

16 December 2022
 EP Regulation Reform
 Legislation and National Policy Branch
 Department of Water and Environmental Regulation
 8 Davidson Terrace
 Joondalup WA 6027

Via email to: epactamendments@dwer.wa.gov.au

SUBJECT: ENVIRONMENTAL REGULATION REFORM

Cement Concrete & Aggregates Australia (CCAA) welcomes the opportunity to provide comments to the Department of Water and Environmental Regulation (DWER) on the proposed environmental regulation reforms outlined in the recent Discussion Paper.

CCAA is the peak industry body for the heavy construction materials industry in Australia including the cement, pre-mixed concrete and extractive industries. Our members operate cement distribution facilities, concrete batching plants, hard rock quarries and sand and gravel extraction operations throughout Western Australia. For your information, a list of CCAA members in Western Australia is provided in Appendix 1.

CCAA supports modernizing the State’s environmental regulations to better align the regulation effort with the environmental risk. This regime should recognise the need for a triple bottom line approach to sustainability, balancing the environmental, social and economic well-being of Western Australia.

CCAA makes the following comments on the questions raised in the Discussion Paper:

DWER Question	CCAA Response
1. Do you have any feedback on the outcomes being sought through our regulatory delivery review?	CCAA supports modernizing the State’s environmental regulations to better align the regulation effort with the environmental risk
2. Do you support the guiding principles proposed? Please include supporting comments to explain your response.	Yes, specifically, CCAA supports the following regulatory principles: <ul style="list-style-type: none"> • Risk and evidence-based assessments by the Department. • ESG initiatives and outcomes • Customer focused • Integrate better practice The CCAA supports an ‘adaptive’ delivery response to the Department’s regulation framework. An adaptive response would recognise: <ul style="list-style-type: none"> • The environmental risk(s). • The integration of ‘new’ technologies and/or management activities which reduce emissions.

DWER Question	CCAA Response
	The 'adaptive' delivery response is in alignment with the following proposed guiding principles "Integrate better practice" & "DWER's regulatory principles".
3. Are there any additional or alternative principles that should guide our review?	<p>CCAA supports including the concept of As Far As Reasonably Practicable into the guiding principles.</p> <p>This common principle is generally associated with eliminating or minimising the potential harm to the environment as far as reasonably practicable. This concept supports a risk-based assessment and includes:</p> <ol style="list-style-type: none"> 1. the likelihood of those risks eventuating; 2. the degree of harm that would result if those risks eventuated; 3. what the person concerned knows, or ought reasonably to know, about the harm or risks of harm and any ways of eliminating or reducing those risks; 4. the availability and suitability of ways to eliminate or reduce those risks; and 5. the cost of eliminating or reducing those risks. 6. The Department could provide advocacy and advice to key planning decision making authorities (Local Governments / Department of Planning, Lands and Heritage & Western Australian Planning Commission) in relation to Scheme Amendments, Structure Plans & Subdivision applications, and the potential for encroachment of sensitive land to approved licence holders.
Feedback on Proposals 1–3: 6. Do you support the proposed hierarchy and regulatory mechanisms?	Yes
7. In what circumstances would you support the development of Standard Licences packages?	Where the risks are well understood and manageable, the controls are also well understood and implemented and the industry has a history of compliance, such as concrete batch plant and category 12 licences.
8. Are there any activities (including their design, construction and operation) that you believe should be managed under regulations rather than licensing?	<p>CCAA recommends that the definition of Cement Works under the prescribed Manufacturing Activity does not include <i>production or batching and loading for transport of concrete</i>, i.e., concrete batch plants.</p> <p>The risk profiles of other operations within that category such as cement kilns and clinker grinding are very different to concrete batch plants and whilst these sets of operations are within the</p>

DWER Question	CCAA Response
	<p>concrete supply chain, they are different in scope and potential environmental impact.</p> <p>The compliance actions undertaken by DWER on concrete batch plants is very low on an industry wide basis across WA. Based on the compliance data supplied by DWER to CCAA, there was on average only 13 compliance actions per year against concrete batch plants for all of WA (totalling an estimated 100 plants) from 2017 – 2021. Note that this analysis excludes the campaign of complaints against one particular concrete batch plant during 2021.</p> <p>CCAA recommends replacing the <i>Environmental Protection (Concrete Batching & Cement Product Manufacturing) Regulations 1998</i> with more generic Standardised Licences or General Emissions Regulations, using the national 2019 CCAA <i>Environmental Management Guideline for Concrete Batch Plants</i> available here, as the risk-based documentation of industry best practice. The Victorian EPA also has a guideline developed with industry on <i>Reducing Risk in the Premixed Concrete Industry</i> available here.</p>
<p>10. Are there any activities currently regulated under the EP Act (licence or regulations) that you consider able to be adequately regulated under the General Offence Provisions?</p>	<p>Mobile concrete batch plants and mobile crushing and screening operations under a set threshold or location should be subject to industry standard conditions and not be licensed. Details on what that threshold should be requires additional industry consultation, but it should not be easier to put a temporary mobile batch plant into an urban area over supplying from a strategically located fixed concrete plant.</p>
<p>Environmental Performance Objectives</p> <p>11. Do you support the introduction of generic and industry-specific EPOs?</p>	<p>CCAA supports the development of generic Environmental Performance Objectives only.</p> <p>The EPO's should be time limited to say 5 years and subject to review at that time if it can be demonstrated that the management measures have addressed DWER's regulatory objectives.</p>
<p>Activities are regulated by the most appropriate agency. Support common application and supporting information across regulatory agencies</p>	<p>CCAA supports the proposals to provide common applications and supporting information across regulatory agencies with activities regulated by the most appropriate agency. Examples of this include tailings & slimes dams as outlined in page 20 of the discussion paper. Extraction below the water table</p>

