Minerals West Coast submission to the Ministry of Cities, Environment, Regions and Transport on "New Zealand's New Planning System Testing the Approach to National Policy Direction"

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To: MCERT, via Citizens' Space, https://consult.environment.govt.nz/

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INTRODUCTION

Minerals West Coast welcomes the opportunity to submit to the Ministry of Cities, Environment, Regions and Transport (MCERT) on the "illustrative National Policy Direction".

It is noted that new NPD under the evolving resource management system will replace the numerous national policy statements and national environmental standards that sat under the Resource Management Act 1991 (RMA).

Reading the consultation document, the NPD will translate national priorities and direction set in law to those preparing regional spatial plans and other planning instruments, e.g. national standards.

The government is seeking feedback on "issues, gaps, trade-offs or areas for improvement".

About Minerals West Coast

Minerals West Coast is an industry organisation representing the shared and collective interests of people and businesses operating in the minerals sector of the West Coast region.

Our membership is diverse, spanning individuals engaged in part-time or fulltime minerals exploration and mining operations and associated services, through to small and medium-sized, family-owned enterprises, all the way to large companies with international shareholdings.

Explorers and miners on the West Coast produce, or seek to produce a variety of minerals via a range of methods. This includes gold from alluvial and hard rock deposits, sub-bituminous coal as a source of energy for food production and space heating, bituminous coal for steelmaking, aggregates and gravels for roading and

construction, limestone for fertiliser, pounamu (often as a by-product of gold mining), and mineral sands producing industrial minerals and rare earth elements.

West Coast miners are concerned about the time and cost it takes to gain resource consent for relatively straightforward small-scale operations. The RMA system was not proportional regulation.

In terms of effects, the key issues alluvial gold miners deal with are land disturbance through earthworks and progressive site rehabilitation, including with native plantings; and freshwater management, in particular, water quality. These effects on the environment lend themselves to being dealt with by way of national standards, and NPD looks to enable that.

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KEY POINTS

Minerals West Coast generally supports the illustrative NPD, including the structure of cross-cutting themes, followed by five specific themes, which include "Theme 4: Resources - quarrying, mining and waste".

The scope of this submission is limited to issues concerning mining (including quarrying), and energy.

Operational or functional need

Note that mining and quarrying always have an "operational or functional need to locate, operate and traverse particular environments" (a consideration included for infrastructure). This is because these activities are restricted to locations where there are commercially viable mineral resources.

Breach of an environmental limit

In the event of a breach of an environmental limit, we support the use of action plans to restore the state of the affected environmental attribute to its limit, over specified timeframes - both for councils exercising functions, and for specific projects. This is to promote workability of the new resource management system.

For example, a coal mining project may have as part of its permit or consent conditions an undertaking to remediate acid mine drainage from historic, abandoned workings. Water quality in such situations would often be in breach of an environmental limit, and the miner can restore it to the limit over time. That can form a condition for consenting and permiting a new operation.

Reverse sensitivity

It makes sense to protect existing land-use operations from "reverse sensitivity" issues, e.g. new subdivisions placed next to a busy operating quarry. This will require the drafting of provisions in NPD, and in national standards, that are more directive than previous attempts under the RMA to deal with this issue.

Prioritisation in regional spatial planning

We support identifying areas of aggregate, limestone and coal for use in regional spatial planning. This can draw on existing geological maps.

This situation is different for other minerals. One aspect is that New Zealand does not need to know today where all of the economic mineral resources for the future are located; the industry needs the ability to discover and prove up resources over time. The planning framework needs to provide for agility in this space.

Managing conflicts between land uses

Note that mining is a temporary land-use. After mine closure, disturbed land is returned to a former use, or a new or enhanced use, e.g. fertile grazing land, plantation forestry, or native vegetation.

A common example on the West Coast is the harvest of an area of plantation pine forest. This provides a window of opportunity for alluvial gold mining (if the ground is prospective), before replanting the area in trees.

The provisions around managing compatible and incompatible land uses need to take into account this temporal aspect of mining and quarrying.

Of serious concern is that the illustrative NPD fails to manage potential or real conflicts between the aim of protecting biodiversity (Theme 5: Public values), and that of enabling economic development. This issue needs to be resolved within NPD, to guide national standards.

