

Submission on the discussion document on potential amendments to the NPS-HPL

October 2023

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.

Key points of our submission

- We believe the best solution to address issues relating to intensive indoor primary production and greenhouses is to amend the definition of highly productive land (HPL). Should this option not be preferred, an exception for these activities should be provided for in Clause 3.9(2)(j).
- The current exception in Clause 3.9(2)(j)(iv) does not go far enough to provide for wider quarrying activities that support aggregate extraction and as such should be changed to provide for support activities.

We make the following submission in relation to [Potential amendments to the National Policy Statement on Highly Productive land \(NPS-HPL\): discussion document](#).

Intensive indoor primary production and greenhouses

The discussion document notes that the definition of land-based primary production in the NPS-HPL has been drafted to prioritise HPL for use in land-based primary production, activities that use and rely on the soil. The National Planning Standards, however, provide a wider scope for activities defined as 'primary production'. It further states that Intensive indoor primary production and greenhouse operations could potentially result in the permanent loss of HPL.

The current discussion document places a significant focus on land based primary production and reliance on use of the soil. However, this is misaligned with the original intent of the NPS-HPL, which aimed to protect HPL for future primary production (which recognised that other factors in addition to soil determine the productive capacity of land for primary production). Intensive indoor primary production and greenhouses, in our opinion, is considered to be an appropriate use and development of HPL for productive purposes.

Instead of the options provided in the discussion document, we recommend that the definition of primary production as used for the NPS-HPL is clarified and aligned with the

original intent of the NPS-HPL and the national planning standards for consistency, and to recognise the full range of primary production that should be enabled through the NPS-HPL and associated definitions.

Lack of clarity in Clause 3.9(2)(j)(iv)

The discussion document states that:

“The lack of clarity about the consent pathway for new specified infrastructure could also lead to this clause being applied inconsistently in district plans and decision-making across the country. The clause relating to specified infrastructure in the NPS-HPL is not consistent with the way other recent national direction has provided consent pathways for new specified infrastructure. An amendment is also needed to align with work that is ongoing to amend national guidance to provide a consistent straightforward consent pathway for Renewable Energy Generation (REG) and associated electricity transmission.”

The same applies to quarrying activity which is included in Clause 3.9(2)(j)(iv). The undefined term “aggregate extraction” is used rather than quarrying activities which is used in more recent national policy instruments such as the National Policy Statement for Freshwater and is also defined in the National Planning Standards.

Quarrying activity

Over 300 active quarries in New Zealand (33%) are on or intersect with LUC 1,2,3 land including significant contributors to the Auckland and Waikato markets, Smythe’s and Whitehall Quarries, Otaki Quarry near Wellington, and Poplar Lane quarry in the Bay of Plenty. Appendix 2 contains a map of the Canterbury region showing those quarries on LUC 1,2,3 land and therefore directly impacted by the NPS HPL.

Clause 3.9(2)(j)(iv) states the following:

“Aggregate extraction that provides significant national or regional public benefit that could not otherwise be achieved using resources within New Zealand.”

Taking Clause 3.9(2)(j)(iv) literally, this would exclude other essential ancillary activities that must be undertaken to be able to extract aggregate, including removal of overburden and creation of haul roads, and placement of cleanfill. We have already seen an inconsistent decision on what this term means in a resource consent hearing for the Peach Island quarry in Tasman, as an example (appendix 1). An extract from this decision is attached to this submission and highlights the problem of using undefined terms and wording that does not reflect the intent of the exception clause. The term aggregate extraction should be replaced with quarrying activities.

The phrase “could not otherwise be achieved using resources in New Zealand” is both ambiguous and unnecessary in terms of quarrying activities. Taken literally there will never be another quarry approved on HPL as there will always be resources elsewhere, albeit that they may be difficult to access, very expensive to cart long distances and create significant increases in carbon emissions from transport. Aggregates are locationally constrained, i.e.,

they are located where geology dictates, and therefore rock suitable for use in construction is not available everywhere. The intent of Clause 3.9(2) is to provide a consenting pathway for those developments that need to occur on HPL under certain circumstances.

