

SUBMISSION ON THE EXPOSURE DRAFT OF A PROPOSED NATIONAL POLICY STATEMENT FOR INDIGENOUS BIODIVERSITY

July 2022

Introduction

The Aggregate and Quarry Association (AQA) is the industry body representing construction material companies which produce an estimated 50 million tonnes of aggregate and quarried materials consumed in New Zealand each year.

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.

General

Accessing, extracting, processing and transporting aggregate (crushed rock, gravel and sand) is needed for the construction of infrastructure in New Zealand. A wide range of industrial minerals are also produced in New Zealand including clay, limestone, perlite, halloysite, bentonite, zeolite, silica, dolomite and serpentine.

The draft NPS-IB presents significant improvements on the 2019 draft. We assume that the changes that result from this consultation process will necessitate a new or revised exposure draft and we request an opportunity to look at this before finalisation. This will be important to ensure the workability of the regulations from a quarrying perspective and avoid unintended consequences.

We make the following submission in relation to the Exposure Draft on proposed National Policy Statement for Indigenous Biodiversity (NPS-IB).

Part 2, Clause 2.2 – Policies

We support the policies set out in Part 2, Clause 2.2, however are concerned with the potential confusion created by the reference to 'avoiding and managing' adverse effects from development in Policy 7. To avoid confusion the words 'avoiding and managing' should be replaced by 'avoiding or managing adverse effects'.

Part 3, Subpart 1 – Approaches to implementing this National Policy Statement

We generally agree that local authorities should manage indigenous biodiversity and the effects on it from subdivision, use and development in an integrated way, and that the protection, maintenance, and restoration of indigenous biodiversity does not preclude development in appropriate places and forms.

The NPS-IB provides a definition of maintenance which is inconsistent with the case law on the meaning of maintenance in the context of the Resource Management Act

(RMA). It is, therefore, not appropriate for subordinate legislation (the NPS-IB) to override the existing meaning of maintenance. It is a matter for amendment to the RMA itself if desired. The definition is too broad, as it relates to maintenance of all indigenous biodiversity and goes beyond the empowering scope of the RMA.

Part 3, Subpart 2 – Significant Natural Areas (SNAs)

Clause 3.11 Exceptions to Clause 3.10

Quarry materials are not universally available and can only be sourced from where they are located (locationally constrained due to geology). There is clearly an intention to provide a consenting pathway for nationally or regionally significant quarrying activities that have a functional or operational need to operate in that location. We generally support the consenting pathway provided for aggregate extraction in Clause 3.11,(2),(a),(iii). Clarification is needed however in some of the terminology:

- The term aggregate extraction is inconsistent with the National Planning Standards definition of quarrying activities which includes quarrying activities associated with the actual extraction of the aggregate, such as overburden stockpiling, amenities, haul roads etc. which will be assessed under the functional or operational needs test in 3.11,(2),(b). The NPS 'quarrying activities' definition is:

The extraction, processing (including crushing, screening, washing, and blending), transport, storage, sale and recycling of aggregates (clay, silt, rock, sand), the deposition of overburden material, rehabilitation, landscaping and cleanfilling of the quarry, and the use of land and accessory buildings for offices, workshops and car parking areas associated with the operation of the quarry.

The term aggregate extraction in the exposure draft should be replaced with quarrying activities, or a definition inserted in clause 1.6 to define aggregate extraction as meaning quarrying activities as defined in the National Planning Standards 2019.

- The gateway test includes the following; "that provides significant national or regional public benefit that could not otherwise be achieved domestically". The term 'achieved domestically' is not defined and could lead to a number of interpretations. It is also unnecessary as the locationally constrained requirements are picked up in 3.11,(2),(b) with use of the term 'there is a functional or operational need for the new use or development to be in that particular location'.

Clause 3.15 Existing activities affecting SNAs

We generally support the recognition of existing activities provided in Clause 3.15, however should the extension of existing activities not meet the criteria provided in 3.15,(2), they should at least be treated as if they are new activities and covered under 3.11. Clause 3.15,(3) should be amended to read "If an existing activity does not meet

the conditions described in subclause (2), the adverse effects of the activity on the relevant SNA must be managed in accordance with clause 3.10. and 3.11.”

Clause 3.16 Maintaining indigenous biodiversity outside SNAs

We support the wording of Clause 3.16.

Appendix 3 and 4: Principles for biodiversity offsetting and compensation

We agree that establishing principles for biodiversity offsetting and compensation will help in providing consistency of approach across territorial authorities. We generally support the principles outlined in Appendices 3 and 4.

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