Reducing regulatory duplication

Minerals West Coast has long held the view that the current regulatory framework for resource management, and for the conservation of natural and historic resources is a result of the sequential and haphazard passing of legislation with little or no integration. For example, the Conservation Act 1987 has largely superseded the Wildlife Act 1953.

For the local government reform consultation, we proposed a trial of a "one-stop shop" for environmental regulation in the West Coast region. Please refer to that submission for an explanation of how a one-stop shop could work in practice.

Optionality in energy

In aspiring to be a low-carbon economy, New Zealand also needs to ensure energy availability, reliability and affordability. To achieve that requires "optionality" in energy policy, i.e. enabling new coal mining to provide affordable, reliable, and

effective energy for peaking electricity, and many industries, especially in the South Island which is facing an energy crisis as regards industrial process heat.

NPD needs to provide direction for regional spatial planning to enable optionality in energy supply.

Managing effects on biodiversity

Mining and quarrying projects lend themselves to a case-by-case approach to identifying the competing values in the land, and proposing measures for managing effects on those competing values, including indigenous biodiversity. Tools include offsets and compensation (subject to a review of the RMA National Policy Statement for Indigenous Biodiversity for workability).

Any attempt to identify tier 1, 2 or 3 biodiversity is doomed to failure because of a problem of where to draw the line around each tier.

CONSOLIDATED RECOMMENDATIONS

Minerals West Coast recommends to MCERT to adopt the following to improve the illustrative NPD, to guide drafting of the NPD:

1. Amend CC-Directive 4 (a) to say, “spatial plans must identify broad land use patterns, where **and when** incompatible land uses may conflict, and identify where **and when** separation and management of incompatible land uses is required”
2. Add to the end of CC-Directive 4 (b) the text, “and provide for transition between land uses”
3. Add to the end of CC-Directive 8 the words, “and provide for a one-stop shop approach to regulation”
4. Add text to the end of INFR-Directive 2.1 to say, “and a prosperous economy that delivers wellbeing to all New Zealanders”.
5. Add a limb (d) to INFR-Directive 2.4 to say, “recognise and provide for optionality in regional and national energy generation to deliver secure, reliable and affordable electricity”
6. Add to RW-Directive 1.1 a limb (a) (ii) to say, “recognise that quarrying and mining have an operational or functional need to locate, operate and traverse particular environments”
7. Amend RW-Directive 1.2 (a) to say, “spatial plans must identify existing regionally significant quarries and mines, **quarrying and mining sectors,** and potential new regionally significant mineral resources
8. Add to the end of limb (b) of RW-Directive 1.2 the word, “effectively”.
9. Delete PV-Directive 2.1 on classifying biodiversity into tiers, because it is unworkable

10. Amend PV-Directive 2.3 (b) to say, recognise the benefits that indigenous biodiversity provides for people and the economy, for tourism, forestry, farming, infrastructure, quarrying and mining, aquaculture and fisheries

11. Add definitions for exploration, mining, mining operations, and prospecting from s2, Crown Minerals Act 1991; and definitions of compatible land-uses and incompatible land-uses

SUBMISSIONS

Minerals West Coast supports the illustrative NPD as important to enabling economic growth and development, subject to activities managing environmental and human health effects.

In terms of how NPD would work in practice, the illustrative NPD offers an easy-to-read guide or indication for NPD. Some provisions will require more clarity and detail when drafting NPD to avoid ambiguity.

National Policy Direction cross-cutting directives (from p11)

> *CC-Directive 4:* To enable the use of land and support growth and change while minimising conflicts between land uses: a). spatial plans must identify broad land use patterns, where incompatible land uses may conflict, and identify where separation and management of incompatible land uses is required

This cross-cutting directive works closely with the concept of mapping mineral resources as an input into regional spatial planning.

Note that on the West Coast alluvial gold mining often occurs in tandem with commercial exotic pine forestry: after trees are harvested, there is an opportunity for mining before replanting in trees.

So, for mining and quarrying, the issue of compatibility of land uses has a temporal component, as well as a spatial one.

Relief sought: Amend CC-Directive 4 (a) to say, "spatial plans must identify broad land use patterns, where and when incompatible land uses may conflict, and identify where and when separation and management of incompatible land uses is required"

A question arises as to what is meant by "incompatible", particularly because the illustrative NPD fails to resolve interactions between protecting biodiversity (under Theme 5: Public values), and enabling development, i.e. mining (including quarrying).