The lack of clarity about the consent pathway in Clause 3.9(2)(j), including that for quarrying, could lead to this clause being applied inconsistently in district plans and decision-making across the country. The clause relating to aggregate extraction, like specified infrastructure, in the NPS-HPL is not consistent with the way other recent national direction has provided consent pathways for quarrying activities.

General comments

New Zealand needs a secure supply of quarry materials for affordable housing and infrastructure, now and for future generations. In order to achieve this, a number and range of quarries on suitable geological resources are necessary close to main centres where construction is taking place.

We consider it imperative that local authorities are directed to protect key resource areas and enable their development, including as a use of highly productive land. Quarries are mostly located in rural areas and need protection from encroachment of non-compatible land uses such as housing, reduction of reverse sensitivity potential, and to enable the expansion of these resources and development of new greenfield resources. We understand that the scope of the consultation is to address:

- 1) The lack of a clear consent pathway for construction of new specified infrastructure on HPL in Clause 3.9(2)(j)(i).
- 2) The lack of a clear consent pathway for developing and relocating intensive indoor primary production and greenhouses on HPL.

The proposed amendments however do not go far enough in terms of clarifying the exceptions provided for in Clause 3.9(2)(j).

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Appendix 1:

CJ Industries - Peach Island – Decision 29 June 2023 (extract)

372. The Applicant's evidence on this matter was summarised in legal submissions, which considered that the proposal meets part (iv) of sub-clause 2(j). The Applicant legal submissions and planning evidence considers there is a functional or operational need for the aggregate extraction to be located at the site (which I have found to be HPL). The Applicant also considered that the aggregate extraction provides significant regional public benefit that could not otherwise be achieved using resources within New Zealand.

373. At this juncture I note an important point. The Applicant's position that the aggregate extraction meets part (iv) fails to recognise that the proposal also includes deposition of clean fill which is a separate activity. This activity is not specifically listed in sub-clause 2(j). Therefore, I am unable to accept the Applicant's position that the proposal that I am considering meets the exemption provided by sub-clause 2(j).

374. With regard to aggregate extraction alone, I accept based on the evidence I heard that there is a functional or operational need for extraction to occur where the aggregate is located.

375. In spite of my finding that the clean fill activity is not specifically listed if, even if it was listed I do not accept that with regard to aggregate extraction there is significant regional public benefit that could not otherwise be achieved using resources within New Zealand.

376. Ms Gepp asserted that the Applicant's evidence demonstrated that alternative locations or sources of aggregate are not feasible or would have significantly higher transport costs and emissions in comparison to Peach Island and reinforces that the proposal will provide significant regional public benefit that could not otherwise be achieved using resources within New Zealand. This relied on the evidence of Dr Kaye- Blake.

377. Paragraph 7.21 of Ms Solly's s42A Report Addendum addresses this and stated "the Applicant has provided evidence from Mr Kaye-Blake (the economic evidence) which hazard outlines the economic benefit of the proposal. However, this does not demonstrate that there is 'significant national or regional benefit that could not otherwise be achieved using resources in the district', let alone within New Zealand."

378. Whilst I accept that there would be higher transport costs and more emissions from sourcing gravel further afield, I do not accept that avoiding higher transport costs by allowing gravel to be extracted at the site translates to a public benefit let alone a significant public benefit. I heard that the extra transport costs are passed onto the purchaser of the gravel. Avoiding these costs benefits the end user of the gravel not the public.

379. Dr Kaye-Blake stated that the emission costs avoided were an environmental benefit. The purpose for seeking reduction in greenhouse gas emission is to attempt to avoid climate change. Reducing greenhouse gas emissions is a global issue. I accept that there may be

