

Submission from New Zealand Minerals Council to the Ministry for the Environment National Direction Packages – Primary sector July 2025

Introduction

1. New Zealand Minerals Council is the industry association representing the New Zealand minerals and mining sector. Our membership is comprised of mining companies, explorers, researchers, service providers, and support companies.
2. The Government is consulting on [new and amended national direction packages](#) to improve operation of the resource management system under the Resource Management Act (RMA) 1991.
3. We support the intent of the proposals to rationalise, clarify, and streamline the national direction framework.
4. We note that the national direction amendments should be consistent with intended proposals surrounding the upcoming RMA replacement.
5. We are submitting here mostly on the [Package 2: Primary sector](#). In addition, we make some comments on [Package 3: Freshwater](#) in relation to the definition of a natural wetland in Section 4 of this submission.
6. Our submission focusses on Part 2.5 of the Package 2 document, *which deals with* the proposed changes to the mining and quarrying provisions of the following national direction instruments:
 - National Policy Statement for Indigenous Biodiversity (NPS-IB)
 - National Policy Statement for Freshwater Management (NPS-FM)
 - National Environmental Standards for Freshwater (NES-F)
 - National Policy Statement for Highly Productive Land (NPS-HPL)
7. These instruments provide a consenting pathway for quarrying and mining, which enables consideration of mining and quarrying projects applying for consent. To access the consenting pathway, a consent application must first meet “gateway tests” before a consent application can be considered.
8. In general, we support the proposed changes that amend the gateway tests for the mining and quarrying sectors.
9. The changes mean the gateway tests for each are better aligned with each other and there is more clarity as to what is meant by some of the terminology.
10. By and large, we do not see the proposed changes as lowering the hurdles for projects to be given a consenting pathway (i.e. allowing them to apply for a consent).

11. We also note that providing the extractive sector with a consenting pathway does not necessarily make it easier for projects to be approved. There will still be mining and quarrying projects that will not be given a consent under these amended gateway tests.
12. While the Ministry for the Environment website indicates that further consultation is intended on Package 3: Freshwater through an exposure draft, we do not see the same commitment for packages 1 and 2.
13. We would welcome an opportunity to provide feedback on an exposure draft for all of the national direction instruments we are submitting on.
14. We are focused in our submission on the provisions relating to mining. We refer to the Aggregate and Quarry Association's submission when it comes to specific provisions relating to quarrying.

Section 1 – National Policy Statement for Indigenous Biodiversity 2023 (NPS-IB)

Issue: Mineral extraction and ancillary activities

15. The gateway test in the NPS-IB, allows a consenting pathway for mineral and aggregate extraction. However, the way it is written could be interpreted as applying to extraction only, not the ancillary activities associated with mining and quarrying. The same applies to the NPS-HPL, as discussed in Section 2 – National Policy Statement for Highly Productive Land 2022, following.

Discussion

16. We support the proposal to replace “mineral extraction” with “the extraction of minerals and ancillary activities” in *clause 3.11(1)(a)(ii)*.
17. We also support the replacement of “aggregate extraction” with “quarrying activities” which is defined in the National Planning Standards and which includes, in that definition, the ancillary activities needed to support aggregate extraction in *clause 3.11(1)(a)(iii)*.
18. As set out in the document, these changes would provide clarity and make the tests consistent with the NPS-FM which does not use these narrowly defined terms.
19. Importantly, the proposed terms would also recognise that broader mining and quarrying activities ancillary to the extraction itself need to be provided with a consent pathway to ensure efficient operation. For example, overburden placement areas and access roads; the use of land for processing, storage, water treatment, rehabilitation and landscaping; and buildings for offices and workshops associated with the operation of the mine. All of these things need to be located at the mine, or at least very close to where the extraction activity occurs.
20. Unlike “quarrying activities”, we note there is no definition of mining activities in the National Planning Standards which necessitates the proposed wording “the extraction of minerals and ancillary activities”.
21. In addition to the proposed national policy statement amendments, we recommend that officials, in conjunction with the industry, consider defining mining activities in the National Planning Standards, and ensure that the drafting of the definition provides for all of the activities associated with mining and its ancillary activities. This would provide more clarity under the new (and existing) resource management legislation.

Recommendation

We support proposed change 1 in [Attachment 2.5 \(NPS-IB\)](#) to replace “mineral extraction” with “the extraction of minerals and ancillary activities” in clause 3.11(1)(a)(ii).