Because mining and quarrying are temporary land-uses, there are pre-mining, during mining, and post-mining land-uses – all of which are compatible in a sequential sense, especially with the use of tools such as offsets and compensation.

Relief sought: Insert into the illustrative NPD definitions of "compatible" and "incompatible", taking into account the ability to sequence transitions between different land-uses at places in the case of mining and quarrying.

> *CC-Directive 4:* To enable the use of land and support growth and change while minimising conflicts between land uses: b) land use plans must use a range of planning tools and methods, including (where appropriate): iii. standards and methods to manage the external effects of land uses and improve compatibility between land uses [eg, noise insulation standards

Again, recall that mining and quarrying are temporary land-uses in the scheme of things. Operations supersede prior uses, and after end-of-life, land is returned to a former use, a new or an enhanced use, or a combination. So, at any one place, land-uses can change over time. Cross-cutting directives need to deal with this inherent aspect of mining and quarrying.

Relief sought: Add to the end of CC-Directive 4 (b) the text, "and provide for transition between land uses"

> *CC-Directive 8:* Land use plans and natural environment plans should avoid unnecessary duplication or inconsistent regulatory requirements in relation to activities regulated under other legislation.

This is a useful directive because as matters stand, mining and quarrying can face the following regulatory requirements in addition to resource management permits and consents:

- Conservation Act 1987 - concessions, eg for access to marginal strips, or for aircraft movements, or for ancillary infrastructure on conservation land such as haul roads, administration building, and car parks
- Wildlife Act 1953 – authorities for capturing and translocating wildlife, e.g. snails, lizards, kiwi, weka
- Crown Minerals Act 1991 - access to Crown land, including public conservation land, for Crown-owned minerals, eg river gravel extraction, alluvial gold mining
- Heritage NZ Pouhere Taonga Act 2014 – authorities for modifying archaeological sites or heritage sites

Relief sought: Add to the end of CC-Directive 8 the words, "and provide for a one-stop shop approach to regulation"

Theme 1: Housing and development (from p15); Sub-theme 3: Well-functioning rural areas (from p22)

> *HD-Directive 3.1:* To create well-functioning rural areas, land use plans must: a) enable primary production and associated processing activities and an appropriate mix of compatible residential, commercial, industrial and community activities, including papakāinga

It is noted that the definition of "primary production" includes mining and quarrying, as already provided for in the National Planning Standards. Supported.

Theme 2: Infrastructure (from p26); Sub-theme 2: Energy infrastructure (from p31)

The illustrative NPD states, "Secure, abundant and affordable energy is fundamental to building a strong, productive and resilient economy."

We agree, and ask how to achieve it, because New Zealand does not have this. The model practised by successive governments over decades has failed to deliver the energy that the economy and society needs for prosperity and wellbeing. This is despite New Zealand being richly endowed with natural resources, compared with most of the rest of the world: water, sun, wind, geothermal, coal and petroleum, and this highlights major and sustained policy failure over many decades.

> *INFR-Directive 2.1:* Spatial plans must identify opportunities to improve New Zealand's energy security, resilience, independence, and transition to a low carbon economy.

Relief sought: Add text to the end of INFR-Directive 2.1 to say, "and a prosperous economy that delivers wellbeing to all New Zealanders".

> *INFR-Directive 2.4:* To enable the renewable energy system to be significantly developed and expanded, land use plans and natural environment plans must: c) recognise and provide for renewable energy generation to have an operational or functional need to locate and operate where the renewable resource is located and available at a viable scale and quality to sustain the activity

This is useful, but not nearly enough to improve the energy sector's performance in New Zealand. The government needs to, among other things:

- enable the opening of new coal mines, especially in the South Island, to provide ongoing, reliable industrial process heat to industries
- drop investments in woody biomass because this is a diffuse, and inefficient source of energy that has to be dried before it can be used
- ensure rigorous investment stage-gates for government-funded, super-critical geothermal research – this holds promise, however, may fail to deliver
- nationalise the major gentailers, and change their predatory business model: instead of price gouging New Zealanders, the country should be delivering secure, abundant and affordable grid electricity to all New Zealanders
- promote rooftop solar electricity, and investigate improving feed-in tariffs to the national grid
- promote electric and hybrid vehicles, including by improving charging infrastructure
- cease public funding of speculative ventures into hydrogen fuel, which is an inefficient fuel

