

# **Submission from the AQA on the Proposed infringement offence regulations under the Crown Minerals (Decommissioning and Other Matters) Amendment Bill**

**October 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**

In 2019, the New Zealand aggregate and quarrying sector produced 45 million tonnes of aggregates, including limestone and other products, with an economic contribution to New Zealand estimated at \$3 billion. This included a wide range of industrial minerals including clay, limestone, perlite, halloysite, bentonite, zeolite, silica, dolomite and serpentine.

It is therefore vital that local aggregate resources throughout the country are identified, understood and effectively managed.

We make the following submission in relation to the [Proposed infringement offence regulations under the Crown Minerals \(Decommissioning and Other Matters\) Amendment Bill](#).

## **General comments**

We support and promote industry compliance. We also support enforcement action where operators fail to comply with the requirements of their licences and permits. It is important that the use of the VADE model continues and is supported by clear and concise information that is easy to access and understand.

We support the use of compliance notices and enforceable undertakings provided the actions and the timeframes set are reasonable and take into account the date the notice is likely to be received by the permit/licence holder. It is also important to

ensure that the permit/licence holder is afforded adequate time to complete the actions identified in the notice.

The compliance action successfully used by WorkSafe is a good example of effective compliance action. WorkSafe issue Improvement Notices (compliance notices) which give the operator a time within which compliance is required. If not adhered to within the designated timeframe, WorkSafe may then suspend (Prohibition Notice) that mining or quarrying operation until the corrective action is completed. This is a powerful tool and is a genuine deterrent of non-compliance. This would be a more effective means of driving behaviour that infringement fees.

## **Infringement fees**

We do not support the use of infringement fees or on-the-spot fines. The introduction of compliance notices, and penalties for non-compliance should be a sufficient deterrent for those failing to meet the requirements of their permit or licence.

In Australia, on-the-spot fines have been used in relation to Health and Safety in two jurisdictions, New South Wales and the Northern Territory. Their experience has been that the impact of on-the-spot fines on behaviour has been short term in nature. This has been due to the lack of consistency in applying fines, the inadequacy of administrative processes around issuing of the fines, and a high incidence of non-payment of fines which are administratively difficult and expensive to enforce. There is also a risk that if on-the-spot fines are not integrated with other enforcement policies, that they become either a substitute for more serious enforcement action in serious or repeat cases or serve to trivialise offences through misuse.

There are a number of reasons leading to late filing of returns, including illness, business disruption or administrative errors, some of which are outside the control of the permit/licence holder. There have been situations where permit holders have lodged on time but due to administrative issues within MBIE, the return has been considered late. Should such errors lead to instant fines, there would need to be legal recourse for the permit holder. The use of infringement fees will not enhance a co-operative and supportive relationship between the Crown and the permit/licence holder.

**Wayne Scott**

**Chief Executive Officer**

Aggregate and Quarry Association

[wayne@aaa.org.nz](mailto:wayne@aaa.org.nz)

021 944 336