

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

2 February 2018

RE: Consultation Paper – Amendments Proposed Following the Decision on Eclipse Resources Pty Ltd v The State of Western Australia [no. 4] (2016) WASC 62

Thank you for the opportunity to comment on the Consultation Paper – Amendments Proposed Following the Decision on Eclipse Resources Pty Ltd v The State of Western Australia [no. 4] (2016) WASC 62. Holcim (Australia) Pty Ltd (Holcim) has reviewed the discussion paper and offer the following comments for consideration by the Department of Water and Environmental Regulation (DWER).

This supplements our earlier submission on the Discussion Paper – Waste Levy and Waste Management: Proposed Approaches for Legislative Reform lodged to DWER on 16 November 2016 (attached).

About Holcim

Holcim has been delivering construction materials since 1901, originally serving the industry under the well-known Readymix and Humes brands. Today, Holcim continues to supply essential construction products such as aggregates, sand, premixed concrete, concrete pipe and precast concrete products, to help Australia build roads, bridges, rail, homes, schools, hospitals and much more.

Holcim operates across the Australian continent supplying construction materials from a network of more than 150 concrete plants, 900 mixer trucks, 60 operating quarries (an additional 25 non-operating quarries), 12 manufacturing plants and mobile and on site project facilities. Holcim directly employs almost 3,000 people in Australia along with many more contractors and local service businesses where we operate.

Our mobile and on-site batching operations service major mining and infrastructure projects as well as provide much needed access to construction materials in remote rural communities – giving us the ability to go anywhere construction materials are needed.

Holcim is part of LafargeHolcim, a global leader in construction materials created by the 2015 merger of Lafarge and Holcim. LafargeHolcim has operations in over 80 countries and employs over 90,000

people worldwide. This global network and support provides Holcim in Australia with access to world class best practices in operations, innovation, technical expertise and sustainability.

Holcim within Western Australia

Holcim is a key player within the construction materials market within Western Australia and operates 15 operating quarries and 36 premixed concrete plants.

LafargeHolcim Sustainability Strategy – The 2030 Plan

LafargeHolcim has a Sustainability Strategy - The 2030 Plan for its global operations which covers Climate, Circular Economy, Water & Nature and People & Communities.

It sets quantitative targets related to our direct and indirect impacts, positive and negative, over the whole life-cycle of our products and services: from the sourcing of raw materials till the end-of-life of our products, through the manufacture and use phases. These targets tie-in with the values and goals of the *Environmental Management Policy Statement* of Cement Concrete and Aggregates Australia (CCA).¹

In terms of circular economy, it sets the following targets:

- Holcim will use 80 Million tonnes of waste globally derived materials per year
- Holcim will provide end of life solutions for our products and will supply four times more recycled aggregates from Construction and Demolition Waste/Recycled Aggregate Product
- Holcim will provide innovative solutions on recycled aggregates, urban mining solutions and waste management solutions.

The benefit of recycling construction materials avoids depletion of our virgin materials ensuring that these are managed sustainably for future generations.

It has been demonstrated in industry that the appropriate entry price point in the market is sensitive and needs to be competitive for a successful circular economy.

Challenges of Concrete Waste Management and Quarry Rehabilitation in Western Australia

A key challenge for Holcim operations in Western Australia centres around the management of concrete waste for our concrete operations and the successful closure and rehabilitation at our quarry sites. The ability to provide high quality and innovative outcomes in this regard relates to economically viable solutions.

Holcim produces 50,000 tonnes of concrete waste per year and is actively exploring options to reduce, reuse or recycle this concrete waste. This concrete waste is produced from the manufacturing of concrete where not all concrete is utilised by the customer and remains within the agitator and returns to Holcim as internal concrete waste. Holcim currently has one licenced site (Category 62) at the Gosnells Quarry in Martin where concrete waste is stockpiled for recycling into aggregates.