Relief sought: Add a limb (d) to INFR-Directive 2.4 to say, "recognise and provide for optionality in regional and national energy generation to deliver secure, reliable and affordable electricity"

Theme 4: Resources – quarrying, mining and waste from (p53); Sub-theme 1: Quarrying and mining (from p55)

> *RW-Directive 1.1:* To enable quarrying and mining activities to meet existing and future demand while managing unreasonable effects on people and the environment: a) land use plans and natural environment plans must: i. enable new quarrying, mining, associated

> infrastructure, ancillary activities, rehabilitation, and ongoing operations in identified locations, subject to effects being appropriately managed.

Supported. Missing is that this directive should also provide recognition that minerals prospecting, exploration, and mining (including quarrying) have an operational and functional need to be located where there are economic mineral resources, alternatively, to recognise these activities are locationally constrained, and provide for that in NPD.

Relief sought: Add to RW-Directive 1.1 a limb (a) (ii) to say, "recognise that quarrying and mining activities are locationally constrained, and have an operational or functional need to locate, operate and traverse particular environments"

> *RW-Directive 1.2:* To identify regionally significant mineral resources (including gravel in rivers and streams) and provide for their protection from competing land uses: a) spatial plans must identify existing regionally significant quarries and mines, and potential new regionally significant mineral resources

Note that, collectively, alluvial gold mining in the West Coast region is regionally significant. Spatial planning must recognise and enable this activity, which employs a significant number of West Coasters who also own their own homes, raise their families, and spend in, and otherwise contribute to the community.

Relief sought: Amend RW-Directive 1.2 (a) to say, "spatial plans must identify existing regionally significant quarries and mines, quarrying and mining sectors, and potential new regionally significant mineral resources

> *RW-Directive 1.2:* To identify regionally significant mineral resources (including gravel in rivers and streams) and provide for their protection from competing land uses: b) land use plans must protect identified regionally significant quarries, mines and mineral resources from competing land uses, including urban development and infrastructure, except where the infrastructure has an operational or functional need to locate within or near the resource and adverse effects on the continued operation, use, development, or expansion of the quarry, mine, or mineral resource are managed.

We agree that care needs to be taken when enabling infrastructure in the middle of operating mines. For example, it does not seem possible to run overhead telephone lines through an active quarry. Plan provisions need to prevent as far as practicable reverse sensitivity issues arising, placing an onus on careful drafting of NPD and national standards.

As stated above, note that mining and quarrying, like infrastructure, have an operational and functional need to be located in certain places, in the present case, where there are economic mineral deposits.

Relief sought: Add to the end of limb (b) of RW-Directive 1.2 the word, "effectively".

> *RW-Directive 1.3:* To support improved environmental outcomes over the life of a quarry or mine, land use plans and natural environment plans must: a) provide for progressive rehabilitation, including restoration, offsetting, and agreed post-extraction land uses, where these contribute to improved environmental outcomes

Mining and quarrying companies already carry out the above. It makes sense to make this best-practice explicit.

> *RW-Directive 1.4:* To provide for the long term availability and extraction of identified mineral resources that are necessary to support infrastructure, development and economic wellbeing, land use plans must: c) where conflict cannot be avoided, prioritise the long-term availability of known significant mineral resources where these are necessary to support infrastructure, development and economic wellbeing.

This is logical, and supported. The built environment is dependent on mineral resources as inputs, aggregate, steel and concrete being prime examples.

> *RW-Directive 1.5:* To manage adverse effects of quarrying and mining activities, including associated activities, on freshwater and the coastal marine area, natural environment plans must manage the negative effects on the natural environment in accordance with national standards.

Supported. This overrides previous government policy that made it all but impossible for quarrying to occur in or near wetlands. This was unworkable in certain parts of New Zealand, e.g. Westland, which because of its climate and geography is largely a wet land.

