



28 March 2017  
Review of the Flora & Fauna Guarantee Act  
Regulatory Strategy and Design  
Department of Environment, Land Water and Planning  
PO Box 500  
East Melbourne  
VIC 8002

Submitted via email: [ffg-act.review@delwp.vic.gov.au](mailto:ffg-act.review@delwp.vic.gov.au)

**SUBJECT: REVIEW OF THE FLORA & FAUNA GUARANTEE ACT 1988**

Cement Concrete & Aggregates Australia (CCA) welcomes the opportunity to provide a submission to the Department of Environment, Land, Water and Planning on the review of the *Flora & Fauna Guarantee Act 1988* (the Act).

CCA is the peak industry body for the heavy construction materials industry in Australia including the cement, pre-mixed concrete and extractive industries. For your information, a list of CCA Victoria's members is provided in Appendix 1.

CCA members nationally account for 85% of total industry output, which contributes nearly \$12 billion to Gross Domestic Product, employ 18,000 Australians directly and supporting the employment of a further 89,000 people. CCA members produce and supply the heavy construction materials that are used to construct Victoria's infrastructure. Providing both the raw material and finished product, heavy construction materials contribute to the construction of our roads, railways, bridges, ports, airports, hospitals, schools and dams.

CCA's members service local, regional and national building, construction and infrastructure markets. The reliable and cost-effective supply to these markets is fundamental to sustainable growth and it is CCA's aim to promote policies that recognise the importance of these materials to Australia's sustainable future.

CCA welcomes efforts to modernize the Act that increases transparency of process, avoids duplication, streamlines red tape and results in improved biodiversity outcomes.

CCA remains concerned regarding measures that provide greater enforcement powers to DELWP with stronger penalties without also introducing at the same time a tiered suite of enforcement tools that allow a flexible compliance approach that is proportionate to the impact.



Many of the issues outlined in the review require greater clarity of detail before industry can properly assess them. CCAA **recommends** that regulated industries such as the extractive industry are included in future stakeholder consultation in developing the supporting Regulations and guidelines to the Act.

CCAA makes the following key points on the proposed reforms of the Act:

#### 4.2 Coordination and integration across Government

- CCAA **supports** harmonising Commonwealth and State government requirements that improves consistency of approach, reduces duplication, reduces regulatory burden and improves environmental outcomes in consultation with industry.
- CCAA **supports** the development of a bilateral agreement between the Commonwealth EPBC Act and Victorian legislation that will streamline environmental approvals.

#### 4.3. Strategic approach to biodiversity planning & species listing

##### Biodiversity planning framework

- CCAA **supports** the publication of conservation advice and priority actions for each listed threatened species, etc. within a specified period following listing to improve transparency and openness of process.
- CCAA **supports** a voluntary partnership approach with private land owners in implementing a landscape based response to the Biodiversity Plan. Compulsory action imposed on private land owners by Government is **not supported**.

##### Listing threatened species, communities and threatening processes

- CCAA **supports** the use of the Common Assessment Method in assessing and listing threatened species. This is the same international standard as used by the Commonwealth in the EPBC Act and provides consistency in classification and moves to greater alignment in the Commonwealth and State biodiversity legislation.
- CCAA **supports** a list of threatened species, communities and threatening processes that is maintained in a timely manner using a clear, defined process, incorporating the latest scientific research that is collated according to the required standards. This includes **down grading the conservation rating** or removal of threatened species etc. from the list as new evidence is provided to DELWP as well as adding new threatened species etc. to the list.

#### 4.4 Habitat protection & regulation

##### Critical habitat

- CCAA **does not support** broadening the concept of critical habitat to include areas important for maintaining ecological processes. Such a broadening would dilute the concept of critical habitat and potentially be misused as a catch all phrase and impose undue requirements on land owners.
- CCAA requires more detail on the alternative compliance mechanisms that may replace Interim Conservation Orders before we can properly assess this aspect. CCAA **recommends** that regulated industries such as the extractive industry are included in future stakeholder consultation in developing the supporting Regulations and guidelines to the Act.
- CCAA **supports** voluntary management agreements between the Secretary and land owners, but only if they are voluntary and flexible.

##### Native vegetation

- CCAA **supports** improved compliance and enforcement arrangements but only if a tiered suite of enforcement tools that allow a flexible compliance approach that is proportionate to the impact is introduced at the same time. This should include the full hierarchy of regulatory tools from education, infringement notices, enforceable undertakings to prosecution.

#### **Other habitats & threatened species**

- CCAA **supports** the Secretary regularly publishing habitat importance maps to improve transparency, consistency and clarity under the Act.

#### **Regulation**

- CCAA **supports** the establishment of decision making criteria and guidance material to support permit applications **in consultation with industry** to improve transparency, consistency, accountability and clarity under the Act.

#### **Improving performance**

- CCAA **supports** an 'earned autonomy' approach to regulating activities under the Act that is developed **in consultation with industry** and provides clear guidelines with reasonably achievable outcomes.

#### **Compliance & enforcement**

- CCAA **supports** introducing greater enforcement powers to DELWP with stronger penalties if they are introduced at the same time as a tiered suite of enforcement tools that allow a flexible compliance approach that is proportionate to the impact.

#### **Accountability & transparency**

- CCAA **supports** an internal merits review of key decisions made under the Act. Such a process should include final review by the Secretary DELWP.
- CCAA **does not support** expanding the standing for the community to seek judicial review or seek injunctions. CCAA considers there is appropriate opportunity for relevant interested parties to challenge decisions made by Government already in the Act. Extending the standing provisions could open the flood gates for unreasonable, excessive litigation with the potential for significant increase in costs to Government and business which would result in unrealistic delays to the regulatory process.

Victoria's regulatory environment needs to be internationally competitive to continue to attract capital to invest into Victoria to ensure a sustainable and competitive heavy construction materials industry. This in turn facilitates Victoria's improved productivity, housing affordability and lower infrastructure costs.

Please do not hesitate to contact me to discuss any of these issues in more detail.

Yours sincerely



**State Director Vic/Tas**

**APPENDIX 1**

**CEMENT CONCRETE & AGGREGATES AUSTRALIA**

**MEMBERSHIP**

**FOUNDATION MEMBERS**

 <i>Adelaide Brighton Ltd</i>	 <b>Boral Construction Materials</b>	 <b>Boral Cement Limited</b>
 <b>Cement Australia Pty Ltd</b>	 <b>Hanson Australia Pty Ltd</b>	 <b>Holcim (Australia) Pty Ltd</b>

**VICTORIA**

**ORDINARY MEMBERS**

Alsafe Pre-Mix Concrete Pty Ltd Barossa Quarries Pty Ltd Barro Group Pty Ltd Baxters Concrete Pty Ltd Broadway & Frame Premix Concrete Pty Ltd	Fulton Hogan Industries Hillview Quarries Pty Ltd Hymix Australia Pty Ltd Independent Cement & Lime Pty Ltd Kennedy Haulage Pty Ltd	Mentone Pre Mix Metro Quarry Group Pty Ltd Premier Resources T/A Hy-Tec Industries Pty Ltd Volumetric Concrete Australia Pty Ltd
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**ASSOCIATE MEMBERS**

Agi-Kleen Pty Ltd BASF Australia Pty Ltd Concrete Colour Systems	Concrete Waterproofing Manufacturing Pty Ltd T/a Xypex Australia GCP Applied Technologies	Sika Australia Pty Ltd WAM Australia
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