



12th September 2013

Executive Director Environment &
Chair of Reforming Environmental Regulation Advisory Panel
Department of Mines and Petroleum
Mineral House
100 Plain Street
EAST PERTH WA 6004

Submission by email to: reform@dmp.wa.gov.au & Phil.GOREY@dmp.wa.gov.au

Attention: **Dr Phil Gorey**

Dear Phil

**PROPOSED AMENDMENTS TO THE MINING LEGISLATION - 27 AUGUST 2013
&
REFORMING ENVIRONMENTAL REGULATION (RER) ADVISORY PANEL MEMBER FEEDBACK**

Cement Concrete & Aggregates Australia (CCA) welcomes the opportunity to participate in the Department of Mines and Petroleum's review into mining regulation.

CCA is the peak industry body for the heavy construction materials industry in Australia, including the cement, pre-mixed concrete and extractive industries. Our members account for approximately 90% of the \$7.21 billion in revenues generated by these industries that, between them, directly employ 18,000 Australians and a further 80,000 indirectly.

CCA members operate the rock quarries, sand and gravel extraction sites, cement production and distribution facilities and concrete batching plants throughout Australia.

There are approximately 2,200 quarries operating across the country that produce some 130 million tonnes of stone, limestone, gravel and sand (collectively referred to as Basic Raw Materials – BRMs) used to produce building and construction materials such as cement, concrete, bricks, tiles, pavers and roads paving. The revenue generated by these quarries is estimated to be \$1.63 billion p.a.

PROPOSED AMENDMENTS TO THE MINING LEGISLATION - 27 AUGUST 2013

CCA member companies support the proposed amendments as contained in this consultation paper, except for concern relating to clause **3.5 Improving Transparency**.

The release of company documents for public scrutiny by the Director General requires further consideration. The company involved may have intellectual property rights and should be consulted before any information is released, especially if the release may be prejudicial to its commercial interests.

Whilst it is accepted that EPA and other environmental applications are publically available, in the case of the DMP applications there may exist some more sensitive production statistical data which impacts on market intelligence and competitive advantage. Large scale mining operations targeting international markets may not share the same sensitivity as localised BRM operations which occur in the same region as a company's competitors.

REFORMING ENVIRONMENTAL REGULATION (RER) ADVISORY PANEL MEMBER FEEDBACK

CCAA members support the advisory panel's objective of a risk based approach to regulation, which will permit regulators to acknowledge the operational and economic differences between Basic Raw Material (BRM) extraction and other high value mineral and ore mining activities. It is important to note that the main characteristics of BRM extraction are:

- The rock, sand and aggregates extracted by the industry are strategic economic resources generally consumed by the communities that produce them and are essential to sustain local community, industrial and urban development.
- Quarries are relatively small operations when compared to high value mineral mining operations.
- Quarries are mined in stages and are progressively environmentally rehabilitated often to the benefit of the local community.
- Compared to the large scale mining industry the extractive industry is relatively small, with limited resources allocated to regulation compliance.
- The high volume, low cost nature of the materials extracted means that most quarries are located close to the products' market (towns, cities and development centers).
- This proximity to the urban areas means that the land being quarried can have a high commercial value after project closure. The successful rehabilitation of the site is therefore a commercial advantage, which limits the risk associated with Governments needing to step in and rehabilitate a closed quarry.
- BRMs are finite, site specific and limited in occurrence by geological conditions, with some already being scarce in some regions of Western Australia.

Appropriate Regulation for the BRM Extractive Industry

The majority of the duplication in approval process is between the DMP Environmental Branch functioning under the *Mining Act 1978* and DEC functioning under the *Environmental Protection Act 1986*.

The *Mining Act* was originally enacted for the allocation of exploration and mining tenements on Crown Land and the enforcement of conditions on that land, as the Crown was effectively the land owner. The DEC/DER is the party who issue all licences to operate for example crushing and screening licences, DoW issue the water licences and the DMP has some delegated authority to issue approvals such as clearing permits on crown land. The DEC have also delegated their approval of 'extraction operations' to DMP when on Crown Land unless the extraction is 'of significance' and requires assessment by the OEPA. DMP's legislation operates under the primacy of the *Environmental Protection Act 1986* (EP Act), and the department also regulates a component of this Act under delegation.

Noting the differences between high value mineral extraction and low value BRM extraction, CCAA members contend that the following elements need to be factored into the RER regulation process:

1. **Create a BRM extraction low risk stream within the Mining Act.** Previously a 'low risk' category existed within the DMP regulation, with LIMO (Low Impact Mining Operations) requiring the completion of small templates to obtain low risk approvals which could be used by BRM operators. These options have been removed over the last two years and consequently BRM extraction now falls into an all-encompassing 'Mining Operations' as administered by the DMP. It is therefore important to reinstate this 'low risk' functionality.

An effective amendment to the *Mining Act* would be to create within the Act a BRM extraction low risk stream specifically for "Basic Raw Materials".

2. **The new Mining Act amendments must reflect the BRM extraction low risk classification** by permitting appropriate simplified Application & Reporting processes, Tenement Conditions, Mining Proposals, Mine Closure Plans and Annual Environment Reporting processes. Many procedures introduced by the DMP are designed for major mines. CCAA are prepared to consult with the DMP to achieve appropriate regulation for the BRM extraction industry.
3. Regulation also needs to reflect the fact that **Quarries are relatively small operations** (compared to high value mineral mining), which are progressively mined and progressively environmentally rehabilitated, along with limited funding to allocate to regulation compliance.
4. **Access to Basic Raw Materials.** BRMs such as sand, gravel, limestone, hard rock and the like are essential for infrastructure and the development of local industry and the community. Extensive areas of Western Australia are under some form of mining tenement, with the Exploration Licences providing access to all minerals, including BRMs on Crown land. It can be difficult in some instances to source quality BRMs at efficient transport distances for projects, especially in remote areas and for major development nodes such as the Pilbara.

Whilst it would require a change to legislation, there is some precedence to exclude BRMs from Exploration Licences (which are typically obtained for high value minerals), or provide a special lease for BRMs that can be pegged across other tenements. Currently Section 8 of the *Mining Act 1978* does separate BRMs from other minerals when the BRMs are on private land.

If such a BRM Licence was available it would provide ready access to cheaper and better resources to support development in regional areas. There may be the need to prove that the quarrying operation was in fact not taking mineralization of commercial value to the Exploration Licence or Prospecting Licence holder on whose tenement the BRM lease was pegged.

5. **Concrete production on Mining Leases.** On some sites such as hard rock quarries there may be production of materials; for example a concrete plant. Concrete can be produced for use on a Mining Lease but cannot be sent offsite unless a Crown Lease from the Minister for Lands is in place, plus the concrete plant will require DER licensing. This introduces duplication management and control issues. For example, who controls the concrete plant and under what legislation, it is currently not possible under the *Mining Act 1978*. A solution could be to amend the Mining Act to include the making of products from the extracted materials, rather than the existing strict processing and refining only.
6. **DMP Officers.** Regulation needs to be developed appropriately and implemented in a consistent manner. Officers that assess the implementation of the regulations need to be properly trained to ensure a consistent approach to industry. The officers also need to have an understanding of the quarrying industry and BRM extraction processes.

CCAA would like to thank the Department for this opportunity to input into the process of reforming the *Mining Act*. We would also like to offer our assistance to develop an appropriate low risk BRM extraction category within the legislation along with simplified documentation.

Yours sincerely



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