

1st February 2018

Project Manager
Proposed regulatory amendments to categories 63-66, 89
Department of Water and Environmental Regulation
Locked Bag 33
CLOISTERS SQUARE WA 6850

Submission by email to: wastereform@dwer.wa.gov.au

Dear Sir

Consultation Paper: Amendments proposed following the decision on *Eclipse Resources Pty Ltd v The State of Western Australia [No.4] (2016) WASC 62*

Cement Concrete & Aggregates Australia (CCAA) is appreciative of the opportunity to comment on the Consultation Paper. We are the peak industry body representing the heavy construction materials industry in Australia, including the cement, pre-mixed concrete and extractive industries, striving for best practice as described in our attached "Environmental Management Policy Statement".

About CCAA

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 a vital industry that is the foundation of WA's infrastructure and construction markets and to the entire WA economy. As such, it is an imperative that the regulatory framework in which we operate is consistent, transparent and minimises regulatory burdens.

Our industry provides vital Basic Raw Materials (sand, stone, limestone - BRMs), Cement & Concrete to the construction and infrastructure markets, without these materials WA's roads, housing and buildings cannot be constructed. These materials are generally clean or inert and we encourage government to engage with us to facilitate the recycling of returned or excess materials, with the following objectives:

- Recognition that the heavy construction material (quarry & concrete) industry is a special case. Its primary purpose is to quarry clean Basic Raw Materials and manufacture concrete, thereafter rehabilitating the quarry site with clean inert fill, sand or concrete.
- Promote the recycling of clean "re-useable" materials.
- Ensuring appropriate regulation that facilitates the recycling of clean materials into useful products (eg clean fill sand, crushed concrete road base).
- Promote the use of clean recycled construction materials across government departments, thereby facilitating the use of recycled products such as crushed concrete road base.
- Promote the sequential use of quarry sites to the benefit of the community.

Consultation Paper: Amendments proposed following the Eclipse decision

The sustainable use of construction materials is acknowledged to be important to the construction industry, including the responsible recycling of materials.

Our industry is actively trying to find ways of re-using and recycling unwanted and surplus construction materials generated by the construction industry. In this regard DWER's support is requested to foster innovation, facilitating successful quarry rehabilitation and the recycling of concrete, sand and other construction materials. It is our members' opinion, that focusing on these aspects, as opposed to increased regulation and levies would in the longer term generate better outcomes for industry, the community and the environment.

Referring the consultation paper, we submit the following comments:

1. **Government needs to consult with our industry to permit appropriate recycling**, and if necessary consider creating a special industry "uncontaminated fill" category. Natural materials are excavated by our industry from quarries and mixed with cement to produce inert hard concrete. Excess materials such as concrete returned to the plant and quarry crusher dust, that remain within the industry's production chain (i.e. not contaminated by other sources such as demolition) should be encouraged to be used as fill to re-construct and re-contour quarry excavations.
2. **Clean hard concrete (crushed, re-worked) should be permitted as fill**: The specified thresholds proposed by DWER for "uncontaminated fill" need to be reviewed, with the Maximum Concentration limits for hard concrete assessed by Appendix B, Table 1, limited to a "Leaching Test" or a form of "No Free Contamination Test" because concrete bonds all elements together into an inert solid form. For example; Table 1, last item; Physical Limits – pH - Maximum Concentration for concrete should read "Leaching Test", not "6 to 9". Hardened concrete (which can have a pH in excess of 9) is regularly used for foundations with no negative environmental concerns. It is unreasonable to limit using crushed hardened concrete for purposes such as backfilling, road base, etc.
3. **Appendix B, Table 1 concentration and chemical limit thresholds proposed by DWER for "uncontaminated fill" need to be critically re-evaluated**, because:
 - They potentially prevent the recycling of concrete returned to plants, which is a product of natural materials and cement, which once hardened is inert.
 - The type and frequency of testing appears to be excessive, potentially acting as a deterrent to recycling initiatives.
 - The limits potentially prevent the creation of new "green" recycled products which are unlikely to meet the thresholds. Unpractical limits will not encourage or support the sustainable use of recycled resources, thereby promoting the use of natural products over recycling.
4. **Screening should not be included as processing in the "clean fill" definition** as no contaminants are used.
5. **Sampling programmes should not be required** where evidence can be supplied that verifies that the specified thresholds will be met i.e. supply of a Material Safety Data Sheet (MSDS) and origin of materials.
6. **The new waste definitions must supersede the definition of "unwanted material"** used in the Eclipse definition, which was *"Where material is unwanted by the source, it will be waste, regardless of whether it can be reused elsewhere by someone else"* because of its negative impact on the recycling of clean materials.
7. **The new definitions must confirm that the recycling and reuse materials is not defined as waste** and liable for the levy, if the material is recycled into a new product that is wanted, for example crushed concrete sold as recycled road base.
8. **The proposed amendments must permit the burial of any material that meets the definition of "clean fill" and "uncontaminated fill"** without the requirement for licencing or the landfill levy, including materials used for the purposes of backfilling or rehabilitation, for example quarry re-contouring.
9. **The proposed new waste definitions must be extended to apply to Categories 61A and 62 for stockpiling.** This would ensure that recyclable materials that meet the proposed definitions of "clean fill" and