¹ Available at

http://www.ccaa.com.au/iMIS_Prod/CCAA/Public_Content/INDUSTRY/Policy_Priorities/LEADERS_AGREE_ON_ENVIRONMENTAL_VISION_FOR_THE_EXTRACTIVE_INDUSTRY.aspx?WebsiteKey=4998d6ce-2791-4962-b1e2-6b717f54a8d3

However, the cost of production and the lack of incentive to use recycled aggregates in WA create a very limited market for these materials. Any new “green” recycled product created for backfilling that incorporates some concrete waste is not likely to meet the requirements for “uncontaminated fill” and cannot be used for this purpose, therefore restricting the promotion of recycling.

Also, Holcim complies with stringent conditions of approval in respect to quarry closure and rehabilitation. Rehabilitation plans are a key aspect of the life of a quarry and are discussed, developed and implemented with all stakeholders, including the community and the regulator. Dependent on the requirements of the approved plan, the successful rehabilitation plan might require fill or other material to be imported onsite, for example to recreate safe and stable batters, or raise the profile of the quarry floor. Materials that may be used are clean fill or inert materials such as concrete waste. The revised waste definitions should consider the use of concrete waste as fill for landform reconstruction prior to rehabilitation or roadbase without the requirement for landfill licencing or payment of the waste levy. This would promote the recycling industry and the creation of innovative recycled products.

Proposed Reform	Implications to Holcim	Solution
<p>1. Premises that have only ever accepted “uncontaminated fill” or “clean fill” (as defined in the Waste Definitions) for burial are not Category 63 to 66 prescribed premises, and as a result are not subject to the licencing regime under Part V Division 3 of the EP Act or liable to pay the waste levy for Categories 63 to 65 under the Waste Avoidance and Resource Recovery Levy Act 2007 (WARRL Act) or the Waste Avoidance and Resource Recovery Levy Regulations 2008 (WARRL Regulations).</p>	<ul style="list-style-type: none"> Any material that complies with the “clean fill” and “uncontaminated fill” definitions may be used for backfilling without the requirement for landfill licencing or payment of the waste levy. 	<ul style="list-style-type: none"> Confirmation that the proposed amendments imply that burial of any material that meets the definition of "clean fill" and "uncontaminated fill" will not require licencing or the landfill levy and can be used for the purposes of backfilling or rehabilitation. Clarify that the new proposed waste definitions supercede the definition of "unwanted material" in the Eclipse definition "Where material is unwanted by the source, it will be waste, regardless of whether it can be reused elsewhere by someone else". Further to this, confirm that recycling and reuse of waste materials even when they do not meet the new proposed waste definitions, are not waste as they are recycled into a new product that is wanted ie crushed concrete sold as recycled roadbase. Request that the proposed waste definitions are extended to apply to Categories 61A and 62 for stockpiling. This would ensure that waste 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.