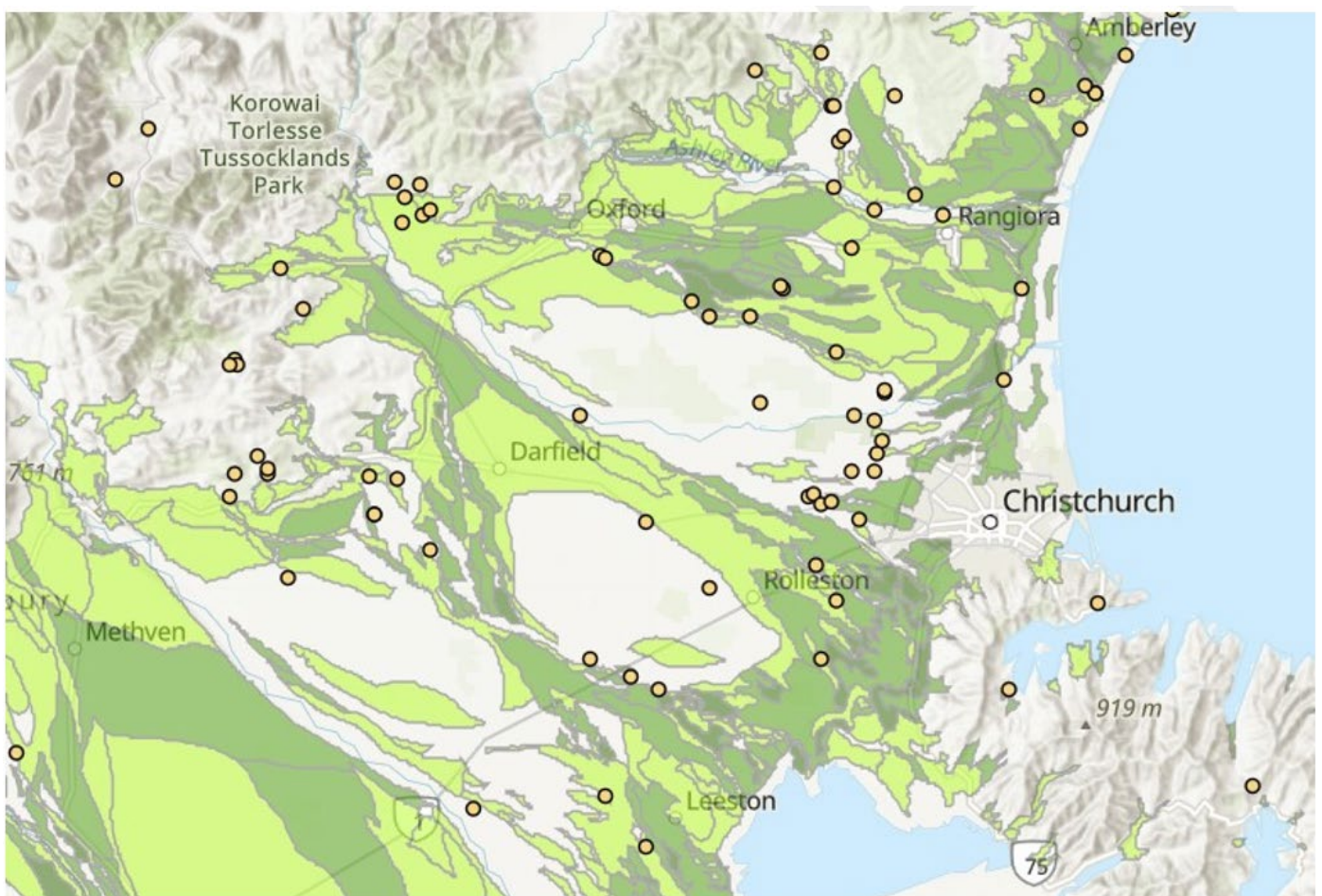
a public benefit from reducing greenhouse gas emission but from a regional perspective, I cannot accept that the saving in greenhouse gas emissions (which would be insignificant at a global scale) would create significant public benefit to the Tasman District⁶³.

380. Mr Scott's evidence also addressed this issue. He stated⁶⁴ that further aggregate sources are needed to deliver essential public infrastructure now and, in the future, and that there is a serious shortage of accessible aggregate within the region. He considered⁶⁵ it is also important to note the regional public benefit stemming from the role of aggregates in strengthening resilience to natural hazards and climate change.

381. Whilst I accept that there will be an element of public benefit as outlined by Mr Scott, his evidence did not demonstrate that there will be a significant regional public benefit

Appendix 2:

Canterbury Quarries and their impact on Highly Productive Land:



LUC 1 ■ LUC 2 ■ LUC 3 ■

Quarries are represented by the yellow dots on the map.