

# **SUBMISSION ON THE ISSUES AND OPTIONS PAPER; TRANSFORMING THE RESOURCE MANAGEMENT SYSTEM: OPPORTUNITIES FOR CHANGE**

**February 2020**

## **Introduction**

The Aggregate and Quarry Association (AQA) is the industry body representing Construction Material companies which produce an estimated 45 million tonnes of aggregate and quarried materials consumed in New Zealand each year.

Funded by its members, the AQA has a mandate to increase understanding of the need for aggregates to New Zealanders, improve our industry and users' technical knowledge of aggregates, and assist in developing a highly skilled workforce within a safe and sustainable work environment.

## **Background**

Currently an average of around nine tonnes (one rigid truckload) of stone, gravel and sand per New Zealander is required each year to meet New Zealand's ongoing infrastructure demand. With our population set to rise to between 5.3 and 7.9 million by 2060, this increase in population alone will require approximately 1.2 million new homes to be built over the next 40 years. That is 30,000 new homes every year.

Climate change and rising sea levels are going to put added pressure on rock supply for sea walls, riverbank protection and restoration.

Central and local government will need to invest an unprecedented amount of money into infrastructure, such as schools, hospitals, roads and transport, to meet this population growth. The New Zealand Government relies heavily on locally sourced aggregate resources for infrastructure repair following disasters, for road and rail transport corridors, major projects and for housing development, all of which are essential for the social, economic and cultural wellbeing of communities.

New Zealand needs to secure supply of our quarry materials to provide affordable housing and infrastructure now and for future generations. In order to do this, it is critical that planning is streamlined, quarry resources are protected so they can supply vital construction materials and quarry land is returned as an asset to the community once extraction is complete.

We make the following submission in relation to the Issues and Options Paper; Transforming the resource management system: OPPORTUNITIES FOR CHANGE.

## General

The issues raised in this options paper are inconsistent with changes being proposed in other current government initiatives around water, biodiversity and climate change. Rather than taking an integrated approach to resource management, it appears that officials across Government departments are acting in their separate silos creating unnecessary duplication and imposition of additional costs and restrictions, all with similar stated goals. Until an overarching strategic view is taken of all these initiatives and their overall impacts on the environment, it seems counterproductive to move to reform the RMA.

It would appear that these reforms are aimed at the urban environment, particularly around affordable housing and freshwater. This paper appears to hold the rural environment responsible for the RMA providing insufficient protection for the natural environment, however it is the rural environment that has provided the aggregates, food, infrastructure, water, electricity etc. to support a growing population which resides in the built urban environment. If environmental bottom lines are to be introduced restricting rural primary industries, then we question how the needs of the urban population are to be met both physically and affordably.

We are concerned with the “one size fits all” approach of this and other Government discussion documents. Many quarry sites are small, unmanned for periods, and have little impact on the surrounding environment. To apply blanket environmental bottom lines will add complexity to planning approval processes which will ultimately impact on the supply of affordable aggregates.

## Issue 1: Legislative architecture

### ***Should there be separate legislation for environmental management v land use planning development?***

Adequate provision must be made in planning documents to recognise existing and potential aggregate and sand deposits and provide for their extraction. Quarry materials are not universally available and can only be sourced from where they are located. Without planning and a resource management system that provides for adequate access to resources at workable locations, there is the real risk of losing access to such proximate resources.

Quarries fully expect to have stringent environmental and resource management requirements put in place for new or renewed consents. However, some quarries have very low impact on the environment, iwi or local communities and sometimes sit idle due to fluctuations in demand such as in post-disaster situations. To ensure the continuity of supply of aggregate, the resource management system needs to allow for fluctuating demands and periods of quarry inactivity. This will create an enduring industry which can respond quickly and appropriately to changes in market conditions.

We agree that the variation within RMA processes across the country creates uncertainty for resource users and has led to poor outcomes for both the built and the natural environments.

Processes are complex, litigious and costly, and are frequently disproportionate to the decision being sought, or the risk or impact of the proposal. This complexity is caused in part by having development/planning and environment considerations in one legislative document.

While we are neutral on the proposition that there should be separate legislation dealing with environmental management and land use planning for development, legislation should set clear and specific ways of regulating environmental issues based on outcomes and at the same time provide the tools to allow balanced decision making about where and how development can occur. In order to ensure balance, the positive effects of development need to be considered as do regional variations in community expectations, environment, and development needs.

## Issue 2: Purpose and principles of the Resource Management Act 1991

**Do sections 5 (purpose), 6 (matters of national significance) and 7 (other matters) need changing?**

The Purpose Statement of the RMA (s5) sets up a hierarchy where social, economic and cultural well-being and health and safety are subsidiary to sustainable management. This has led to legitimate development activities facing barriers in achieving consents and is an issue which needs to be addressed. Certainly, we would oppose the environment being further elevated beyond the others.

