



**CEMENT INDUSTRY
FEDERATION**



**CEMENT INDUSTRY FEDERATION
SUBMISSION TO THE**

Productivity Commission Draft Report on
Resources Sector Regulation

June 2020



1. INTRODUCTION

The Cement Industry Federation (CIF) appreciates the opportunity to provide comment on the *Productivity Commission Resource Sector Regulation Draft Report*.

The CIF is the national body representing all Australian integrated cement manufacturers and comprises the three major Australian cement producers - Adelaide Brighton Ltd, Boral Cement Ltd and Cement Australia Pty Ltd.

Together these companies account for 100 per cent of integrated clinker and cementitious supplies in Australia. Cement is a critical input for Australia's residential and commercial construction industry, as well as for our major infrastructure projects.

While the focus of the Productivity Commission's extensive draft report has been on the resources sector specifically – of which construction material mining forms a significant part - the majority of the draft leading practices, findings and recommendations are applicable to regulatory processes and systems cement manufacturers face across all aspects of their operations.

The final Resource Sector Regulation Report will be a critical resource for all governments as they seek to move towards best practice regulation that strikes a balance between required regulated outcomes and the sustainable growth of Australia's key business sectors.

This submission contains specific comments on issues relevant to the Australian cement industry. Comment on relevant findings and recommendations presented in the Draft Report can be found in **Attachment 1**.

Our submission should be read in conjunction with that of Cement Concrete and Aggregates Australia to ensure a broad appreciation of the issues that impact on companies operating in the heavy construction materials industry.

2. CEMENT AND THE AUSTRALIAN REGULATORY ENVIRONMENT

There are five integrated cement manufacturing facilities in Australia that are owned and operated by Boral Australia Ltd, Adelaide Brighton Ltd and Cement Australia Pty Ltd - supporting around 1,300 jobs directly and over 5,000 downstream employees and small businesses. Our cement manufacturing facilities provide a critical building material that underpins Australia's key infrastructure needs.

Cement demand is closely aligned with the need to create new and maintain existing buildings and infrastructure such as roads, bridges, buildings, and housing. When the Australian population increases and there is strong domestic growth, the demand for cement increases. Cement manufacturing and distribution provides thousands of jobs and critical investment in regional Australia as well as the suburban and industrial areas of our cities.

The CIF has participated in previous Government reviews that have led to little change to the domestic regulatory environment for key Australian manufacturing industries, such as cement, steel, aluminium, petroleum and fertiliser.

The current pandemic has highlighted the need for urgent regulatory reform across all levels of government to ensure our industry remains competitive, especially addressing imposts that our competitors do not face.

The cement industry supports domestic economic reform measures that encourage fair and open trade that can assist in our transition to a lower emissions and sustainable future. Protectionist policies are not the answer to recovery post COVID-19.

There are many federal, state and local regulatory and administrative imposts that discourage investment in Australian cement manufacturing. Areas that require urgent reform include energy, transport, tax, trade and workplace relation policies. Linking reforms, where possible, to an environmentally and sustainable future means cement manufacturers will be well placed to remain an important part of Australia’s manufacturing future.