We support proposed change 2 in [Attachment 2.5 \(NPS-IB\)](#) to replace “aggregate extraction” with “quarrying activities” in clause 3.11(1)(a)(iii).

We recommend that officials consider, in conjunction with the industry, defining mining activities in the National Planning Standards, providing for all of the activities associated with mining and its ancillary activities.

Issue: All other resources in New Zealand

22. The gateway test of the NPS-IB (and that of the NPS-HPL, see below) requires an assessment of all other resources in New Zealand.

Discussion

23. We support the removal of the phrase “... that could not otherwise be achieved using resources within New Zealand” in 3.11(1)(a)(ii) and (iii). Not only would this reduce the duplication of requirements, as specified in the documents, it would make the instruments consistent with the NPS-FM and NES-F which do not include it.
24. Taken literally, extraction activities can’t be approved if there are resources elsewhere in New Zealand, i.e. if there is another mineral deposit elsewhere in the country, there is no need for this one. Clearly this is problematic.

Recommendation

25. We support proposed change 3) in [Attachment 2.5 \(NPS-IB\)](#):

Remove the gateway test requiring assessment of all other resources in New Zealand by removing the wording “that could not otherwise be achieved using resources within New Zealand” from 3.11(1)(a)(ii) and (iii).

Issue: National vs regional significance

26. As the document states, the NPS-IB requires a mining project to provide significant national public benefit before it can be provided with a consenting pathway (clause 3.11(1)(a)(ii)). This is a higher test than for aggregate extraction which requires projects to provide a significant national or regional public benefit (clause 3.11(1)(a)(iii)).

Discussion

27. This higher threshold for mining compared with quarrying is discriminatory because a national significance test alone is a much harder to achieve than regional significance.
28. There is no justification for different treatment for mining of different minerals when it comes to the impacts on indigenous biodiversity. The regulations should be about addressing the effects of activities be it mining or quarrying, not the type of mineral being extracted or the type of extraction. The impact mining or quarrying / extraction might have on indigenous biodiversity (or highly productive land) does not differ according to what is being extracted.
29. We can only assume that when the NPSs were drafted, the authors had a prejudice against mining.

30. There are also definition problems. It is difficult to define where the line sits between national and regional significance. Does regional mean the regional council area or is it more local than that?
31. The same unwarranted discrimination against minerals occurs in the NPS-HPL regarding impacts on highly productive land; as discussed in Section 2, following. We note that the gateway test for the extractive sector in the NPS-FM 2020 does not discriminate in this way. The different treatment of minerals across the three instruments is arbitrary, and they should be made consistent.

Recommendation

We support proposed change 4) in [Attachment 2.5 \(NPS-IB\)](#) to include significant “regional” benefit in clause 3.11(1)(a)(ii).

Issue: Public benefit

32. To meet the gateway tests of the NPS-IB (and NPS-HPL as per Section 2, following) both mineral and aggregate extraction has to provide a public benefit. The NPS-FM and NES-F properly do not have this requirement.

Discussion

33. We support the proposal to replace “public benefit” with simply “benefit”. Removing this word does not imply that the benefits will only be private.
34. Enabling cost-effective extraction is in the public interest but the term public benefit is vague and undefined. In a market economy, if an economic activity provides a (private) benefit to those who undertake it, there is invariably a benefit to other stakeholders namely the employees, customers, suppliers, shareholders and local and central governments (i.e. respectively, well-paid jobs; the product being produced; the custom for suppliers of goods and services; return on investment; taxes, royalties and rates).
35. In addition, we note that in assessing the benefits of a mining project, this wide array of benefits to various stakeholders needs to be considered. This means the benefits of the resource to those that eventually purchase/use it, as well as the range of economic benefits arising from the extraction itself.
36. With regard to the latter, in many of the communities that the extraction occurs – often small provincial communities – the economic impacts are significant. There are also the benefits to the Government’s fiscal position (including local government) and, in many cases, to the country’s current account balance through foreign exchange earnings from the export of the resource, or savings from import substitution.
37. If a benefit is derived from the extraction there is no need to distinguish between public and private. To add the word public only adds uncertainty and the term public benefit may be confused with the term public good which has a wholly different meaning.

Recommendation

We support proposed change 4) in [Attachment 2.5 \(NPS-IB\)](#) to remove the term “public” because it is used to describe the benefit of quarrying and mining 3.11(1)(a)(ii).

