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To: [RPS](#)
Subject: Submission Proposed Otago Regional Policy Statement
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Attachments: [ORPS Submission Sept 2021.pdf](#)

Attached please find our submission on the proposed Otago Regional Policy Statement.

Regards,

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SUBMISSION ON THE PROPOSED OTAGO REGIONAL POLICY STATEMENT

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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

The Otago Region has experienced considerable growth over the past 5 years, experiencing the country's third highest growth rate of 2.4%. Mid-range projections suggest that the region's population will increase by 47,600 (20%) over the next 30 years.

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. New Zealand 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.

Quarrying is a highly productive use of land and in most cases is a temporary land use, with site restoration a critical element to ensure that land is available for future generations. In many cases, site restoration can result in the delivery of land for future primary production or valuable new habitats, contributing towards national biodiversity targets and wider 'net gain' ambitions.

We make the following submissions in relation to the proposed Otago Regional Policy Statement (pORPS).

General comments

The pORPS rightly places a lot of importance on protecting Otago's natural resources, as reflected in the mihi and long-term vision. Aggregate resources are a valuable natural resource that is essential to society. They are limited in quantity, location and availability. They can only be sourced from where they are located and where the industry is able to access them. Quarrying is therefore, both a functionally and operationally constrained activity. It is therefore critical that planning is streamlined, and that 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 completed.

Highly Productive Land

Outside of mining, quarrying is the most highly productive use of land for primary production in the Otago region. In 2016/17 the revenue per land mass comparison showed the following revenue generated per hectare from various primary production activities:

Dairy	\$ 6,928 /ha
Beef/lamb	\$ 749 /ha
Horticulture	\$ 10,166 /has
Quarrying	\$ 78,012 /ha

(Note: National Estimates calculated from available data)

While the pORPS considers highly productive land as that classified under the Land Use Capability (LUC) classification system, there are other land uses that can be highly productive. The reference to "highly productive land" recognises there are other factors in addition to soil that determine the productive capacity of land for primary production, and this is certainly the case with quarrying. These include factors such as climatic conditions, water availability, proximity to transport infrastructure and labour, location of aggregate sources, local demand, proximity to market (urban fringes) and potential for future productive use of the land once quarrying is completed.

Reverse sensitivity – when new land uses conflict with existing uses

An important issue for quarries operating in areas of both urban and rural growth is reverse sensitivity. This occurs, when a new activity (i.e. residential) sensitive to the effects of another existing activity (i.e. quarrying) locates itself in close proximity to the existing activity. Complaints from the new activity lead to restrictions or cessation of the existing activity. This has the potential to sterilise or prevent access to future greenfield resources and severely restrict or lead to the closure of existing quarries. This in turn leads to quarries having to locate further from urban areas resulting in increased costs for more remotely sourced aggregate, lost opportunities for the local economy, and an increased carbon footprint of transporting quarried materials.

Currently, the cost of a tonne of aggregate doubles when it must travel 30 kilometres from a quarry, with additional costs for each extra kilometre thereafter. By ensuring quarries are close to their markets transport costs, transport congestion and carbon emissions are significantly reduced.

It is important that this pORPS provides direction in planning for key resource areas, to protect existing and future quarries from encroachment of non-compatible land uses such as urban expansion and rural lifestyle developments, thus reducing the potential for reverse sensitivity effects to arise.

We acknowledge that the management of reverse sensitivity effects is not just about imposing constraints on new sensitive and potentially incompatible activities. The quarry industry works collaboratively with local communities and councils to reduce environmental impact to the extent practicable and meet legal requirements of environmentally sustainable operations.

Significant Natural Areas (SNAs)

We are extremely concerned that once SNAs are created, land users would be required to completely “avoid” impacting them. This would remove a consenting pathway to disturb SNAs and even where the impacts of any activity can be mitigated to the standard of no net loss, the activity would be prohibited. This ignores the fact that activities can, and do, operate while preserving and often enhancing indigenous biodiversity. For example, the creation of artificial wetlands to manage water run-off and biodiversity offsetting and compensation are common requirements for modern quarrying

There does not seem to be any analysis by the council as to how much land would be classified as Significant Natural Area under the pORPS, but by any assessment it will preclude quarrying over a large proportion of Otago. If quarrying were to be avoided on this land, the demand for aggregate for infrastructure, housing, natural disaster repairs, and climate change mitigation would be impossible to meet from domestic supply.

The existing, and partly operative 2019 Otago Regional Policy Statement recognises extraction proposals are locationally or functionally constrained and that they can only be sourced from where they are located and where the industry is able to access them. Policy 5.3.4: *Mineral and petroleum exploration, extraction and processing – recognise the functional needs of mineral exploration, extraction and processing activities to locate where the resource exists.*

This instrument also recognises extraction proposals should be able to access the full suite of effects management tools, provided important biodiversity values are still protected, ie use of the effects management hierarchy in all situations.

The intent of the existing ORPS could be achieved by amending the Ecosystems and indigenous biodiversity Policy ECO-04.

Recommendation:

We recommend that ECO-P4 (1) on Page 143 of the pORPS be amended to allow the Environmental Management Effects Hierarchy to be applied to:

“the development or upgrade of nationally and regionally significant infrastructure **and mineral extraction** that has a functional or operational need to locate within the relevant significant natural area(s) or where they may adversely affect indigenous species or ecosystems that are taoka”

Inconsistency with Central Government direction and policy

The pORPS is inconsistent with the direction being set by Central Government around the NPS Indigenous Biodiversity and the NES Freshwater Management regulations, particularly in the application of the Environmental Management Effects Hierarchy. On 25 May 2021 MfE released the following information:

“The Minister for the Environment, Hon David Parker, has heard concerns raised by the quarry, waste management, and mining sectors regarding the impact that aspects of the wetland regulations are having on their planning and operations. Concerns have also been raised by councils and infrastructure groups in relation to existing plans for housing development. The wetland regulations are part of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F).

Cabinet has considered the concerns and noted that there is a clear case for providing a consenting pathway for the affected sectors and projects described above. The Government accepts that there are constraints on where these activities/operations can be located, and that they provide necessary materials or services.

The proposal would apply the ‘effects management hierarchy’; and, in particular, the offset requirement that currently applies to consenting for specified infrastructure. This provides for no net loss of wetland extent as a result of providing a consenting pathway.”

This approach is also consistent with the recent Environment Court decision in the case *Brookby Quarries Limited v Auckland Council [2021] NZEnvC 120*. This case addressed the issue of the conflict between maintaining and protecting indigenous biodiversity and the locational needs of the extractives sector. The Court held that it was appropriate that the specific policy on significant ecological areas in the special quarry zone did not require the quarry owners to first avoid adverse effects. The Court did not accept submissions that there was a mandatory obligation on regional Councils to make objectives, policies and methods for the maintenance of indigenous biodiversity.

Whilst accepting that this was important, it was not an environmental bottom line, nor did they accept there were decisions on this point which they were bound to follow.

Mitigation, offsetting and compensation are important tools within the effects management hierarchy, and consistent with national direction.

These principles have also been identified in the proposed Natural and Built Environments Act Bill and other legislation destined to replace the RMA. This legislation is likely to supersede the pORPS, via a regional spatial strategy, and therefore needs to be considered in development of the pORPS.

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