



16 January 2015

Ms Sabina Wynn
The Executive Director
The Australian Law Reform Commission
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Dear Ms Wynn

REVIEW OF THE NATIVE TITLE ACT 1993 – DISCUSSION PAPER

Cement Concrete & Aggregates Australia (CCA) is the peak industry body for the heavy construction materials industry in Australia including the cement, pre-mixed concrete and extractive industries.

CCA members account for approximately 90% of the \$7 billion in revenues generated by these industries that, between them, employ 18,000 Australian directly and a further 80,000 indirectly.

Heavy construction materials are the foundation of our economy and way of life. Without cement, concrete and aggregates we would not have the roads, railways, bridges, ports, airports, hospitals, schools, workplaces or our homes that make up our built environment.

The provision of affordable housing and infrastructure is a priority of Commonwealth and State Governments in support of the development of the Australian economy. To allow the heavy construction materials industry to fulfil its role of providing low cost, high quality materials on which these projects rely, CCA advocates that the regulatory system overseeing the heavy construction materials industry must be balanced, consistent, accountable, and proportionate and provide certainty for all parties.

In 2013, CCA commissioned Macromonitors¹ to analyse the costs of infrastructure delivery. Macromonitors found that the largest single cost component for roads and transport infrastructure was the cost of heavy construction materials.

As part of the development of extractive resources, our Members report that they are at times party to native title claims, and as such, we support a native title claim process that provides certainty and transparency.

From the Discussion Paper we understand that a number of amendments to the Native Title Act designed to advance recognition and protection of native title while promoting productive and economic relationships between all participants are proposed.

CCA supports these objectives. However, we have identified a number of matters raised in the Discussion Paper that if implemented may adversely affect investment and economic activity. CCA is concerned that these proposals may increase the level of uncertainty surrounding native title claims to which our members are party and have the effect of delaying and adding cost to the approval processes for new quarry operations, or extensions to existing operations.

In particular we are concerned about the following:

¹ The Impact of Heavy Construction Materials Prices on Infrastructure Costs in Victoria, Macromonitors, June 2013.

- **Removal of the requirement to establish a traditional physical connection with the land or water.**

We are concerned that removal of the requirement to establish a traditional physical connection with the land or water may increase the number of groups wishing to participate in a native title claim. This could result in increased contestability between groups associated with a claim, which may result in substantially longer and more complex negotiations resulting in delays and greater costs to the project.

- **Broadening the rights of native title holders to include commercial activities and trade.**

Additionally, we are concerned that the broadening of rights associated with native title to include commercial activities and trade will effectively result in significantly higher costs of products to government and the community and will reduce the incentives required to invest in new quarry projects.

- **Retrospective application of amendments to native title claims.**

CCAA is very concerned that the Discussion Paper raises the prospect that any amendments to the connection principles and claimant rights could be applied retrospectively to existing claims. If this were to occur, it would represent significant sovereign risk to the projects and have the potential to render the project unviable.

We strongly urge that any amendments not be made retrospective.

Any changes that delay, disrupt or add cost and complexity to the development processes or increase operating costs for providers of these essential materials will result in higher costs for the provision of the housing, social and transport infrastructure that our communities rely on. As such, the potential impacts must be considered very carefully.

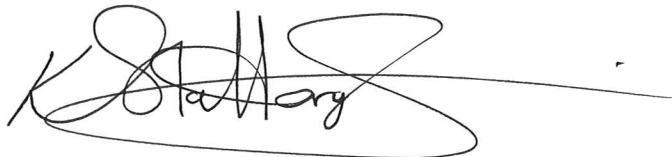
These amendments may have a negative impact on the willingness of industry to further invest in new or existing quarries impacted by these laws. Reduction in investment confidence through the creation of sovereign risk will have the perverse outcome of reducing economic activity and as such undermine the intent of the proposed options.

CCAA agrees that the native title system should promote productivity and help improve the economic situation of all participants. However, we are concerned that implementation of the three measures identified above will not achieve this outcome.

We believe that the ALRC should focus on the identification of options that promote certainty within the system, fix timeframes for negotiations and promote investment in delivering affordable resources for our community's infrastructure requirements.

We thank the Australian Law Reform Commission for this opportunity to make a submission on the *Review into the Native Title Act 1993 – Discussion Paper*.

Yours sincerely



KEN SLATTERY
Chief Executive Officer
CEMENT CONCRETE & AGGREGATES AUSTRALIA