CEMENT CONCRETE & AGGREGATES AUSTRALIA

3 July 2026

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Aboriginal Heritage Bill – Consultation Draft

Dear Alice,

Cement Concrete & Aggregates Australia (CCAA) welcomes the opportunity to participate in the Minister for Aboriginal Affairs Industry Roundtable and provide a written submission to the Aboriginal Heritage Bill – Consultation Draft (The Bill).

CCAA is the voice of the heavy construction materials industry in Australia. CCAA members produce the majority of Australia's cement, concrete, and aggregates, which are crucial to Australia's building and construction sectors. These materials support the development of our nation's transport, energy, water, housing, defence, and social infrastructure.

CCAA supports repealing the *Aboriginal Heritage Act 1975* and acknowledges the need to establish new legislation that provides clear definitions, processes, and increased certainty for all stakeholders in the recognition, protection, and management of Aboriginal heritage. It remains essential that in improving Aboriginal heritage outcomes that a balance is achieved ensuring development and infrastructure growth continues without increased time delays, and cost impacts. A pragmatic approach to enable necessary development and infrastructure is crucial.

1. Regulation and Planning

The heavy construction materials industry is governed by a complex maze of regulatory and planning requirements from all three levels of government – federal, state, and local. Reducing complexity and streamlining the way these regulatory processes operate and interact supports the ongoing viability of this industry and ensures it can continue to supply high quality, affordable and sustainable construction materials.

Current applications are assessed through a number of Acts and codes including the *Mineral Resources Development Act 1995* (MRDA), *Land Use Planning and Approvals Act 1993* (LUPAA), and *Environmental Management and Pollution Control Act 1994* (EMPCA). The assessments occur inconsistently; with discrepancies in interpretation; and with jurisdictional overlap. It is essential that The Bill does not add to these approval complexities and the existing legislative framework highlights the importance of clearly defining the roles and responsibilities of assessment and approval bodies. Increased costs and extended approval times for development applications results in increased financial burden to the State and community, especially in the case of regional infrastructure projects.

At a national and state level there are major regulatory reforms occurring concurrently, including the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) with all reforms set to commence on or before 1 December 2026. As part of these reforms a

'First Nations Engagement Standard' (Standard) is to be developed, however has not yet been publicly released. Consideration must be given to how this Standard and The Bill will operate to avoid additional regulatory burden and inconsistent, or even conflicting approaches, which may cause further uncertainty.

2. Ministerial Oversight and Discretion

The Bill establishes a new approach to the assessment and approval process, with the Aboriginal Heritage Council (Council) the key decision maker. While CCAA supports the principle of affording traditional owner's powers to make decisions on their cultural heritage, CCAA is concerned about the diminished oversight of the Minister.

The benefit of having a Minister oversee decisions is that the Minister is in a position to take a balanced approach, taking into account a variety of matters including resource access, social, economic, environmental, infrastructure and growth needs of Tasmania. An example of this is the extreme shortage of suitable concrete specification sand in Tasmania, and the acknowledgement that Aboriginal Heritage Sites may occur where this critical resource is located.

CCAA considers it essential that the Minister maintain sufficient oversight powers within The Bill itself and in respect to the Council. It is necessary that clear checks and balances exist to ensure accountability and fair and reasonable decision making. CCAA supports the Minister retaining certain strategic and pivotal decision-making powers.

3. Aboriginal Heritage Council

Part 4 – Aboriginal Heritage Council details the Council establishment. The requirement for Membership of Council includes the following:

Section 17. Membership of Council

> *(3) The Minister is to ensure that the members of the Council –*
>
> *(a) are broadly representative of –*
>
> > *(i) Aboriginal persons generally; and*
> >
> > *(ii) all regions of the State; and*
>
> *(b) as far as practicable, reflect a diversity of genders; and*
>
> *(c) collectively, have the following skills:*
>
> > *(i) experience in the protection and management of Aboriginal heritage;*
> >
> > *(ii) experience in the management, or delivery, of projects of a significant scale or significant complexity;*
> >
> > *(iii) contemporary board governance skills;*

(iv) skills in interpreting, applying and enforcing legislation;

(v) skills prescribed for the purposes of this subsection.

While CCAA understands that the above reflects essential skills for Council members, there appears to be no requirement to have broader understanding outside of Aboriginal heritage or diversity, such as skill-based backgrounds that can assist in achieving diverse and robust decision-making. A skills mix including industry experience, risk management capability, broader regulatory understanding and archaeology will support more balanced decision-making and better overall outcomes.

Section 18. Functions and powers of Council

(1) The Council has the following functions and powers:

(c) to develop and publish guidance materials, and other information, to educate people on the operation of this Act;

(3) In respect of any function of the Council under this Act –

(a) the Council must perform that function in accordance with the State's resource management and planning system, the objectives of which are set out in Schedule 1 to the Land Use Planning and Approvals Act 1993;

The development of guidance materials on the operation of this Act being the sole responsibility of the Council appears to transfer the entire Regulatory responsibility to a committee. CCAA considers that it would be more appropriate for these to be developed by the Aboriginal Heritage Tasmania, Department of Natural Resources and Environment Tasmania in consultation with the Council and approved by the Minister. CCAA recommends that all relevant guidelines be given specific recognition in The Bill and that they be developed prior to commencement of any regulatory provisions in the Act. As a minimum, CCAA submits these should include the following: an assessment code of practice; negotiation guideline; and monitoring and reporting framework and be established prior to implementation.

