

21 September 2019

**SUBJECT: Statutory Review – Aboriginal Heritage Act 1975**

Cement Concrete & Aggregates Australia (CCA) is the national peak body representing the heavy construction material sector. Members of the CCA Tasmanian Committee include the major cement manufacturer, concrete producers and extractive quarries in Tasmania supplying around 90 percent of these materials to the state.

Our members operate many extractive pits and industrial complexes around Tasmania. The demand for our materials to supply affordable public and private infrastructure construction has increased over the last 3 years and will continue to increase for a period. Maximum production at our member's facilities is restricted by permit constraints imposed by local and state government agencies. In order to meet the demand, our members are required to apply for new permits to expand their existing sites and to develop new green-field sites. It is through the development approval process and the subsequent disturbance of land that our members interact with the *Aboriginal Heritage Act 1975* (Act).

CCA was a stakeholder and contributor to the original Aboriginal Heritage Act amendment process and appreciate the opportunity to contribute again to the review process. Once the submissions from the first stage of the review have been evaluated, CCA will appreciate being included as a stakeholder in the second stage of the review.

**Comments**

1. The objectives of the Act are reasonably clear.
2. CCA members acknowledge the need to recognise certain 'intangible' heritage under the act, however do not support extending this definition to include vague, subjective values such as the spiritual essence of a place or broader landscape. Seeking to protect such intangible values would create a high level of uncertainty and discourage development.
3. There should be no trade in Aboriginal heritage and hence no item or site should have a monetary value. The question of ownership should be irrelevant.
4. Decision-making power with respect to Aboriginal heritage should rest with Minister for Aboriginal Heritage who is an official democratically elected by the people of Tasmania. Such powers should not be vested in an individual or group selected by another process.
5. Members of the Aboriginal Heritage Council should be appointed by the Governor of Tasmania as the representative of the Crown in Tasmania and hence outside any political influence.
6. CCA members do not seek to influence the level of penalties set out under the Act.

7. The current Aboriginal Heritage Property Search website process by which the person responsible for carrying out an activity can enquire as to whether the land parcel is likely to have Aboriginal heritage present is supported. However, the introduction of this service was not well communicated to landowners and prospective developers. When Aboriginal heritage surveys have been completed and accepted by Aboriginal Heritage Tasmania (AHT), the area covered by the survey should be delineated on the online database 'The LIST'. This would make potential developers aware that Aboriginal heritage may be present and save previous survey work from being duplicated.
8. CCAA members do not believe a type 'Stop Work Notice' is warranted. If the presence of Aboriginal heritage is brought to the attention of someone undertaking disturbing activities, it effectively changes the likely offence from negligent to deliberate and the penalty from 1,000 penalty units to 10,000, which is deterrent enough.
9. Significant Aboriginal sites should continue to be managed under the Crown land management systems administered by the Parks & Wildlife Service.
10. CCAA members believe a need exists for greater communication to the public, landowners and developers of the presence of Aboriginal heritage, the value of that heritage to the Tasmanian people and the need to preserve it where possible.

The process that exists to investigate any land for the likelihood of Aboriginal heritage being present is sound and supported by CCAA, however there should be greater focus on communicating the process; perhaps at the time of preparing a Development Application.

The existing process could be enhanced by mapping showing the areas of the state that have been already studied for Aboriginal heritage.

CCAA members believe a notice should be provided at the time a Development Application is lodged advising the applicant to undertake the Aboriginal heritage search and subsequent steps. Following the advice and subsequent steps included in the *Aboriginal Heritage Standards and Procedures (June 2018)* should be a defence against prosecution under the Aboriginal Relics Act 1975.

Yours Sincerely

**Brian Hauser** BEng (Hons) MBA (Deakin)  
State Director, Victoria and Tasmania

30 September 2019

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Cement Concrete & Aggregates Australia (CCAA) lodged a submission providing comments from our members relating to the Aboriginal Heritage Act 1975 review on 21 September 2019. At the time we indicated that a late submission will be forthcoming as a comment from a member company was not received in time to make the due date.

**Comment**

The comment relates to Aboriginal heritage surveys and the distribution of the resultant reports.

*a) When surveys are conducted on private land the legislation should stipulate that the landowner receives a copy of the report regardless of who commissioned the survey.*

The Aboriginal heritage survey (AHS) report may contain important information to enable the landowner to plan development and use of the land and may provide a warning of instances where works might breach the Aboriginal heritage legislation. If a report has been prepared but not distributed, the Landowner is required to proceed with a proposal and test if Aboriginal heritage is present, if so abandon the proposal and test another. This is a time consuming and inefficient process which could be averted with access to any existing heritage reports.

*b) Additionally, in the event that an AHS has previously been conducted on private land, a land owner (future/present) can obtain a copy of the relevant survey which covers their title from AHT. This will assist with long term protection of relics and private land owners' ability to prudently plan future developments.*

Yours Sincerely

**Brian Hauser** BEng (Hons) MBA (Deakin)  
**State Director, Victoria and Tasmania**

