

8 April 2026

The Hon Amanda Rishworth MP
Minister for Employment and Workplace Relations
Parliament House
Canberra ACT 2600

Fair Work (Emergency Application – MS2026/1) Determination 2026

1. Cement Concrete & Aggregates Australia (CCA) wishes to respond to the consultation draft of the *Fair Work (Emergency Application – MS2026/1) Determination 2026*.
2. CCA is the voice of Australia's heavy construction materials industry. Nationally, the industry contributes \$20.7 billion to GDP and supports 112,970 jobs. It underpins Australia's \$175 billion construction sector and the \$242 billion public infrastructure pipeline, forming the first link in the construction supply chain. CCA members produce most of Australia's cement, concrete, and aggregates, which are essential to the nation's building and construction sectors.
3. CCA respectfully submits that the proposed determination should not be made, because it is not in the public interest to classify the application in matter MS2026/1 as an emergency application under subsection 536PEA(3) of the *Fair Work Act 2009*.
4. CCA acknowledges the significant pressure that recent fuel price volatility has placed on transport operators and the legitimate concern that parties at the end of a contractual chain should be able to recover fuel costs.
5. The issue for present purposes is not whether rising fuel costs are causing commercial strain as they are plainly placing pressure on the industry. The issue is whether it is in the public interest to invoke the emergency mechanism and thereby enable the Fair Work Commission to deal with a broad and complex application on an expedited basis. In our respectful submission, it is not.
6. The underlying application is not a narrow or targeted emergency measure. It is broad in scope, extending across multiple sectors of the road transport industry and reaching a wide range of parties throughout the road transport contractual chain.

It also proposes mandatory weekly fuel reviews, amendments to payment terms, compulsory flow-down obligations, anti-avoidance provisions and dispute processes. A proposal of that breadth and consequence should not be advanced under a truncated process.

7. The road transport industry, and the construction materials supply chain that depends upon it, is too diverse for a one-size-fits-all response. Within CCA's membership and across the broader market there are substantial differences in haulage models, vehicle types, freight tasks, contract structures and regional conditions. In the heavy construction materials sector alone, transport arrangements vary materially between States and Territories and between metropolitan, regional and local markets. An expedited process risks producing an order that is insufficiently tailored to these commercial realities.
8. There is also a real risk of unnecessary disruption to arrangements that are already working. Many businesses have not remained passive. Commercial parties are already responding through a range of mechanisms, including more frequent fuel reviews, fuel levies, agreed benchmarks and other negotiated variations, many of which are tailored to the specific commercial and operational circumstances of the parties.

Some have already brought forward review periods or implemented monthly or fortnightly adjustments to address current conditions, often based on averaged fuel prices over that preceding period. These approaches are designed to smooth volatility and align with invoicing and payment cycles thereby reducing cash-flow concerns. In CCAA's view, the existence of these active commercial responses weighs strongly against the use of the emergency power.

9. The proposed approach would also impose significant administrative burden and cost. Weekly reconciliation across complex national contracting networks is not a simple exercise. It requires monitoring, recalculation and implementation across multiple contractual relationships, often across different payment cycles and invoicing systems. Many primary parties do not have visibility of the contractor's actual fuel cost position or the evidence necessary to assess particular claims. In some cases, compliance with weekly reviews would require additional dedicated staffing. Those burdens would be borne across the chain and would add to inflationary pressures already affecting the economy.
10. More fundamentally, there are substantial unresolved questions that warrant proper consultation rather than acceleration. These include the intended scope of "general road transport", including the intended interaction between general coverage and specialised cartage such as quarried materials and construction materials transport, the treatment of employee-like workers, the interaction with existing State-based arrangements, and the practical operation of pass-through requirements through layered commercial relationships.

The application also raises difficult questions about how claims are to be evidenced, assessed, disputed and passed on where transport costs are embedded in delivered product pricing. Those matters are not peripheral and are central to whether any workable and fair order can be made at all.

11. The public interest is not served by shortening the normal consultation process where the proposed order is so broad, so commercially intrusive and so administratively demanding. To the contrary, the public interest favours allowing the Fair Work Commission to consider these issues through the ordinary process, with adequate time for affected participants to provide evidence and for the practical implications to be properly tested.

The application is, in substance, a structural reform to commercial arrangements across the transport supply chain rather than a targeted response to an immediate emergency. It would impact millions of existing and future commercial transactions, cutting across diverse contractual structures and commercial practices, and imposing a uniform, system-wide mechanism for fuel cost recovery that is not tailored to the realities of different sectors and supply chains.

For further information, please contact Michael Kilgariff on

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Yours sincerely

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