3. MANAGING RESOURCES DEVELOPMENT IN THE INTERESTS OF THE COMMUNITY

3.1 Nationally Coordinated Approach

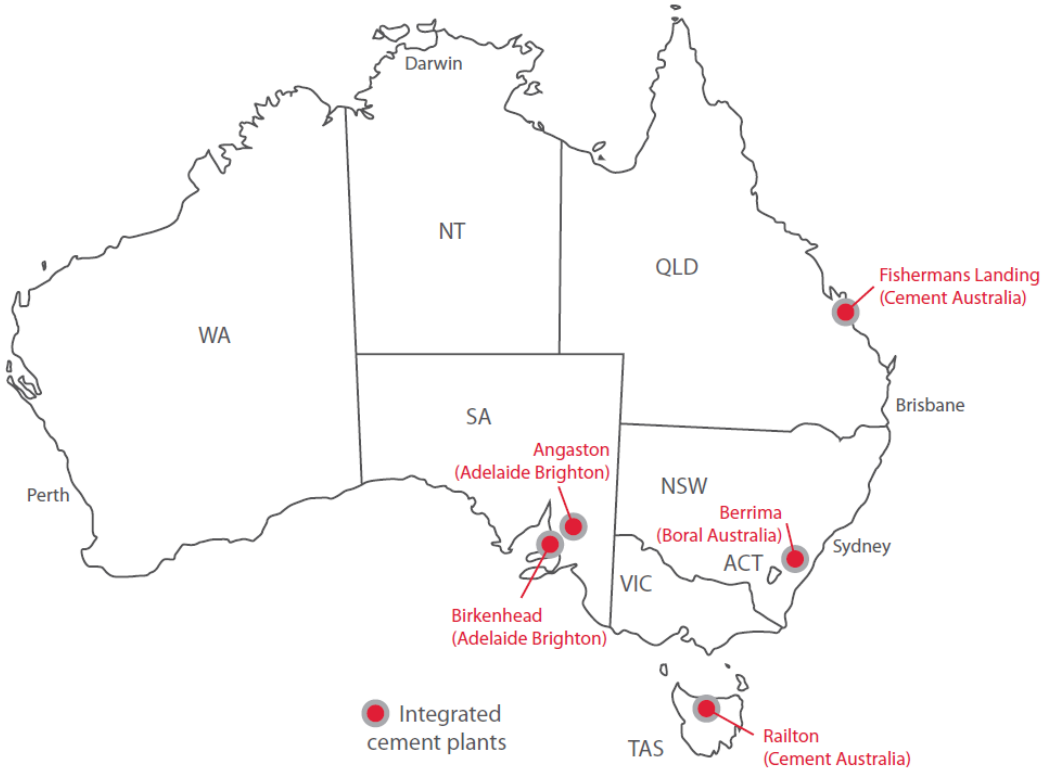
CIF members operate integrated cement production facilities in New South Wales, Queensland, Tasmania and South Australia – with downstream operations in many regions around the country to support their customer base – **Figure 1**.

Our members have a strong commitment to complying with existing regulation across all areas of their operations, particularly in terms of occupational health and safety, resource extraction and management, as well as the prevention of pollution and in controlling the impacts of their activities on the environment.

Reforms should focus on improving the development and application of regulation – including minimising or removing duplication between federal and state assessment and approval processes.

As such, the CIF supports a nationally coordinated approach to regulation – specifically the PC’s recommendation (**Draft Recommendation 11.3**) to establish a forum for regulators to share leading-practice initiatives from their jurisdictions, including those implemented to develop the capabilities and expertise of their agencies.

Figure 1: Location of integrated cement manufacturing sites



4. MAKING DECISIONS SIMPLER AND REDUCING THE REGULATORY BURDEN

4.1 Regulatory Processes

The CIF supports the Productivity Commission's findings (**Draft Findings 6.1, 6.2, 6.3, 6.5, 6.6 and 6.8**) that regulatory processes remain unduly complex, duplicative, lengthy and uncertain and are becoming more so.

CIF members have found that regulatory processes can be costly (more than expected), inconsistent and lack transparency.

For example, under the Environmental Protection Biodiversity Conservation (EPBC) CIF members have experienced situations where state regulators have not had access to qualified personnel internally to assess applications and subsequently required the proponent to fund a consultant to carry out the assessment – sometimes incurring a greater cost than that required to prepare the application.

There are also examples of cases where assessments have been completed and draft conditions issued without consultation or explanation – reflecting a process that lacks transparency or a will to reasonably engage with proponents.

This is supported by the Productivity Commission's recommendations around capability challenges that are constraining regulator performance – including improving staff capability and technical expertise through secondments, training programs and site visits.

The CIF strongly supports the Productivity Commission's recommendation (**Draft Recommendation 11.2**) that regulators in each jurisdiction should consult with industry, including peak bodies, on developing a program of site visits in order to enhance technical expertise.

4.2 Removing Duplication of Responsibilities

The complexity involved in environmental assessments and approvals needs to be addressed.

As such the CIF supports the PC's recommendation (**Draft Recommendation 6.1**) that the Environment Protection and Biodiversity Conservation Act 1999 should be amended to enable negotiation of bilateral approval agreements, and that State and Territory governments should consider making additional commitments to address inconsistencies and overlap in project approval conditions (**Draft Recommendation 6.2**).

Creating simpler and clearer interactions with government is supported across all regulatory programs and measures.

Improved clarity around the required regulatory processes – including timelines (statutory or otherwise) and exact information required would reduce the requirement for further information after submission.

Any outcomes that lead to a reduction in regulatory burden and cost while successfully achieving the desired policy outcomes should be investigated.

This includes alternatives to the traditional rules-based regulatory model that focus on achieving clearly defined outcomes, rather than monitoring compliance with process.

Self-regulation or co-regulation where basic conditions are met – and where there are high levels of trust – has the potential to reduce the overall regulatory burden for industry and would be supported.

4.3 Importance of Policy Consistency

The CIF supports the Productivity Commission's findings that investment is affected by abrupt policy changes, policy inconsistency and uncertainty.