<p>2. Revising the Waste Definitions to include a definition for “uncontaminated fill” and “clean fill”.</p> <p>a. “Uncontaminated fill” will include inert type 1 waste (excluding asphalt and biosolids) meeting specified thresholds for chemical substances and relevant physical attributes (Appendix B of the consultation paper), as determined by sampling and testing requirements.</p> <p>b. “Clean fill” is proposed to be limited to raw excavated natural material that meets specified requirements including that it has been excavated from non-contaminated areas, does not contain any acid sulphate soil, does not contain any other type of waste and has not been re-excavated or removed from the earth or subject to processing of any kind. The definition of “clean fill” is consistent with the Eclipse decision that “clean fill” excludes material containing building rubble such as broken concrete or bricks.</p>	<ul style="list-style-type: none"> • Fill sand where screened (processed) will not comply with the “clean fill” definition. • Concrete waste will not meet the requirements for “uncontaminated fill” and as such will still require disposal to landfill and require payment of the waste levy. Holcim believes that all thresholds will be met except for pH. • Any new “green” recycled product created for backfilling that incorporates some concrete waste is not likely to meet the requirements for “uncontaminated fill” and cannot be used for this purpose. • Increased costs through the requirement to conduct sampling programmes to meet the definitions for “uncontaminated fill”, if this applies with any product generated. Potentially increased costs to verify that our “clean fill” originate from non-contaminated areas and do not contain acid sulphate soils or waste. There is currently no guidance on what evidence, if any, will be accepted to verify “clean fill”. • Increased administration through records kept to verify the origin of our products to meet the definitions of “clean fill” and “uncontaminated fill”. 	<ul style="list-style-type: none"> • Request that screening is not included as processing in the “clean fill” definition as no contaminants are used. • Request that the specified thresholds proposed by DWER for “uncontaminated fill” are reviewed, particularly in respect to pH levels of hardened concrete. The pH level of hardened concrete typically ranges between 9 and 13. Concrete is used commonly for foundations, which are buried, and currently do not cause any negative environmental concerns. • Consultation with industry on the criteria for “uncontaminated fill” and how this applies to hardened concrete should be undertaken. Hardened concrete is inert and should be able to be used as fill to reconstruct and re-contour landforms prior to rehabilitation and roadbase amongst other uses. An additional category of “industry uncontaminated fill” needs to be considered which would permit the use of certain inert materials, such as hardened concrete, for use as fill for landform reconstruction and roadbase. • Voice that the specified thresholds proposed by DWER for “uncontaminated fill” will prevent the creation of new “green” recycled products as these are unlikely to meet the thresholds. This does not promote sustainable use of resources
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		<p>as preference will be given to natural products and does not support the recycling industry.</p> <ul style="list-style-type: none">• Review the requirement to undertake testing in accordance with Appendix B, Table 1 of the consultation paper proposed for “uncontaminated fill” as the list of analytes and frequency of testing appears to be excessive and would financially deter recycling. Request that a sampling programme may not be warranted where evidence can be supplied to verify that the specified thresholds will be met ie supply of MSDS and origin of materials. For example, hardened concrete, which contains cement which has a MSDS, and aggregates and sand, which are virgin materials.• Seek guidance on what evidence, if any, will be required to verify “clean fill”.
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Yours faithfully

A handwritten signature in black ink, appearing to read 'Jenny Moro', written in a cursive style.

Jenny Moro
Planning & Environment Manager WA

Attachments:

Holcim Submission on Discussion Paper – Waste Levy and Waste Management: Proposed Approaches for Legislative Reform dated 16 November 2017

Project Manager, Waste Reform Project
Department of Water and Environmental Regulation
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Submission by email to: warr_reform@dwer.wa.gov.au

16 November 2017

RE: Discussion paper – Waste levy and waste management: Proposed approaches for legislative reform

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¹ Available at

http://www.ccaa.com.au/iMIS_Prod/CCAA/Public_Content/INDUSTRY/Policy_Priorities/LEADERS_AGREE_ON_ENVIRONMENTAL_VISION_FOR_THE_EXTRACTIVE_INDUSTRY.aspx?WebsiteKey=4998d6ce-2791-4962-b1e2-6b717f54a8d3

Also, Holcim complies with stringent conditions of approval in respect to quarry closure and rehabilitation. Rehabilitation plans are a key aspect of the life of a quarry and are discussed, developed and implemented with all stakeholders, including the community and the regulator. Dependent on the requirements of the approved plan, the successful rehabilitation plan might require fill or other material to be imported onsite, for example to recreate safe and stable batters, or raise the profile of the quarry floor. Materials that may be used are clean fill or inert materials such as concrete waste. However, the quarry is not a premises that is used for the “dominant purpose” of waste disposal. The removal of this requirement and the introduction of a levy to these types of materials would have unintended consequences by imposing greater financial costs on rehabilitation. This could prevent the development of innovative rehabilitation plans, which ultimately benefit the broader community at the end of life of the quarry.