Issue: Alternative locations

38. The gateway test of the NPS-IB includes an additional requirement that “there are no practicable alternative locations for the new subdivision, use or development” i.e. Clause 3.11(1)(c). This wording does not appear in the NPS-HPL or NPS-FM/NES-F.

Discussion

39. This requirement is obsolete because it is effectively already covered off in the previous clause, “there is a functional need or operational need for the new subdivision, use or development to be in that particular location” and so we recommend it be deleted.
40. Also, minerals are location specific. They are not universally available and can only be sourced from where they are located (locationally constrained due to geology.) The term “practicable alternative locations” is too subjective.
41. The document does not propose this “alternative locations” test be deleted but we submit that it is an additional change that should be made. Its removal would align with the NPS-HPL and NPS-FM/NES-F.

Recommendation

We recommend deletion of Clause 3.11(1)(c) of the NPS-IB, “there are no practicable alternative locations for the new subdivision, use or development”.

Issue: Principles of offsetting and compensation

42. Proposed changes relating to the NPS-IB are helpful insofar as they provide an exemption pathway for extractive activities that enable biodiversity offsetting and compensation. However, industry experience is that in practice the exemptions are often rendered ineffective in a consent context by the implementation of [Appendices 3 and 4 of the NPS-IB](#), i.e. the principles of offsetting and compensation.

Discussion

43. Appendix 3: Principles for biodiversity offsetting and Appendix 4: Principles for biodiversity compensation are not part of the consultation but we submit that they be reconsidered to make the exemption pathway workable.
44. These principles are impossible to navigate and effectively impose an “avoidance” approach to biodiversity effects management. Our original 2022 [submission on the NPS-IB](#) had identified this as a risk and we believe our concern has proved justified.
45. We consider that without modification to the NPS-IB Appendices, the Package 2 changes won’t facilitate mining activities as intended. We propose working with officials and New Zealand Minerals Council members to provide some redrafted principles for biodiversity offsetting and compensation for Appendices 3 and 4.

Recommendation

Officials invite New Zealand Minerals Council and its members to provide some redrafted principles for biodiversity offsetting and compensation as set out in Appendices 3 and 4 of the NPS-IB.

Section 2 – National Policy Statement for Highly Productive Land 2022 (NPS-HPL)

Issue: Mineral extraction and ancillary activities

46. As with the NPS-IB, the gateway tests for the NPS-HPL refers to mineral and aggregate extraction but these terms could be interpreted as applying to extraction only, not the ancillary activities associated with mining and quarrying.

Discussion

47. For the same reasons given in the NPS-IB section of this submission, we support the replacement of “mineral extraction” and “aggregate extraction” with “the extraction of minerals and ancillary activities” and “quarrying activities” respectively.

Recommendation

We support the proposals in [Attachment 2.4 \(NPS-HPL\)](#) to:

Replace the reference to “mineral extraction” with “the extraction of minerals and ancillary activities” in clause 3.9(2)(iii), and

Amend the test for aggregate extraction to apply to quarrying activities

Issue: National vs regional significance

48. As with the NPS-IB, the NPS-HPL discriminates against mining by requiring a mining project to provide significant national public benefit before it can be provided with a consenting pathway (clause 3.9(2)(j)(iii)). This is a higher test than for aggregate extraction which requires projects to provide a significant national or regional public benefit (clause 3.9(2)(j)(iv)).

Discussion

49. For the same reasons given above in the NPS-IB section of this submission (i.e. to remove discrimination against mining) we consider the test needs to be made consistent with the quarrying test to provide a significant national or regional benefit.

Recommendation

We partially support the proposed change b) in [Attachment 2.4 \(NPS-HPL\)](#) with regard to 3.9(2)(j)(iii).

We support the inclusion of the words “national or regional”. But the word “public” should be deleted.

Please note the discussion below regarding public benefit, as we believe a further change to this clause is required.

Issue: Public benefit

50. As with the NPS-IB, the NPS-HPL uses the term public benefit. For the same reasons given above in the NPS-IB section of this submission, we consider the word “public” should be removed.

Discussion

51. We note this change is proposed in the document (on page 43). But in [Attachment 2.4 \(NPS-HPL\)](#), mining and quarrying, 3.9 under b), the term “public benefit” is still used. We assume this is an oversight.