Abrupt policy changes with inadequate consultation (**Draft Finding 8.1**) can lead to poorly designed and implemented regulatory programs and measures – undermining investor confidence and discouraging investment.

Inconsistent climate change and energy policies across jurisdictions (**Draft Finding 8.2**) are impacting critical sectors such as cement manufacturing.

Multiple, uncoordinated approaches to climate and energy policy increase the regulatory burden on industry and the potential for market distortions that result in higher, unnecessary input costs.

State-based action on climate and energy policy, as well as national policies such as the Renewable Energy Target, contributed towards creating an unstable market where prices increased, and supply was not always guaranteed.

For example, supply disruptions, such as those experienced in South Australia in late 2016 and continuing into 2017, placed significant pressure on operations as they strove to meet customer demands for their products.

A single, national approach to climate and energy policy would avoid costly duplication and minimise the impact on the Australian economy and the Australian manufacturing industry.

5. IMPROVING TRANSPARENCY

The CIF supports the PC's findings (**Draft Finding 11.1**) that governments should strive to set clear regulatory objectives, adequately resource institutions and put in place effective governance and accountability arrangements – with a commitment to periodic independent reviews.

6. CONCLUSION

While the *Productivity Commission Resource Sector Regulation Draft Report* is a comprehensive analysis of Australia's resource sector regulatory environment – many of the findings, recommendations and identified leading practices are applicable to regulatory processes and measures that large manufacturing industries – such as cement manufacturers – face across all aspects of their operations.

The final *Productivity Commission Resource Sector Regulation Report*, due in August 2020, will be a critical resource for all governments as they seek to move towards best practice regulation that strikes a balance between required regulated outcomes and the sustainable growth of Australia's key business sectors.

7. FURTHER CONTACT

For further information relating to this submission please contact Ms Margie Thomson, Chief Executive Officer, using the details below.

Margie Thomson
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Cement Industry Federation

Attachment 1

1. CIF Comment on Findings and Recommendations Relevant to the Cement Industry

Draft Findings and Recommendations	CIF Comments
<p>DRAFT RECOMMENDATION 4.1: Rather than imposing bans and moratoria on certain types of resources activity such as onshore gas, governments should weigh the scientific evidence on the costs of a particular project on the environment, other land users and communities against the benefits on a project-by-project (or regional) basis.</p>	<p>Supported – Projects should be considered on a case-by-case basis against appropriate and balanced criteria. Blanket bans targeting specific resources activity can lead to market distortions – as evidenced by the moratoria on onshore gas and the impact this had on the supply and affordability of gas for the domestic market.</p>
<p>DRAFT FINDING 6.1: Unnecessary delays in project commencements can be costly for proponents and the community, and typically dwarf other regulatory costs.</p>	<p>This issue is not isolated to resource sector projects and must be addressed. Necessary regulatory processes need to be aligned across jurisdictions (as much as possible) and streamlined to minimise potential delays – without compromising environmental, health and safety goals.</p>
<p>DRAFT FINDING 6.2: Environmental impact assessments are often unduly broad in scope and do not focus on the issues that matter most. This comes with costs — the direct costs of undertaking studies and preparing documentation and the more significant cost of delay to project commencement. Disproportionate and unfocused environmental impact assessments are also of questionable value to decision makers and the community.</p>	<p>More focussed environmental impact statements would be supported.</p> <p>CIF members have experienced situations where state regulators have not had access to qualified personnel internally to assess applications and subsequently required the proponent to fund a consultant to carry out the assessment – sometimes incurring a greater cost than that required to prepare the application.</p>
<p>DRAFT FINDING 6.3: The referral process for the Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act) and the nuclear and water triggers are creating unnecessary regulatory burden.</p>	<p>Where existing triggers are closely scrutinised and found to be suitably covered by existing high levels of regulation – then the removal of such triggers as a matter of national environmental significance under the EPBC Act should be considered.</p>
<p>DRAFT FINDING 6.5: Unpredictable and lengthy delays at the approval stage are a key frustration for project proponents. That frustration is compounded where delays are seen as unnecessary or their cause is unclear.</p>	<p>Supported – There are examples in our industry where environmental assessments have been completed and draft conditions issued without consultation or explanation – reflecting a process that lacks transparency or a will to reasonably engage with proponents.</p>
<p>DRAFT FINDING 6.6: Project approvals are often conditional on the preparation of management plans that also need to be approved by regulators ('post-approvals'). The process and timelines for securing post-approvals are often unpredictable, and over-reliance on management plans is not a first-best approach to achieving environmental outcomes.</p>	<p>Supported - Post approval processes and timelines can add significantly to the regulatory burden and associated costs.</p> <p>The CIF supports greater collaboration between governments to avoid unnecessary delays to project approval (Draft Leading Practice 6.6)</p>

