

Submission on the national direction packages – Infrastructure and development, Primary sector and Freshwater

July 2025

Introduction

The Aggregate and Quarry Association (AQA) is the industry body representing construction material companies which produce an estimated 48 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

- 1) We applaud this suite of changes to national direction proposed by the Government to improve infrastructure planning and delivery, enable development, and unlock growth in the primary sector.
- 2) We support direction to decision-makers to recognise and enable the importance of infrastructure supporting activities, such as quarrying, to the timely completion of infrastructure projects.
- 3) We support expanding the test for priority activities to a 'functional need or operational need' to locate in the coastal marine area.
- 4) We support replacement of the undefined term "aggregate extraction" with the existing definition of quarrying activities contained in the national planning standards.
- 5) We support removal of the requirement that applicants must demonstrate the benefits of the activity "could not otherwise be achieved using resources within New Zealand".
- 6) We propose changes to the wording in section 3.9 of the National Policy Statement for Highly Productive Land (NPS-HPL) to clarify that section 3.9 applies to district plans and not Resource Management Act Section 104 consent application assessments.
- 7) We support making the gateway tests for quarrying in the National Policy Statement for Indigenous Biodiversity (NPS-IB) more enabling and aligning them across national direction NPS-IB, NPS-HPL, Resource Management (National

Environmental Standards for Freshwater) Regulations 2020 (NES-F), and National Policy Statement for Freshwater Management (NPS-FM).

8) The NPS-FM should be amended to create a new process for deviating from nationally defined thresholds or detailed methods for monitoring attributes.

9) We agree that there is a need to simplify fish passage regulations in the NES-F.

We make the following submission in relation to national direction packages – Infrastructure and development, Primary sector, and Freshwater.

Proposed National Policy Statement for Infrastructure (NPS-I)

We support an NPS-I as it will provide a nationally consistent approach to enable and protect national infrastructure and infrastructure servicing every community in New Zealand.

We support the inclusion of infrastructure supporting activities, including quarrying activities, to define activities that are independent of infrastructure but also necessary for infrastructure maintenance, upgrading and construction that should be enabled as per Policy 4, Enabling the efficient and timely operation and delivery of infrastructure activities.

Policy 4 should give direction to decision-makers to recognise and enable the importance of infrastructure supporting activities, such as quarrying activities, to the timely completion of infrastructure projects.

Quarry materials are not universally available and can only be sourced from where they are located (locationally constrained due to geology). Without a consenting pathway that provides for adequate access to resources at workable locations, there is the real risk of losing access to such proximate resources.

The NPS-I should include references to 'quarrying activities' as a subset of the 'Infrastructure supporting activities'. This definition clarifies the nature and extent of quarrying activities relevant to infrastructure supporting activities.

The proposed definition D9, Infrastructure supporting activities, should be amended by replacing the phrase "and may include quarrying activities" with 'such as quarrying activities'.

Amendments to the New Zealand Coastal Policy Statement 2010

We support the strengthening of wording in Policy 6 to elevate the importance of priority activities in the coastal environment, such as quarrying activities, in decision-making which should soften how the 'avoid' policies are applied.

As mentioned above, quarry materials can only be sourced from where they are located so we support expanding the test for priority activities to a 'functional need or operational need' to locate in the coastal marine area (CMA). This will enable decision-makers to also consider any technical, logistical or operational characteristics or constraints (eg, time, cost, safety) that make locating in the CMA necessary.

Amendments to the National Policy Statement for Highly Productive Land 2022

Much land classified as Land Use Class 3 (LUC3) is not highly productive and we therefore support removal of LUC3 land from how highly productive land (HPL) is defined.

We support replacement of the undefined term “aggregate extraction” with the existing definition of quarrying activities contained in the national planning standards, which removes ambiguity and clarifies that ancillary activities associated with the extraction can occur provided conditions in clause 3.9(3)(a) and (b) are met relating to minimising the loss of HPL and avoiding reverse sensitivity.

The words “public benefits” should be removed from the gateway test in the NPS-HPL because it is used to describe the benefit of quarrying. This change is proposed in the NPS-IB to align with the approach in other national direction.

