



Holcim (Australia) Pty Ltd
Tower B, Level 8
799 Pacific Hwy
Chatswood 2067
Australia

ABN 87 099 732 297
Phone +61 2 9412 6600
Fax +61 2 9412 6601
www.holcim.com.au

Committee Secretary
Senate Standing Committees on Rural Affairs and Transport
PO BOX 6100
Parliament House
CANBERRA ACT 2600

Via email to: rat.sen@aph.gov.au

December 21, 2011

Submission regarding the *Environment Protection and Biodiversity Conservation Amendment (Protecting Australia's Water Resources) Bill 2011*

Holcim (Australia) Pty Ltd (**Holcim**), a leading supplier of construction materials in Australia, appreciates the opportunity to provide a submission on the *Environment Protection and Biodiversity Conservation Amendment (Protecting Australia's Water Resources) Bill 2011 (Water Resources Bill)*.

Holcim has been delivering construction materials to Australia since 1901. Holcim currently operates across Australia supplying construction materials from a large network of concrete plants and quarry operations, providing rail ballast, aggregates, gravels, road pavement materials, and manufactured and natural sands, products essential to building and maintaining our modern communities.

It is of great importance to Holcim that the vital and unique role of the construction materials industry is recognised in Commonwealth environmental approvals legislation. The products we provide are of crucial importance to Australia's economic prosperity and support the building industry, the mining industry, and the development of the nation's infrastructure. Considering that the resources that our industry relies upon are limited and finite, Commonwealth legislation must encourage the proper management and orderly development of our industry, and ensure that future development of resources is not compromised.

We wish to make the following specific submissions.

The differences between extractive industries and mining operations

According to the Senate's website, the purpose of the Water Resources Bill is to "*create a federal assessment and approval process for mining activities that have a significant impact on water resources.*" Holcim supports this broad principle and has no objection to the Commonwealth having the ability to refuse or sanction mining activities which adversely affect the quality, structural integrity or hydraulic balance of water resources.

Holcim does object however to extractive industries being dealt with in the same manner as the mining operations under the Water Resources Bill. Under section 24(1) of the Water Resources Bill, '*mining operations*' are defined as :

- (a) operations or activities connected with, or incidental to, the mining or recovery of minerals (including petroleum or gas) or the production of material from minerals, including:*
 - (i) prospecting and exploration for minerals; and*
 - (ii) milling, refining, treatment and processing of minerals; and*
 - (iii) storage and disposal of minerals and materials produced from minerals;*
- (b) the construction and use of towns, camps, dams, pipelines power lines or other structures for the purposes of operations or activities described in paragraph (a);*
- (c) the performance of any other work for the purposes of operations or activities described in paragraph (a).'*

'*Mineral*' is then defined extremely broadly under section 24(2) to include:

'any non-living substance that can be extracted from the ground, whether naturally occurring or created by or during the process of extraction:

- (a) including, but not limited to, coal, ores, petroleum, natural gas, coal seam gas, rock, sand and gravel; but*
- (b) not including water, except where water is extracted as a part of the process of extracting another substance.'*

This is in contrast to State legislation which defines '*minerals*' specifically (such as Schedule 1 and 2 of the *Mining Regulation 2010* in NSW) and in doing so excludes the vast majority of extractive materials.

For the purposes of the Water Resources Bill therefore, Commonwealth approval under the EPBC Act may be triggered for activities as diverse as earthworks to remove soil or significant underground coal mining operations if they are in the vicinity of a water resource. In our view, this is unreasonable and unnecessary.

In particular, the Water Resources Bill should treat:

- a) '*extractive industries*' (involving the extraction of rock, sand, gravel and soil and other natural, non-toxic, non harmful materials) differently to
- b) '*mining operations*' (involving the extraction of coal, petroleum, hydrocarbons, uranium, and other potentially toxic and harmful materials).

We are of this view for the following reasons:

1. Extractive industries and mining operations involve fundamentally different environmental impacts. We have already noted above that in contrast to mining operations, extractive industries typically involve the extraction of natural, non-toxic, non harmful materials. In relation to water impacts specifically, extractive industries typically:

- a) do not involve or require the use of the same quantities of water for their operation when compared to mining operations;
 - b) do not involve substantial damage, contamination, depressurization or other affects on groundwater when compared to mining operations; and
 - c) do not involve substantial impacts on surface water sources such as mine seepage, salinisation, decreased flows and various downstream impacts when compared to mining operations.
2. Planning and environmental approvals in respect of extractive industries are already regulated in an appropriate and sufficient manner under State legislation. This involves rigorous assessment and approval processes by various government departments including the preparation of a detailed environmental impact statements (or the like) in State jurisdictions and concurrence and advice from State water departments;
 3. We are not aware of any specific examples of extractive industries (for example a quarry or the like) having had a material adverse affect upon the water resources of a particular region in the manner that mining operations have affected certain water resources in Australia. We are therefore unaware of the justification to have the industry further regulated; and
 4. Further delays in obtaining environmental approvals for an industry that does not adversely affect water resources and relies upon a timely, predictable approvals process at a State level.

Accordingly, we recommend that for the purposes of the Water Resources Bill, the word '*mineral*' is more specifically defined to encompass the extraction of coal, petroleum, hydrocarbons, uranium, and other potentially toxic and harmful materials. If guidance is required in this respect, we recommend that regard is had to Schedule 1 and 2 of the *Mining Regulation 2010* in NSW.

As it currently reads, the Water Resources Bill involves an additional and unnecessary layer of regulation that will be to the detriment of the extractive materials industry.

Need for further guidelines regarding '*significant impact*' on water resources

Under the EPBC Act, a person who wishes to carry out a "*controlled action*" (ie an action which is "*controlled*" by the EPBC Act) must first obtain an approval from the Environment Minister. A "*controlled action*" is an action which is likely to have a '*significant impact*' on a "*matter of national environmental significance*" or Commonwealth land.

Under the EPBC Act, '*impact*' is defined in an ambiguous manner and '*significant*' is undefined. The Department of the Environment, Water, Heritage and the Arts published "*Significant Impact Guidelines*" for Matters of National Environmental Significance in 2009.

Clearly, as '*mining activities that have a significant impact on water resources*' are proposed to become an additional '*matter of national environmental significance*,' these guidelines will

require further information regarding what is 'a significant impact on water resources' in the context of mining activities.

Our comments above regarding the inherent differences between 'extractive industries' and 'mining activities' should guide the determination of what is a 'significant impact on water resources' for the purposes of the "Significant Impact Guidelines", particularly as extractive industries:

- a) do not involve or require the use of the same quantities of water for their operation when compared to mining operations;
- b) do not involve substantial damage, contamination, depressurization or other affects on groundwater when compared to mining operations; and
- c) do not involve substantial impacts on surface water sources such as mine seepage, salinisation, decreased flows and various downstream impacts when compared to mining operations.

Holcim looks forward to working with Commonwealth Government to achieve an appropriate system of environmental regulation that delivers the above. Please do not hesitate to contact me to discuss any of these issues in more detail.

Yours sincerely

John Hann

General Manager, Aggregates Planning and Development