"uncontaminated fill" would not require licencing or payment of the waste levy. This builds on the proposed amendments outlined in the recent Waste Reform Project – Proposed Approaches for Legislative Reform Discussion Paper.

CCAA thanks the Department of Water and Environmental Regulation for this opportunity to comment on the consultation paper. Please feel free to contact us if you would like to discuss it further.

Yours sincerely,

H Backes

HARRY BACKES

State Director – Western Australia

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CEMENT CONCRETE & AGGREGATES AUSTRALIA WA MEMBERS ARE:

FOUNDATION MEMBERS



WESTERN AUSTRALIA

ORDINARY MEMBERS

Flyash Australia Pty Ltd Fulton Hogan Industries Lime Industries Pty Ltd	Ransberg Pty Ltd T/a WA Premix and WA Bluemetal Pilatti Bros Transport Urban Resources Pty Ltd	
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ASSOCIATE MEMBERS

Concrete Colour Systems Concrete Waterproofing Manufacturing Pty Ltd T/a Xypex Australia	GCP Applied Technologies Sika Australia Pty Ltd Westrac	
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Environmental Management Policy Statement



ENVIRONMENTAL MANAGEMENT AND THE AUSTRALIAN EXTRACTIVE INDUSTRY: OUR COMMITMENT FOR THE FUTURE

The Australian extractive industry provides sand, stone and gravel to support Australia's building and construction needs.

On average, every Australian consumes 7 tonnes of extractive material every year to build the roads, houses and other infrastructure we need.

The industry wants to do more in protecting and improving environmental values, and mitigating any impacts it may have. This statement sets out the values of the industry, and what it wants to achieve in relation to environmental management. Whilst it has a lot to be proud of, there is more it can do.

The industry's environmental values

CCAA members believe that:

- The industry plays a vital role in supplying critical construction materials for the community and has an obligation to do so in an environmentally responsible and sustainable manner.
- Environmental protection and enhancement is integral to the conduct of the industry's operations.
- The best environmental outcomes are achieved through collaboration, consultation, transparency and partnership - with community, government and other industry partners.
- Whilst the industry has made good progress in its approach to environmental stewardship, there remains opportunity to improve that will benefit both the industry and the broader community.

Environmental goals for the industry

The industry commits to do the following:

- 1.** Minimise the environmental impact of extractive operations, and where possible, achieve a net positive benefit to biodiversity and other environmental values.
- 2.** Work in partnership with government regulators and other stakeholders to achieve agreed environmental outcomes in an open and transparent manner.
- 3.** Share innovations in environmental management practices for the betterment of the community, the industry and the environment in which we operate. Promote and reward excellence, and learn from innovations from both within and outside of the industry.
- 4.** Develop the industry's capability in environmental management, through professional development, stakeholder engagement, technological advances and training.
- 5.** Strive for continuous improvement in the following areas of key relevance to our industry:
 - i. Stormwater management
 - ii. Dust management
 - iii. Noise management
 - iv. Blasting control
 - v. Biodiversity management
 - vi. Community engagement
- 6.** Regularly review environmental performance, including legislative compliance to identify areas of improvement.
- 7.** Improve the community's understanding of the extractive industry.

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