Proposed Reform	Implications to Holcim	Solution
<p>1. Reforming Schedule 1 Categories 61A and 62 under the EP Regulations and expanding the scope of the levy under the WARR Regulations to apply to long-term waste stockpiling. The levy being payable upfront, with a 12-month time limit for rebates on recycled material.</p>	<p>From our view of the market as an industry leader, we do not agree that imposition of the levy on stockpiled waste will act as an incentive for re-use and recycling. Introduction of the levy for Category 61A and 62 will result in increased financial expenditure for Holcim at those sites where concrete waste is stockpiled for recycling into aggregates. This translates to a higher cost to the end-user of recycled product, and therefore an even weaker market for such products. Where Holcim anticipates being unable to utilise the stockpiled concrete waste within the 12 month rebate timeframe, there will be little incentive to retain it for recycling as opposed to disposing of it to landfill upfront, especially considering the increased administrative and reporting requirements that are also proposed.</p> <p>Increased waste disposal costs for concrete as the current Construction & Demolition recyclers Holcim uses for the disposal of concrete waste will pass on levy fees for stockpiling under Category 61A and 62.</p>	<p>Request that the definition of waste is explored such that waste used for a different purpose, where it is useful and wanted, such as rehabilitation or recycling to a new product would not be defined as a waste and not attract levy fees. Holcim's returned concrete is a premium product for recycling different to C & D recyclers where we can pinpoint the source of all materials used to manufacture the concrete.</p> <p>Request better regulation and monitoring of Construction & Demolition recyclers waste stockpiling through current licence conditions and potential prosecution, especially in regards to maximum capacity, than to introduce a levy for Category 61A and 62.</p> <p>Request that the new levy and waste recording proposed for Category 61A or 62 does not apply to existing concrete waste stockpiled.</p> <p>Request that a longer rebate period be more appropriate for Category 61A and 62 given the campaign operations of Holcim and the market difficulties selling recycled aggregates.</p> <p>Question whether introducing a levy to Categories 61A and 62 would result in greater production of recycled materials due to the increase of the production cost. It has also been demonstrated that the appropriate entry price point in the market is sensitive and needs to be competitive. Request that a multi-agency Governmental approach is</p>

		<p>initiated to promote recycled aggregates by:</p> <ul style="list-style-type: none"> • Amending specifications for construction projects • Consider that a percentage of recycled product must be used for future products • Not adding financial burden on recycled material manufacturers • Investigating the opportunity for financial incentives for both waste reduction at the user (not producer) level and use of recycled materials.
<p>2. Applying the levy to waste generated at licensed waste premises (non-third-party waste).</p>	<p>The movement of concrete waste internally within Holcim would attract the levy and result in increased financial expenditure. That is against the principle of promoting optimal waste management strategies within the construction industry.</p>	<p>Request that the new levy and waste recording proposed for Category 61A or 62 does not apply to internal company concrete waste storage ie waste that is not third-party waste. This can be adequately addressed through additional licence conditions, canvassed in the discussion paper at paragraph 6.1.3.</p>
<p>3. Expanding the scope of landfilling activities (e.g. spreading, ploughing) and removing the requirement for waste disposal to be the “dominant purpose” of licensed premises in order to attract the levy.</p>	<p>Increased cost and ability to maintain rehabilitation standards where the broader definition of waste disposal activities may have implications to Holcim where backfilling or rehabilitation is undertaken at quarry sites. It is Holcim’s understanding that the levy would even apply to clean fill used for rehabilitation backfilling – which is a legitimate re-use of the material, not an attempt to dispose of it otherwise than to landfill.</p>	<p>The introduction of a broad range of disposal activities may detrimentally affect or lower rehabilitation efforts due to increased costs as a result of levy fees (ie. the inclusion of fill and other materials used in backfilling during rehabilitation activities at non-landfill sites). Request that material legitimately used for rehabilitation activities be carved-out as an exemption to the levy and that DWER should support innovative and successful quarry closure plans.</p>
<p>4. Introducing new waste measurement, record keeping and reporting requirements for licensed waste premises that are liable</p>	<p>Increased administration and costs related to the introduction of increased record keeping</p>	<p>Request that the DWER utilise a case by case methodology approved at the time of licensing to monitor compliance of waste stockpiling in</p>

for the levy (e.g. compulsory use of weighbridges, monthly reporting).

requirements.

Categories 61A and 62. At Holcim, we survey all our stockpiles using aerial photogrammetry undertaken by a third party and any other additional records would not add value and be a financial burden.

Thank you for the opportunity to comment on the Discussion Paper – Waste Levy and Waste Management. Please contact the undersigned on 9212 2146 or jenny.moro@lafargeholcim.com should you have any queries or require further information.

Yours faithfully

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