We have included recent examples of how these terms have been interpreted in Appendix 1.

Section 3.9 Protecting highly productive land from inappropriate use and development

We support amending the test for aggregate extraction to apply to quarrying activities as outlined above and to remove the requirement that applicants must demonstrate the benefits of the activity “could not otherwise be achieved using resources within New Zealand”. This clause has been misinterpreted in numerous resource consent applications and is meaningless in terms of creating a consenting pathway for quarries on HPL.

It was always intended that the NPS-HPL apply to district planning processes so that HPL could be identified and mapped to avoid significant loss of such land to non-compatible land uses. We believe a wording amendment to the commencement of clauses 3.9 (1), (2) and (3) is appropriate to clarify the intention of this clause. We therefore suggest starting each subclause as follows:

3.9 (1) *‘When preparing or changing any district plan,’* ~~Territorial~~ territorial..

3.9 (2) *A ‘For the purposes of (1) above,’* a use..

3.9 (3) *‘When preparing or changing any district plan,’* ~~Territorial~~..

These changes should clarify that section 3.9 applies to district plans and not RMA Section 104 consent application assessments.

Amendments to the National Policy Statement for Indigenous Biodiversity 2023

We support replacement of the undefined term “aggregate extraction” with the existing definition of quarrying activities contained in the national planning standards. This removes ambiguity, improves clarity and consistency, and further enables quarrying activities where they adversely impact on Significant Natural Areas (SNAs).

We support amending the gateway test for quarrying activities to remove the requirement that applicants must demonstrate the benefits of the activity “could not otherwise be achieved using resources within New Zealand”, and to remove public

benefits from the tests. This will provide consistency of the gateway test across the NPS-IB, NPS-HPL and NPSFM.

In addition, clause 3.11(1)(c) should be removed as it duplicates the operational need test. This clause currently states:

“there are no practicable alternative locations for the new subdivision, use or development.”

This clause is also not included in the NPS-FM nor NPS-HPL and therefore for consistency should be removed.

Amendments to the National Policy Statement for Freshwater Management 2020 and to the Resource Management (National Environmental Standards for Freshwater) Regulations 2020

We support amendment to Section 45A(6)(b) to add ‘operational need’ so it reads “satisfied itself that there is a functional need or operational need for the quarrying activity in that location”. This change addresses the locational constraints of quarrying activities and will provide consistency of the gateway test across the NPS-IB, NPS-HPL and NPS-FM.

Discussion document on Freshwater

Part 2.3: Providing flexibility in the National Objectives Framework

We agree that some attributes and nationally defined thresholds may not be appropriate, nor need to be managed, to achieve the desired outcomes in particular catchments. Also, councils and communities can identify additional attributes and/or thresholds that are relevant locally.

The NPS-FM should be amended to create a new process for deviating from nationally defined thresholds or detailed methods for monitoring attributes.

Part 2.6: Simplifying the wetlands provisions

We agree that the definition of “natural inland wetland” in the wetland regulations is too complex, and that its exclusion of wetlands dominated by pasture has led to complex ecological assessments being necessary to determine whether the regulations apply.

We support defining induced wetlands as wetlands that have developed unintentionally as an outcome of human activity for purposes other than creating a wetland or water body and excluding these from wetland provisions in the NPS-FM and NES-F, except where a council identifies them as regionally significant.

Part 2.7: Simplifying the fish passage regulations

We agree that there is a need to simplify fish passage regulations in the NES-F.

Temporary structures (eg, used in temporary works like gravel extraction) need to be treated differently to permanent structures, and this should be achieved via a new

permitted activity standard in the NES-F. We recommend the following wording for such a permitted activity status:

'Temporary culverts to enable gravel extraction from the bed of a river are a permitted activity subject to compliance with the following standards:

- a. The culvert is in place for no more than 30 days, and*
- b. The activity is undertaken more than 50 metres from any lawfully established dam, weir, culvert crossing, bridge, surface water intake plant or network utility pole or pylon, more than 150 metres from any lawfully established water level recorder and more than 7.5 metres from any existing defences against water, and*
- c. The activity is not undertaken in any inanga spawning habitat during the period of 1 January to 1 June inclusive.'*

General comments

We applaud this suite of changes to national direction proposed by the Government to improve infrastructure planning and delivery, enable development, and unlock growth in the primary sector.