Recommendation

We recommend proposed change b) be amended to read:

*Amend the test for mineral extraction in clause 3.9 (2)(j)(iii) by replacing it with the following test:
“proposals that provide a national or regional ~~public~~ benefit”.*

Issue: All other resources in New Zealand

52. As with the NPS-IB, the NPS-HPL requires an assessment of all other resources in New Zealand.

Discussion

53. For the same reasons given above in the NPS-IB section of this submission (i.e. to reduce duplication and improve consistency) we support the removal of the phrase “... that could not otherwise be achieved using resources within New Zealand”.

Recommendation

We support proposed change a) in [Attachment 2.4 \(NPS-HPL\)](#)

Amend the test for mineral extraction in clause 3.9 (2)(j)(iii) by removing the test that requires applicants to demonstrate the benefits of the activity “could not otherwise be achieved using resources within New Zealand”;

Issue: Land Use Capability Class 3

54. We support removal of Land Use Capability Class 3 (LUC 3) land from how highly productive land (HPL) is defined, as set out in [Attachment 2.4 \(NPS-HPL\)](#)

Discussion

55. We agree with concerns that the inclusion of land classified as LUC 3 land in the NPS-HPL may overly restrict the supply of greenfield land, which may be suited for other activities, including mining and quarrying. It is also notable that a significant amount of LUC 3 land cannot be considered highly productive.
56. Highly productive land is protected under the RMA with the objective of keeping this land in primary production. We point out that land containing minerals is highly productive and is in fact the most productive available land use.
57. Mining revenue per hectare of land is higher than other primary production while the resource is in place, including dairying and horticulture. At the end of a mine’s life, the land can be restored back to pasture for agriculture to resume.
58. Ideally, the resource management system should not attempt to specify or direct development outcomes that are better determined by landowners and developers themselves in response to demand. However, given the practicalities of the issue at hand, as a solution, we support the *removal of LUC 3 land from the definition of highly productive land*.

Recommendation

We support removal of LUC 3 land from how highly productive land (HPL) is defined.

Issue: Applying to district planning processes not applications

59. It was always intended that the NPS-HPL apply to district planning processes and not RMA Section 104 consent application assessments. This was so that highly productive land could be identified and mapped to avoid significant loss of such land to non-compatible land uses.

Discussion

60. We believe a wording amendment in section 3.9 is appropriate to clarify the intention of this clause.

Recommendation

Amend 3.9 (1) so it says:

“When preparing or changing any district plan, Territorial territorial ...

Section 3 – National Policy Statement for Freshwater Management 2020 (NPS-FM) and (National Environmental Standards for Freshwater) Regulations 2020 (NES-F)

Issue: Operational or functional need

61. Changes to clause 3.22(1)(e)(iii) of the NPS-FM propose adding “operational need” so it reads “there is a functional need or operational need for the activity to be done in that location”.

Discussion

62. We agree with the document that this change is needed to make it consistent with the NPS-IB and NPS-HPL which provide for a functional need or operational need. It is also an important amendment in itself as it addresses the locational constraints of extractive activities.
63. “Operational need” is defined in the National Planning Standards definitions as meaning: “the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical, logistical or operational characteristics or constraints”.
64. The term is included in the National Planning Standards to cover situations where there are valid reasons why an activity should be enabled to occur in a particular location, for example there might be an operational need for a processing site to be located close to the mine, or an access road to provide access.
65. Because of the locational constraints of extractive activities, i.e. the minerals are where they are, there are no alternative locations for either the extraction or ancillary activities.

Recommendation

We support the proposed change to 3.22(1)(e)(iii) in [Attachment 2.6](#) (NPS-FM/NES-F) to add “operational need” so it reads “there is a functional need or operational need for the activity to be done in that location.”

Section 4 – Package 3: Freshwater – Simplifying the wetlands provisions

66. This section of our submission relates to [Part 2.6 of Package 3: Freshwater – Simplifying the wetlands provisions](#).

Issue: Definition of “natural inland wetland”

67. 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.

Discussion

68. Notwithstanding our recognition of the problem, we consider that removal of the pasture exclusion clause is likely to be problematic for the extractive sector, and we note the discussion document gives no indication as to what the revised wording would look like.
69. We believe a lot of the problem lies with the so-called pasture species list. In our view, widening the pasture exclusion (as opposed to removing it) and doing away with the pasture species list would result in a better outcome.
70. 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.

Recommendation

We oppose the removal of the pasture exclusion without further information. We are open to change in this area and request that officials work with New Zealand Minerals Council and its members to come up with some alternative wording to improve the workability of the definition. We support widening the pasture exclusion and doing away with the pasture species list.