lack of productivity from the apprentice early in their employment. This scheme allows the contractor to host an apprentice without the administration time or the burden of wages plus on-costs (around 35%) all the contractor pays for is the actual time the apprentice works on site. These contractors were targeted as they are the group who did not train and for this scheme to be successful it has to value add not just take the place of the present system.

13. We believe the levy is in the public interest as there will be flow-on advantages to consumers. Firstly by increasing the number of apprentices who complete their trade course, the quality of workmanship would be greatly enhanced giving the consumer a better finished product. Secondly by increasing the number of trained bricklayers it would assist in overcoming the surges in laying rates which occur when the demand for bricks to be laid outstrips the number of available tradespeople. Lastly by having a greater availability of good bricklayers would assist the builder in reducing construction times and thereby limiting the amount of stress to both consumer and builder.

By having the levy in place in New South Wales we have been able to offer Pre-vocational training that leads to an apprenticeship, therefore, giving both juniors and adults the opportunity to gain employment and a trade which would not have been possible without the levy to subsidise their wages.

As the great majority of bricks and blocks are sold directly to builders it would assist if the building industry organisations that represent those builders could be consulted. The two main bodies are:

HOUSING INDUSTRY ASSOCIATION

79 Constitution Avenue
Canberra ACT 2612
Tel: 62496366 Fax: 62575758

MASTER BUILDERS AUSTRALIA

3rd Floor Construction House
217 Northbourne Avenue
Turner ACT 2612
Tel: 62491433 Fax: 62491373

13. Should this application be successful there would be a need to revoke authorisation A90830 granted on 23 October 2003 applying to members of the Clay Brick and Paver Association of New South Wales as they would become parties to the new authorisation.

ATTACHMENT 2



**Concrete Masonry
Association of
Australia Limited**

ACN 065 618 840

Level 6, 504 Pacific Highway
St Leonards NSW 2065
PO Box 572 St Leonards NSW 1590
Telephone 02 9903 7760
Facsimile 02 9437 9703

CMAA MEMBER COMPANIES

New South Wales

- Baines Masonry Blocks Pty Ltd
900 Wilton Road
Appin NSW 2560
- Boral Masonry NSW
Clunies Ross Street
Prospect NSW 2148
- C & M Rocla
Unit C, 107 Asquith Street
Silverwater NSW 2121
- Coffs Harbour Concrete Block & Brick
PO Box 916
Coffs Harbour NSW 2450
- Cowra Concrete Products
Cnr Young Road & Ranken Street
Cowra NSW 2794
- Master Masonry
Cnr Arkwright Crescent & Hargreaves Drive
Taree NSW 2430
- Narrabri Block & Paving Centre
54 Wee Waa Road
Narrabri NSW 2390
- Paveloc Industries Pty Ltd
Yarrandale Road
Dubbo NSW 2830
- Rivcrete Brick & Block Pty Ltd
64 Pearson Street
Wagga Wagga NSW 2650

Queensland

- Boral Masonry Qld
62 Industrial Avenue
Wacol Qld 4076

- GB Masonry
PO Box 643
Gympie Qld 4570
- Gympie Blockworks
393 Smith Street
Gympie Qld 4570
- Pioneer Building Products
85 Christensen Road
Stapylton Qld 4207
- Scott Brickworks Townsville
23 Enterprise Street
Bohle Industrial Estate
Townsville Qld 4818

South Australia

- Best Masonry Bricks & Pavers Pty Ltd
255-259 Cormack Road
Wingfield SA 5013
- Boral Hollostone Masonry (SA) Pty Ltd
Main North Road
Pooraka SA 5095
- C & M Rocla
PO Box 36
Rosewater East SA 5013
- Tudor Pavers Pty Ltd
PO Box 200
Elizabeth SA 5113

Western Australia

- BGC Blokpace
PO Box 1257
Midland WA 6936
- Boral Masonry WA
PO Box 63
Cannington WA 6107
- Modular Masonry (WA) Pty Ltd
8 Hurrell Way
Rockingham WA 6168