To perform the required function as referred to in proposed subsection 18(3)(a) the Council will need to have understanding of LUPAA and other relevant Acts. There needs to be clarity as to how this will be implemented, including the process for further discussion should there be disagreement on the plan requirements. Such a mechanism is essential to ensure that all parties are appropriately engaged and understand the basis and rationale for all decision making.

CCAA recommends the inclusion of an engagement process to avoid misunderstanding between Council, other approval agencies and the proponent. Early and active engagement can avoid unnecessary costs, time delays and conflict.

4. Interpretation of Aboriginal Heritage

CCAA recommends that a reasonable level of evidence is required to support the addition of a new Aboriginal heritage site; Aboriginal heritage object; Aboriginal heritage place; and

determination of significance. This should incorporate an evidence-based process that relies on archaeological assessment or investigation to substantiate claims to help to avoid the issue of entities proposing spurious sites or erroneous claims, thereby devaluing the process and the importance of Aboriginal heritage more broadly. Such an inclusion, therefore, would assist the traditional owners in the protection of their culture. CCAA believes that it is important for the preservation of Aboriginal heritage that the culture is not diluted, altered or devalued as that could reduce traditional owner and community acceptance.

CCAA supports maintaining a balance between traditional owner, archaeology, and anthropology values in Aboriginal heritage interpretation. Scientific perspectives provide the opportunity to enrich the understanding of Aboriginal heritage and should be given appropriate weight in developing Management Plans.

CCAA recommends that the addition of new sites can be subject to an appeal process, with the option to be mediated by a review panel consisting of an independent person, a member of the Council and a member of a professional association such as the Australian Association of Consulting Archaeologists. This may be preferable to a legally based review through the Tasmanian Civil and Administrative Tribunal (TASCAT). The appeal process needs to support the traditional owners and enable the true Aboriginal heritage values to be determined and reflected.

5. Management Plans

CCAA supports the protection of Aboriginal heritage through the development of approved management plans, however further clarification is required through supporting guidance and effective engagement with Council on establishing if or the circumstances for which a management plan is required.

In addition to this, it is CCAA's experience that management plans can be extremely risk averse with significant assessment and investigation that does not follow archaeological best practice. This leads to implementation costs becoming prohibitive, and significant time delays due to reliance on traditional owner availability. Every effort should be given to streamline these plans, ensure consistent cost application, with fees and charges monitored; and all parties understand the requirements.

CCAA recommends that the fees and charges required in the Aboriginal heritage process should be set at a reasonable level, in line with similar charges in other jurisdictions. Such fees should increase annually at CPI and be set in Regulations after further stakeholder engagement and consultation. Tasmania should avoid the experience of other jurisdictions where the costs of cultural heritage increase significantly over time and have become cost prohibitive for many operators, resulting in industry choosing to invest in other States.

CCAA also welcomes the establishment of mandatory timeframes to provide certainty to proponents that decisions will be made in a timely manner.

6. Appeals Process

Section 129. Appeals

(1) In this section – administrative decision means a decision –

(a) that is specified in this Act as an administrative decision under this section; or

(b) that is prescribed as an administrative decision for the purposes of this section; appeal includes an application for review.

(2) A person who is aggrieved by an administrative decision may appeal to the Tasmanian Civil and Administrative Tribunal in relation to the decision.

(3) An application for the appeal is to be made within 14 days after the day on which the applicant is notified of the administrative decision to which the appeal relates.

(4) An appeal under this section is to be heard and determined in accordance with the Tasmanian Civil and Administrative Tribunal Act 2020.

The Bill identifies the right of the proponent to appeal the decision. CCAA is concerned that the current mechanism appears to be further discussion with the Council and if no resolution is achieved, the appeal is directed to TASCAT. This is an extremely costly and time-consuming process which CCAA believes should be a last resort. CCAA recommends the establishment of an independent mediation panel as described in section 4 of this submission.

7. Conclusion

CCAA recognises the importance of Aboriginal heritage and the need to establish updated regulations. It remains essential that in improving Aboriginal heritage outcomes that a balance is achieved ensuring development and infrastructure growth continues without increased time delays, and cost impacts. A pragmatic approach to enable necessary development and infrastructure is crucial.

It is vital that Tasmania's regulatory environment remains internationally competitive, continuing to attract investment into the state to ensure a sustainable and competitive heavy construction materials industry. This in turn facilitates Tasmania's productivity, housing affordability and lower infrastructure costs, enhancing the liveability of Tasmania.

CCAA appreciates Aboriginal Heritage Tasmania's engagement, including attending the CCAA Tasmania State Committee meeting and looks forward to continuing to further participate in stakeholder consultation.

Should you wish to discuss this matter, please contact CCAA's State Director - Tasmania, Ms. Tara McCormack by email tara.mccormack@ccaa.com.au and/or by phone 0422 527 806.

Yours sincerely

MICHAEL KILGARIFF
Chief Executive Officer