

# **Submission on the Natural and Built Environments Bill Parliamentary paper on the exposure draft**

**August 2021**

## **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.

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.

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 flood protection and building materials required following natural disasters.

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.

## General comments

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 (locationally constrained). 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.

Construction materials are generally defined as everything used to build roads, bridges, houses and commercial structures, apart from timber and metals. They include aggregates, sand, limestone, cement, concrete, plasterboard, bricks, roof tiles and asphalt.

The historical failure to recognise the importance of, and provide for, construction materials at a national level, together with capacity and capability constraints within local government to understand the importance of these materials has resulted in sub optimal outcomes.

National direction has an important role in ensuring consistent implementation of the Natural and Built Environment Act (NBA) across jurisdictions. It is important however that such direction allows flexibility for regional variations in community expectations, environment, and development needs. Greater direction through the National Planning Framework (NPF) will increase clarity and certainty, and reduce compliance activity, including the number of hearings required.

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.

We make the following submission in relation to the [Natural and Built Environments Bill Parliamentary paper on the exposure draft](#).

## Purpose

In general, we agree with the purpose of the Natural and Built Environment Act (NBA) to enable people and communities to use the environment in a way that supports the well-being of present generations without compromising the well-being of future generations while promoting an outcomes approach for the benefit of the environment.

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.

Quarries fully expect to have 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-natural 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.

## Te Oranga o te Taiao

We support the inclusion of the concept of giving effect to the principles of Te Tiriti o Waitangi and providing greater recognition of te ao Māori, including mātauranga Māori.

We do have concerns however about the uncertainty that could emerge from inclusion of some traditional Māori terms and concepts in the NBA (e.g. *'the mana and mauri of the natural environment are protected and restored'*) as many of these terms have multiple meanings and would be open to interpretation. This will inevitably lead to protracted legal proceedings for the courts to interpret what was intended. Such litigation would take time and be very costly, a highlighted weakness in the current Resource Management system.

## Cultural Heritage

We support the principle of seeking positive outcomes for cultural heritage, however, are concerned with the definition of cultural heritage, in particular part (b)(iv) of the definition:

(b) includes -

- (i) historic sites, structures, places, and areas; and
- (ii) archaeological sites; and
- (iii) sites of significance to Māori, including wāhi tapu; and
- (iv) surroundings associated with those sites

Sub-clause (iv) above should be removed as the wording is too broad and unable to be quantified or easily understood. The unintended consequence of this would be to capture and potentially sterilise large parcels of land that are not associated with enhancing cultural heritage outcomes as a result of their proximity to such culturally significant sites.

## Environmental limits

We support the purpose of the NBA to better enable development within environmental biophysical limits including a significant improvement in housing supply, affordability and choice, and timely provision of appropriate infrastructure, including social infrastructure.

We are concerned however that setting environmental limits for biodiversity, including habitats and ecosystems could lead to prohibiting activities that enhance and improve

the very habitats and ecosystems that the limits are meant to protect. Appendix 1 of this submission includes case studies of quarry development that has resulted in improved outcomes for biodiversity, including habitats and ecosystems, that would potentially not be possible within environmental biophysical limits considered during an application for resource consent.

The greatest threat to biodiversity, including habitats and ecosystems, is not land use or development but exotic animal pests and weeds, for which there is inadequate public funding for management and control. Defining limits on ecological integrity will be extremely difficult as habitats and ecosystems vary across New Zealand and therefore national environmental limits for biodiversity will be extremely difficult to set.

### Environmental outcomes

The current RMA focus on negative effects has not provided for positive effects/outcomes to be considered in the planning process and we support a move to a focus on environmental outcomes. We agree that an outcomes-based approach works for both protecting resources (e.g. biodiversity) and enabling activities (e.g. housing and infrastructure), and responds directly to the needs of communities.

Without appropriate recognition of the importance of construction materials including aggregates, developing resources will continue to be difficult, time consuming and expensive and the NBA will fail to deliver on its intended objectives. For housing and infrastructure supply ambitions to be realised, it is imperative that the supply of construction materials be expressly included in Clause 8 of the NBA.

