

Dr. Phil Gorey
Department of Mines and Petroleum

via e-mail transmission: reform@dmp.wa.gov.au

16th September 2013
lisa.honan@holcim.com

Dear Phil,

RE: Holcim (Australia) Pty Ltd Submission to the DMP on the ‘Proposed Amendments to the Mining Legislation’ Consultation Paper 2013

Holcim (Australia) Pty Ltd (HAUS) understands that the Department of Mines and Petroleum (DMP) has released “*Consultation Paper, Proposed Amendments to the Mining Legislation 27 August 2013*” and is seeking submissions on the same. This correspondence lays out HAUS’ comments in regard to the proposed amendments.

Who is HAUS?

Holcim (Australia) Pty Ltd (HAUS) is one of the country’s leading producers and suppliers of construction materials such as concrete and quarry products. The company has been serving the Australian construction industry since 1901, originally under the well-known brands Readymix and Humes.

The Proposed Amendments

The DMP Proposed Amendments Consultation Paper describes that the reform process is a collaborative one:

The three agencies with significant environmental regulatory responsibility in the mineral and energy sector (Environmental Protection Authority, Department of Environment Regulation and Department of Mines and Petroleum) regularly collaborate on reform proposals which are of an administrative, systems and/or legislative nature.

HAUS understands that DMP proposes to amend the Mining Act to provide the Director General the authority to approve Mining Proposals and Mine Closure Plans, and for the Director General to delegate powers appropriately within the agency, specifically:

It is therefore proposed to amend the Mining Act to directly vest the approval functions to the Director General for Mining Proposals, Mine Closure Plans and Programmes of Work, and for the Director General to be able to delegate these powers appropriately within the department.

HAUS understands that this amendment is an administrative one, in that specific officials are nominated in the Mining Act as opposed to an open power to delegate.

HAUS makes the following comments on duplication that exists at the current point in time between DMP and Department of Environment and Regulation (DER). HAUS proposes that these duplications should be considered by the DMP in the Mining Act amendments. The areas of specific duplication are:

- Discharges and emissions (incl. water, dust etc) are being assessed by DMP Environmental Branch in the Mining Proposal approval process when they are assessed by DER in obtaining environmental protection licences under the Environmental Protection Regulations 1987, and
- Assessments for flora and fauna by DMP Environmental Branch in the Mining Proposal approval process when they are addressed by DMP Native Vegetation Branch in obtaining clearing of native vegetation approvals under the Environmental Protection Act 1986 & Environmental Protection (Clearing or Native Vegetation) Regulations 2004.

In addition to this, HAUS regularly experiences and over estimation of impacts by DMP during assessment processes. HAUS undertakes extraction of Basic Raw Materials (BRM), being a low cost commodity, approval duplication and assessment processes can significantly affect the access to affordable resource. HAUS' experience is that there is an inconsistency within the DMP in the level of assessment of a quarry (for Mining Proposal, Mine Closure Plan and annual reporting requirements). Quarry extraction is often assessed by the DMP to the same level of detail as a large scale mine when the possible impacts and significance of the two operations are considerably different.

Suggested Alternatives for future inclusion in the Mining Act

HAUS proposes that the risk based assessment approach should appropriately classify 'Mining Operations' as there are differing scales of activity that is subject of compliance with the Mining Act 1978.

Past DMP procedures and implementation of the Mining Act 1978 allowed for a 'low risk' category, LIMO (Low Impact Mining Operations) were operations which used smaller reporting templates to obtain low risk approvals used by BRM operators (for Annual Environmental Reporting and Mining Proposals). With the online system and reforms to date, LIMO functions have been removed within the last two years and BRM has been grouped into an all-encompassing classification of 'Mining Operations' by the DMP. It's important to note that there was this functionality in the past, but it has been removed.

Consequently, the most effective amendments would be to create a low risk stream within the Mining Act. As the Mining Act is set up primarily for tenement allocation, one effective way of undertaking this amendment would be creating a classification within the Mining Act for Basic Raw Materials. At the moment the Mining Act prescribes for Exploration Licences (E), Mining Leases (M), General Purpose Leases (G), Miscellaneous Licences (L) etc. It would be ideal to create a classification for BRM with perhaps an exception for a Super Quarry (e.g. Throughput of more than 5 mil tpa is classified as a 'mine'). The Tenement Conditions, Mining Proposals

and Mine Closure Plan assessment processes by the DMP could then reflect the BRM low risk classification within the DMP.

Other commentary

It is noted in the Proposed Amendments Consultation Paper that there is consultation with some government agencies. More recently though, HAUS has noticed there is legislative duplication occurring between the In 2011 the Building Act and the Regulations for building licences and the Mines Safety and Inspection Act 1994.

Advice received from the Building Commission on the interaction between the 2011 Building Act and the Mines Safety Inspection Act was that Section 72(2) of the Building Act exempts a building *where “a building or an incidental structure that is, or is proposed to be, used in the construction, operation or maintenance of a place at which mining operations are carried on.”* In saying this, the exemption does not apply if a building is *“a residential facility or a recreational facility [NB this includes lunch rooms]; or to which members of the public are permitted access [weighbridge, toilets etc].”*

This interpretation by the Commission is that all temporary crib rooms and combined office/lunch rooms would be the subject of building licences and approvals (incl. disability access) when compliance is already required under the Mining Safety and Inspection Act 1994 which includes fit for work assessments among other assessments.

HAUS believes that it would be advantageous if the DMP produce an advice note about the duplication between the Mines Safety & Inspection Act 1994 and the Building Act 2011. The requirements of the Mine Safety and Inspection Act 1994, are increased when seeking Mining Proposal Approval, and should take precedence over Building Act requirements. It is for this reason that HAUS seek that this duplication is tabled during the DMP's Reforming Environmental Regulation process.

Should you require additional information or wish to discuss this submission further, please do not hesitate to contact Lisa Honan on 08 9212 2146 or lisa.honan@holcim.com.

Yours sincerely,



Fred Adams
General Manager –WA Aggregates