> *RW-Directive 1.6:* To provide for the continued operation of quarries and mines while progressing towards the achievement of environmental limits, natural environment plans must: a) provide pathways that enable quarries and mines to continue operating where environmental limits are breached, or are likely to be breached.

This provision is essential. Consider the situation where a coal mining company takes on the remediation of acid mine drainage of historic abandoned mines as part of the conditions of their consents and permits. Such will be in breach of a limit, with the objective of restoring water quality to regulatory standards over time.

> National standards for spatial planning that: · require spatial planning committees to identify and assess existing and future regionally significant mineral resources

Supported, as discussed above.

Theme 5: Public values (from p63); Sub-theme 1: Environmental and human health (from p66)

> In specified circumstances, limits may be breached [in accordance with standards]. In all other cases, if limits are breached or are likely to be breached then a target date must be set, and existing lawfully established activities may continue as long as there is environmental improvement over a set timeframe.
>
> Refer to Theme 2 – Infrastructure provisions, which provide for infrastructure.
>
> Refer to Theme 3 – Primary production provisions, which provide for primary production.

For consistency of the NPD as a whole, and workability for mining and quarrying, this text needs to also refer to Theme 4.

Sub-theme 2: Indigenous biodiversity (from p69)

> *PV-Directive 2.1:* To protect significant indigenous biodiversity and safeguard the life-supporting capacity of ecosystems, natural environment plans must: (b) categorise identified indigenous biodiversity into 'tiers' that reflect ecological value and vulnerability, and which

support proportionate protection, management and use, in accordance with national standards as follows:

i. tier 1 – the most significant (valuable or vulnerable) indigenous biodiversity, includes areas that are intact, irreplaceable, or vulnerable, where adverse effects should be avoided or stringently managed if use and development is enabled
ii. tier 2 – areas of valued indigenous biodiversity where some use and development can occur provided the management of effects is undertaken including offsetting and compensation
iii. tier 3 – areas where use and development are enabled with full flexibility to manage effects as appropriate.

The problem is how to decide on the contents of the three tiers of biodiversity. Where to draw the line between tier 1 and tier 2? This is a novel scheme, and could lead inadvertently on the part of legislators to the prevention of projects in situations where effects on biodiversity, while significant, are amenable to being managed to meet the purpose of legislation, e.g. via the use of effective offset and compensation approaches (contrast with RW-Directive 1.3, which provides for case-by-case management of the environmental effects of mining and quarrying).

Relief sought: Delete PV-Directive 2.1 because it is unworkable

> *PV-Directive 2.2:* Regional councils must ensure that environmental limits are set for indigenous biodiversity in accordance with national standards.

Easy words to write; another matter to achieve in practice. Our position has always been to take a case-by-case approach to projects, and decide them on the competing values in the land or water, and proposals for managing environmental effects.

If the government insists on the concept of environmental limits, as it has in the Natural Environment Act and the Planning Act, officials may draw on the extensive freshwater work of the Land and Water Forum carried out under the auspices of former environment ministers Dr Nick Smith and Amy Adams.

> *PV-Directive 2.3:* To enable the use and development of land and natural resources while achieving protection of significant indigenous biodiversity and safeguarding life-supporting capacity of ecosystems, natural environment plans must: (b) recognise the benefits that indigenous biodiversity provides for people and the economy, for tourism, forestry, farming, infrastructure, aquaculture and fisheries

This directive must include mining and quarrying for consistency with the NPD as a whole, as well as workability for existing and new mining and quarrying.

Relief sought: Amend PV-Directive 2.3 (b) to say, recognise the benefits that indigenous biodiversity provides for people and the economy, for tourism, forestry, farming, infrastructure, quarrying and mining, aquaculture and fisheries

> Refer to Theme 1 – Housing and Development and Theme 2 – Infrastructure for direction on managing conflicts between indigenous biodiversity outcomes, housing and infrastructure.

Missing in this text is an equivalent reference to mining and quarrying, for consistency with the NPD as a whole, as well as workability for existing and new mining and quarrying.

Relief sought: Add to the end of the above sentence “, and quarrying and mining”

Definitions (from p87)

Definitions are needed for minerals prospecting, exploration, and all mining and mining-related activities, as has been provided for quarrying.

Relief sought: Add definitions for exploration, mining, mining operations, and prospecting from s2, Crown Minerals Act 1991

ENDS.