<p>DRAFT FINDING 6.8: Resources projects typically require a range of assessments and approvals by multiple regulators within a jurisdiction. While regulatory coordination has improved over the past decade, proponents still report difficulties navigating the regulatory landscape. Lack of coordination can cause costly delays and liaising with multiple agencies can also give rise to significant compliance costs.</p>	<p>Creating simpler and clearer interactions with government is supported across all regulatory programs and measures.</p> <p>Improved clarity around the required regulatory processes – including timelines (statutory or otherwise) and exact information required would reduce the requirement for further information after submission.</p>
<p>DRAFT RECOMMENDATION 6.1: The Environment Protection and Biodiversity Conservation Act 1999 (Cth) should be amended, in line with the Environment Protection and Biodiversity Conservation Amendment (Bilateral Agreement Implementation) Bill 2014 (Cth), to enable negotiation of bilateral approval agreements.</p>	<p>The complexity involved in environmental assessments and approvals needs to be addressed.</p> <p>Any outcomes that lead to a reduction in regulatory burden and cost while successfully achieving the desired policy outcomes should be investigated.</p>
<p>DRAFT RECOMMENDATION 6.2: When bilateral assessment agreements are renegotiated, State and Territory governments should consider making additional commitments to address inconsistencies and overlap in project approval conditions. These commitments could be modelled on those described in the EPBC Act 1999 Assessment Bilateral Agreement Draft Conditions Policy.</p>	<p>This includes alternatives to the traditional rules-based regulatory model that focus on achieving clearly defined outcomes, rather than monitoring compliance with process.</p> <p>Self-regulation or co-regulation where basic conditions are met – and where there are high levels of trust – has the potential to reduce the overall regulatory burden for industry and would be supported.</p>
<p>DRAFT FINDING 8.1: Government policies necessarily evolve in response to changing economic conditions, technology development and shifts in broader societal values and priorities. However, abrupt policy changes with inadequate consultation can undermine investor confidence and discourage investment.</p>	<p>The CIF supports the Productivity Commission’s findings that investment is affected by abrupt policy changes, policy inconsistency and uncertainty.</p> <p>Abrupt policy changes with inadequate consultation can lead to poorly designed and implemented regulatory programs and measures – undermining investor confidence and discouraging investment.</p>
<p>DRAFT FINDING 8.2: Uncertainty about and inconsistent climate change and energy policies across jurisdictions risk impeding resources sector investment.</p>	<p>Inconsistent climate change and energy policies across jurisdictions are impacting critical sectors such as cement manufacturing.</p>
<p>DRAFT FINDING 8.3: Uncertainty about Lack of clarity in policy objectives can lead to inconsistent and unpredictable application of regulations across resources projects, creating investor uncertainty (such as in relation to approval decisions and conditions on the basis of scope 3 emissions).</p>	<p>Multiple, uncoordinated approaches to climate and energy policy increase the regulatory burden on industry and the potential for market distortions that result in higher, unnecessary input costs.</p>

<p>DRAFT RECOMMENDATION 11.1: Governments in each jurisdiction should assess:</p> <ul style="list-style-type: none"> • whether regulators of resources-sector activity are appropriately funded to enable timely processing of applications and effective adoption of a risk-based regulatory system • opportunities for enhancing regulators' cost recovery processes. 	<p>The CIF supports the PC's findings (Draft Finding 11.1) that governments should strive to set clear regulatory objectives, adequately resource institutions and put in place effective governance and accountability arrangements – with a commitment to periodic independent reviews.</p>
<p>DRAFT RECOMMENDATION 11.2: Regulators in each jurisdiction should consult with industry, including peak bodies (such as the Minerals Council of Australia and the Australian Petroleum Production and Exploration Association), on developing a program of site visits in order to enhance technical expertise. The program should be ongoing and part of induction training provided to new staff.</p>	<p>The CIF supports measures to address capability challenges that are constraining regulator performance – including improving staff capability and technical expertise through secondments, training programs and site visits.</p>
<p>DRAFT RECOMMENDATION 11.3: Ministers, through the Council of Australian Governments, should establish a forum for regulators to share leading-practice initiatives from their jurisdictions, including those implemented to develop the capabilities and expertise of their agencies.</p>	<p>Reforms should focus on improving the development and application of regulation – including minimising or removing duplication between federal and state assessment and approval processes.</p>