The Government recently released its Resource Strategy for the next ten years. It included a clear statement that;

***“Projections indicate that the population of New Zealand could grow as high as between 5.3 and 7.9 million by 2068. To meet the needs of this growing population we will require more housing, more energy, and expanded infrastructure. The minerals and petroleum sector has a critical role to play in building this future.***

***We need to make sure we have the aggregate (crushed rock and stone) required, or alternative replacement material, to build the foundations of our houses and roads.”***

Minerals such as aggregates are key to the functioning of our economy, and critical minerals such as cobalt, vanadium and rare earth elements, will likely be essential in a low emissions economy. It is critical that the purpose of the RMA retains its emphasis on promoting the sustainable management of natural and physical resources.

The definition of sustainable management however could be strengthened.

For consistency with other legislation, the “Living Standards Framework” developed by Treasury to create a more holistic perspective to evaluating the wellbeing of the country,

would seem appropriate to replace the current focus on social, economic and cultural wellbeing. This is being proposed as part of the review of the Crown Minerals Act.

We support the reframing of ss. 5, 6, 7 to more clearly provide for outcomes-based planning. The current focus on negative effects has not provided for positive effects/outcomes to be considered in the planning process. While this is likely to be an implementation issue rather than an issue with the RMA, we believe clarification within the Purpose and Principles will assist Councils in their interpretation.

We consider it imperative that local authorities are directed to protect key resource areas and enable their development in order to both protect existing quarries from encroachment of non-compatible land uses such as housing, reduce reverse sensitivity potential and to enable the expansion of these resources and development of new greenfield resources. This direction would ideally be achieved through recognition of the importance of aggregates through an amendment to s6 or s7 of the RMA.

For all of the reasons listed above, it is important that minerals not be excluded from ss 5, (2), (a) as they are critical in meeting the reasonably foreseeable needs of future generations, as articulated in the Government's Resource Strategy.

We also believe that compensating should be added as an option in ss5, (2), (c) where it is not possible or impractical to avoid, remedy, or mitigate any adverse effects. This is consistent with the Effects Management Hierarchy proposed within the NPS Indigenous Biodiversity currently under consideration which states "if biodiversity offsetting is not demonstrably achievable for any indigenous biodiversity attribute on which there are residual adverse effects, biodiversity compensation is considered."

### Issue 3: Recognising Te Tiriti o Waitangi /the Treaty of Waitangi and te ao Māori

#### ***Should the Treaty have more or less importance in respect to other matters of national significance?***

We support the aims of the RMA in recognising and protecting Māori interests.

Māori have significant interests in the resource sector and in developing minerals for historical, cultural and economic reasons.

We are concerned about the uncertainty that could emerge when some traditional Māori terms and concepts are brought into the Act. Many of these terms have no set meaning and are open to interpretation e.g. the concept of Mauri of nature is undefined and because it is inevitably affected by any development, protection is likely to mean no development.

There would also be significant challenges in bringing the concept of te ao Māori into the Act for these reasons. Not only is it not clear what it is, not all Māori hold the same view of te ao Māori.

## Issue 4: Strategic integration across the resource management system

### ***How could planning processes across the RMA, Local Government Act and transport be better aligned?***

We strongly believe that better coordination between central and local government is needed. We would like central government to give local authorities greater direction in planning for key resource areas, in order to protect existing quarries from encroachment of non-compatible land uses such as housing and reduce reverse sensitivity potential.

Planning needs to be streamlined so that resource consents are quicker to obtain and less costly, without reducing the need for community consultation, environmental sustainability and mitigation of the impacts on the community.

## Issue 5: Addressing climate change and natural hazards

### ***Should the RMA be used as a tool for climate change mitigation?***

The aggregates sector has an important role to play in helping mitigate and manage the effects of climate change through supply of aggregates for sea walls, river protection and building materials required following natural disasters.

We support creating a more permissive regulatory approach for certain activities, including quarries, that are necessary to facilitate a response to the effects of climate change.

It is important to decrease the need for carbon-intensive transportation and improve energy efficiency in the long-term. By ensuring quarries are close to their markets, transport costs, transport congestion and carbon emissions are significantly reduced.

## Issue 6: National direction

### ***What role should more mandatory national direction have in setting environmental standards, protection of the environment, and managing urban development?***

National direction has an important role in ensuring consistent implementation of the RMA across jurisdictions. It is important however that such direction allows flexibility for regional variations in community expectations, environment, and development needs.