We support the NBA including the RMA's requirement to **'avoid, remedy, or mitigate'** adverse effects of activities on the environment, with mitigate including offsetting and compensation. This is consistent with the Effects Management Hierarchy proposed within the Draft NPS Indigenous Biodiversity and will ensure a management framework exists for all adverse effects, including those not covered by environmental limits or outcomes.

### National Planning Framework (NPF)

We support an outcomes-focused system, and through the NPF central government direction that sets priorities for the integrated management of the environment and development to address conflicts across competing outcomes. Unfortunately, National Policy Statements recently implemented or 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.

Accessing construction materials (such as aggregates) has the potential to generate conflict such as amenity-related concerns. Reconciliation of such conflicts is principally left to the consenting process at present. The NPF should provide national direction as to whether and how high-quality aggregate resources should be protected from being

sterilised through other development. For housing and infrastructure supply ambitions to be realised, it is imperative that the supply of construction materials be expressly included in Clause 13 of the NBA.

It is important that the NPF is established with effective and proportionate public consultation that allows reasonable time and opportunity for input from all parties including the aggregate sector.

### Existing use rights

The NBA exposure draft does not provide any information on existing use rights; however, an outcomes-based approach may make it easier to extinguish existing use rights if these activities conflict with key specified outcomes in regional plans.

Commitments have already been made by government on a number of occasions that existing rights to continue production or exploration activities will be protected. This commitment was also captured by Principle 10 of the Minerals and Resource Strategy. It is essential that any changes to resource management processes do not affect those rights.

This must also include the rights of entities to variations or extensions to existing consented activities. That is, it needs to consider the natural extension of consented areas should aggregate deposits be expanded through quarrying works, and the ability to extend the duration of these existing resource consents.

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## Appendix 1: Examples of positive biodiversity outcomes associated with quarry development



### Awakino Quarry Development and Te Taumata Paepae o Poutama Partnership

At Awakino Quarry in the Taranaki, Fulton Hogan has helped realise a long-held dream of Te Taumata Paepae o Poutama, an iwi tribal council in North Taranaki. Fulton Hogan has funded two environmental restoration projects that involved extensive planting and 1,350 metres of fencing as part of the Poutama Iwi Heritage Park on some historic coastal land that is not suitable for farming, and a stream relocation project to retain fish and invertebrate populations and undertaking planting to improve stream canopy cover.

The stream relocation involved translocating 1,434 fish over a 3-day period, 95% of them being longfin eel and red fin bullies, but also a small giant kokopu and a torrent fish, all officially listed as at-risk declining species.

This project shows that quarry development, while supplying a local need for aggregate, can enhance biodiversity outcomes through working with a local iwi to provide environmental benefits to the community, including protection of at-risk species.



Electric fishing prior to diversion



Torrent fish



## Otaiki Quarry, Golden Bay Cement and Te Pouwhenua o Tiakiriri Kukupa Partnership



Pouwhenua students and cultural monitors assisting with fish relocation at Otaika Quarry

Winstone Aggregates established a partnership with local iwi community to providing opportunities for Pouwhenua to reconnect to their rohe, support environmental initiatives and develop a mātauranga Maori monitoring programme. The Te Hononga is intended to provide a pathway to enable and maintain the long-term aspirations of Pouwhenua to be achieved and align with the ongoing development of Winstone Aggregates and GBC operations.

Students from Pouwhenua worked with ecologists as part of a pre-works fish relocation and a team of cultural monitors were on-site working with staff in observing topsoil disturbance when several middens were uncovered. Winstone Aggregates are supporting Pouwhenua to record the knowledge of the area from their kaumātua/elders. The intention of this project is to support the development of an aspirational, intergenerational goal to return the Whangārei Harbour to its former state.



Eel relocation activities



Midden found during haul road construction – Pegram block, Otaika Quarry.