DWER Question	CCAA Response
<p>13. Please provide your feedback on these Proposals</p>	<p>and coordination between regulatory agencies with the <i>Mining Act</i>, <i>Environment Protection Act</i> and the <i>Rights in Water and Irrigation Act</i> should also be considered.</p> <p>CCAA recommends that for significant concrete batch plants and quarry operations that are key elements in the supply chain for Government infrastructure and major construction projects, DWER should provide their environmental approvals for concrete batch plants and quarries before local government considers the development application. State agencies can then provide some leadership in the approvals for developments of state significance.</p> <p>Local government should also have to consider DWER assessment and conditions in their assessment and only set complimentary, aligned conditions.</p> <p>DWER removing itself from the approval process (through either works approval, licencing, registration) is not supported. This will have a negative impact on industries ability to gain approval for new operations. Local Government do not have the ability to consider wider strategic implications of a supply chain as decision making is localised and based on local considerations only. DWER approval is often required to support planning applications to local government.</p> <p>There is also opportunity to decrease duplication with DWER and local government approvals for Extractive Industry Licences.</p>
<p>The use of approved waste-derived products will be removed from the scope of Schedule 1.</p> <p>15. Please provide your feedback on this Proposal</p>	<p>CCAA supports the removal of waste derived products from the scope of Schedule 1. More detail on this topic is available in the CCAA submission of 18 Dec'20 to DWER on the <i>Waste not, Want not: Valuing Waste as a Resource</i> Discussion Paper.</p>
<p>16. Are there any policy, process or guidance documents required to support the implementation of the EP Act amendments?</p>	<p>To cope with periods of high demand for development approvals, CCAA recommends the engagement of Accredited Consultants to assess low risk, less complex applications. This would allow DWER staff to focus on more complex applications and help meet approval time frames during periods of high work demand.</p> <p>There is precedence for this delegation in the <i>WA Building Act 2011</i> as well as other environmental regulators in other jurisdictions.</p>

DWER Question	CCAA Response
	<p>The Accredited Consultant's primary duty of care is to the environment and to the people of Western Australia, above all others.</p> <p>The Accredited Consultant must not have:</p> <ul style="list-style-type: none"> • a conflict of interest • a financial interest in a site • previously assessed a site and commented on its suitability for use.
18. Are there any additional or alternative design principles that should guide our Part V Fee Model?	Total fees collected should not exceed the total of \$21 million of fees that DWER currently collects.
19. Provide feedback on the fee proposals:	It is difficult to provide informed comment when the detail of how much an operator may have to pay under various scenarios is not provided. More detailed modelling is required before industry can comment.
24. Do you have any feedback on our new approach to regulation under Part V of the EP Act?	CCAA supports a number of proposed changes however, there are concerns about the wide scope of regulation reform and whether the changes can be practically implemented in a reasonable timeframe, with adequate consultation from industry. CCAA would appreciate ongoing consultation as these changes are progressively implemented.
25. Can we improve our engagement or refine it to achieve better outcomes?	CCAA recommends site visits to a range of industries to better understand their risk profiles and their environmental management systems. CCAA is willing to host site tours of member operations for DWER staff to help industry and regulator come to a common understanding of what compliance and good regulatory policy looks like.

Western Australia's regulatory environment needs to be internationally competitive to continue to attract capital to invest into the state to ensure a sustainable and competitive heavy construction materials industry. This in turn facilitates Western Australia's productivity, housing affordability and lower infrastructure costs.

Yours sincerely



ROGER BUCKLEY






State Director Western Australia

APPENDIX 1

CEMENT CONCRETE & AGGREGATES AUSTRALIA

MEMBERSHIP

FOUNDATION MEMBERS

 <p>ADBRI Adbri Limited</p>	 <p>Boral Australia</p>	 <p>Cement Australia Pty Ltd</p>
 <p>Hanson HEIDELBERGCEMENTGroup Hanson Australia Pty Ltd</p>	 <p>Holcim Holcim (Australia) Pty Ltd</p>	

WESTERN AUSTRALIA

ORDINARY MEMBERS

<p>B&J Catalano Pty Ltd Flyash Australia Pty Ltd Fulton Hogan Industries Lime Industries Pty Ltd</p>	<p>Pilatti Bros Transport Ransberg Pty Ltd T/a WA Premix and WA Bluemetal Urban Resources Pty Ltd</p>	
--	---	--

ASSOCIATE MEMBERS

<p>Concrete Colour Systems Concrete Waterproofing Manufacturing Pty Ltd T/a Xypex Australia</p>	<p>GCP Applied Technologies Sika Australia Pty Ltd Westrac</p>	
---	--	--