These changes should provide for faster and simpler approval of quarries and aggregate extraction activities necessary for the delivery of aggregates (including sand) to nationally and regionally significant projects. Aggregates and sand are on the Government's Critical Minerals List and form the foundation of every road and building, either directly or as part of materials such as concrete.

Additionally, as catastrophic events in recent years have highlighted, the impacts of climate change, including rising sea levels, will put added pressure on rock supply for sea walls, riverbank protection and restoration, and other climate adaptation solutions.

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Appendix 1

CJ Industries – Peach Island resource consent application

In his decision on 29 June 2023, the Independent Commissioner considering this resource application interpreted the NPS-HPL provisions as follows:

- 10) In relation to aggregate extraction, the Commissioner determined that whilst the extraction of aggregate meets part (iv), the proposal also includes deposition of cleanfill (overburden stockpiling) which is a separate activity. This made the exemption for aggregate extraction unworkable as it did not cover activities associated with aggregate extraction.
- 11) In relation to the public benefit test, the Commissioner determined that whilst there would be higher transport costs and more emissions from sourcing gravel further afield, he did 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. 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.
- 12) In spite of his finding that the cleanfill activity is not specifically listed, even if it was listed, he did 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.

The decision was appealed to the Environment Court and in their decision on 26 June 2025, the Environment Court granted consent for any future proposed quarrying activity based on the premise that it is provided for, and therefore consistent with, provisions of the NPS-HPL. The Environment Court determined the following:

- 1) The relevant question is whether the public benefit could be achieved using alternative resources within New Zealand, not merely whether aggregate could be sourced elsewhere. Given the high transport costs associated with aggregate, sourcing it from distant sites can reduce its public benefit. This understanding is reflected in cl 3.9(2)(j)(iv) of the NPS-HPL, which deliberately refers to whether the public benefits, rather than just the material, could otherwise be obtained elsewhere.
- 2) The court agreed that, in relation to the gateway test, there is both a functional and operational need for the proposed activity to occur at the site as that is where the aggregate is located. Further, they accepted that alternative locations had been considered but are impracticable.
- 3) The court accepted also that the aggregate resource will have a regionally, if not nationally significant benefit in meeting current demand for this resource, the various uses of which will have positive benefits for the wider public not just the appellant. The proposal involves aggregate extraction that provides significant

national or regional public benefit that could not otherwise be achieved using resources within New Zealand.

The original decision and subsequent overturning by the Environment Court highlight the problems with the currently worded NPS-HPL. Changes being proposed within this consultation will clarify the intent of the exception pathway for quarrying activities and ensure consistency across the NPS-FM, NPS-HPL and NPS-IB.

Expert Consenting Panel decision on Brookby Quarry Stage 3 dated 2 October 2024

This refers to a decision of an Expert Consenting Panel constituted under the Covid-19 Recovery (Fast-track Consenting) Act 2020 that was released following the hearing prior to final reply submissions.

The panel addressed the phrase “provides a significant national or regional public benefit that could not be achieved using resources within New Zealand” as it is used in cl 3.11 of the NPS-IB in the context of addressing a functional or operational need for an activity to locate in a specific location.

The panel stated that whether there is “significant national or regional public benefit” requires consideration, not just of availability of the resource but also the accessibility, local supply, pressure on the roading network, savings in freight costs, road wear and tear, and emissions. The panel explained as follows:

significant public benefit provided by the proposal that is the “yardstick” and that “resources within New Zealand” should be considered adopting a “real-world” approach with reference to consented and accessible aggregate extraction resource.

This decision also highlights the problem with interpretation of the term “benefit that could not be achieved using resources within New Zealand.” This term should be removed from the NPS HPL and NPS IB as is proposed within this consultation.