Greater direction through national policy statements would increase clarity and certainty, and reduce compliance activity, including the number of hearings required.

Unfortunately, National Policy Statements recently released for consultation are not well aligned with each other. Many are being rushed through without being costed or the

economic implications considered. Many are just responsive to the hot topic of the day rather than a strategic approach to achieve desired outcomes.

We consider it imperative that local authorities are directed to protect key resource areas and enable their development in order to both protect existing quarries from encroachment of non-compatible land uses such as housing, reduce reverse sensitivity potential, and to enable the expansion of these resources and development of new greenfield resources.

## Issue 7: Policy and planning framework

### ***How could the content of plans be improved?***

We agree that there are too many council plans under the RMA and their quality is variable. We see merit in reducing the number of plans, or for example, the replacement of a Regional Policy Statement with an existing plan.

More national direction on the content of Plans and a move towards national spatial planning would help reduce the unwieldy size and complexity of many Plans that create barriers to community and industry participation.

This would address the current problem of Plans with conflicting elements across different regions, a particular barrier for the aggregates sector where they operate across the country. National direction should include requirements for Councils to undertake rigorous cost-benefit analysis of changes to Plans.

## Issue 8: Consents/approvals

### ***How could consent processes (at all levels) deliver more efficient and effective outcomes while preserving opportunities for participation?***

Planning needs to be enabling so that resource consents are quicker to obtain and less costly. Even where appropriate planning zones and controls exist, the time and cost for obtaining consents to a quarry can be significant. In the event of a favourable decision, it is often more than three to five years from commencement of the consenting process before many quarries will ever sell their first tonne of aggregate. This timeframe does not always allow for the industry to respond quickly to demands placed on it by large infrastructure projects, natural disasters and building growth, meaning that aggregates are often sourced from further away at significant cost.

## Issue 9: Economic instruments

### ***What role should economic instruments and incentives have in achieving outcomes under the resource management system?***

We support a broader range of economic tools and incentives to support the resource management system such as emissions taxes, tradable emissions permits, transferable development rights, tools for environmental offsetting and compensation, and congestion charges.

We also believe that further investigation should be conducted into the potential use of instruments such as a market-based system for allocating natural resources, tradability in rights to use natural resources, and contestable consenting.

It is however imperative that such instruments are applied fairly and appropriately and that funds generated are used for direct improvements to the environment and local communities.

## Issue 10: Allocation

### ***Should the RMA provide principles to guide decisions on allocation of resources?***

Quarrying is a highly productive use of land and in most cases is a temporary land use, with site restoration a critical element to ensure that land is available for future generations. In many cases, site restoration can result in the delivery of land for future primary production or valuable new habitats, contributing towards national biodiversity targets and wider 'net gain' ambitions.

An important issue for quarries operating in areas of both urban and rural growth is reverse sensitivity. This occurs, when a new activity (i.e. residential) sensitive to the effects of another existing activity (i.e. quarrying) locates in close proximity to the existing activity.

The RMA should provide protection for highly productive land from inappropriate subdivision, use and development, which will help to maintain the availability of highly productive land for primary production for future generations, as well as provide a higher degree of flexibility for councils to consider and respond to local circumstances when giving effect to the RMA.

## Issue 12: Compliance, monitoring and enforcement

### ***What changes are needed to improve effectiveness and efficiency?***

A key principle underpinning the RMA must be the monitoring and enforcement of the conditions of any resource consent. There has been inconsistent compliance monitoring and action across jurisdictions which has led to an "uneven playing field" for operators who routinely comply with their resource consent, having to compete with those operators who do

not comply with their consent, or other regulations and who do not attract any compliance action.

On the occasions that compliance action is taken, the penalties imposed are sometimes an insufficient deterrent when compared to the financial advantage of not following rules and conditions of consent.

We support providing strengthened statutory powers and penalties, especially for where non-compliance has resulted in or been motivated by commercial gain.

### Issue 14: Reducing complexity across the system

#### ***What other changes should be made to the RMA to reduce undue complexity, improve accessibility and increase effectiveness and efficiency?***

The RMA needs to be fit-for-purpose and responsive to changes in the sector. Processes within the RMA need to be enabling and efficient so as to support the Government's wider priorities including affordable energy, housing, urban development and roading infrastructure.

It might be appropriate to delay substantive changes to the RMA until the current proposed National Policy Statements (Freshwater and Indigenous Biodiversity) have been finalised and implemented to enable review of how they work in practice. Both, as currently drafted, will place additional burdens on councils with respect to information gathering and amending current plans to be consistent with their requirements. There is too much happening at one time and there is real risk of confusion, duplication, and conflicting requirements.