
J Swap Contractors Limited

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1.0 Introduction

J Swap Contractors Limited (Swaps) is a member of the Aggregate and Quarry Association (AQA) and aligns itself with the AQA submission on the Draft National Policy Statement on Freshwater Management (NPSFM) and Proposed National Environmental Standards for Freshwater (NESF). Swaps seeks to provide feedback on the NPSFM and NESF, and the impact it may have on the mineral extraction (quarrying) industry.

Swaps is engaged in the extraction, processing and transporting of aggregate (crushed rock, gravel and sand), overburden and cleanfill; and has substantial investment in land and other capital assets in the quarry industry. Swaps currently operates ten hard rock quarries across the Bay of Plenty and Waikato regions, and ranks as fourth largest producer of aggregates by volume in New Zealand. Therefore, Swaps is a significant contributor to the economic growth and development of communities throughout the North Island, including specialized product for roads, rail and infrastructure development, as well as for housing and industrial building facilities. Quarries are important and necessary, as a large proportion of infrastructure cannot be built out of any other material other than locally sourced, quality rock.

Quarries need to be located close to the area of end use for transport efficiencies, and to minimize carbon outputs associated with excessively long cartage movements. However, the location is restricted by a number of dynamics including location of the aggregate rock source, topography (favourable slopes required), accessibility, and surrounding (neighbouring) land use activities. Where suitable rock is not locally available, product must be carted to those regions from quarries located elsewhere; with all the necessary (increased) transportation costs and associated implications in terms of affordable materials.

2.0 Draft NPSFM

The draft NPSFM adopts an approach of managing freshwater from the mountains to the sea, recognised as ‘ki uta ki tai’. Swaps recognises new requirements under the draft NPSFM to strengthen Te Mana o Te Wai as the framework for freshwater management, with better provision for ecosystem health (water, fish and plant life), and better protection for wetlands and estuaries, as well as better management of stormwater and wastewater, and protection of sources of drinking water. It is also acknowledged that the draft NPSFM seeks to address high-risk farming activities, limit agricultural intensification and improve farm management practices.

Of relevance to quarrying and mining, is how the new provisions affect (and possibly restrict) ongoing and future mineral extraction activities involving water takes, discharges to water,
stream/river diversions, groundwater pumping, and quarry expansion into areas with water bodies and wetlands nearby.

The aspect of reverse sensitivity is also relevant for existing operations and for authorised mineral extraction sites yet to commence, if subsequent decisions are made to identify certain water bodies or wetland areas as significant requiring avoidance of any loss or degradation. Reverse sensitivity is also relevant as a result of cumulative effects on water quality arising from subsequent discharges being allowed or considered upstream of a quarry/mining operation – which is already authorised to discharge treated stormwater and site related water used for dust suppression/crusher operations. If activities occur upstream of a quarry/mining site, and cumulative effects result in declining water quality in the vicinity of the quarry/mining site, then the quarry/mine should not be burdened with the responsibility, nor any added complexity when seeking any new/renewal water takes or consent for discharge of treated water. It would be unreasonable to require the existing quarry operation to avoid or restrict the current approved discharge due to upstream contributors seeking additional discharge consents/water takes.

The draft NPSFM introduces an ‘effects management hierarchy’ requiring in the first instance that adverse effects be avoided where possible, and if they cannot be avoided they should be remedied where possible, or mitigated if that is not possible. Offsetting is strongly endorsed. Offsetting can be considered if none of these approaches can be achieved, and if offsetting is not possible, then compensation is to be considered. Swaps supports the use of this approach in principle, however, instead of all/any adverse effects being avoided where possible, this should only be for significant adverse effects.

This hierarchical approach is preferable to adopting a highly restrictive approach that requires ‘avoidance of any loss or degradation’. Swaps seeks that rather than a blanket avoidance of loss or degradation to natural inland wetlands, there should be opportunity for alternative action, e.g. to have beneficial enhancement to wetlands where impacts on existing natural wetlands are unavoidable.

In this regard, it is preferable to aim for ‘no net loss’ instead of total ‘avoidance’, particularly in light of recent case law under the Resource Management Act 1991 (RMA) addressing objectives and policies seeking to “avoid”, and also the application of Part 2 RMA assessments for plan changes and consenting.

The NPSFM 2014 was amended in 2017 to strengthen recognition of the need for economic wellbeing, by adding new objectives to address water quality and water quantity respectively:

- Objective A4 states, “To enable communities to provide for their economic well-being, including productive economic opportunities, in sustainably managing freshwater quality, within limits”.
- Objective B5 states, “To enable communities to provide for their economic well-being, including productive economic opportunities, in sustainably managing fresh water quantity, within limits”.

The draft NPSFM has maintained this economic focus under Objective 2.1(c) as the third priority; this being after, firstly: the health and wellbeing of waterbodies and freshwater ecosystems, and then secondly: the essential health needs of people.

Objective 2.1 (c) states: “the objective of this National Policy Statement is to ensure that resources are managed in a way that prioritises:

a. First...

b. Second...

c. Third, the ability of people and communities to provide for their social, economic and cultural wellbeing now and in the future.”

This approach, does not have the same strength of focus on the economic wellbeing currently recognised in the NPSFM 2014. This objective should include recognition of ‘productive economic opportunities’ as well.

The associated policies in the draft NPSFM are not fully supported by Swaps where they adopt an approach of requiring ‘no further loss or degradation’ instead of considering the approach of ‘no further net loss’ in this regard.
The draft NPSFM sets out compulsory values in Appendix 1A and ‘Other values that must be considered’ in Appendix 1B; noting that it is yet to be decided which appendix should have ‘mahinga kai’. Swaps supports ‘mahinga kai’ (traditional provision of food, tools or other resources) being included under Appendix 1B, as the need to provide for mahinga kai, should not be used as a compulsory value to balance against/prevent necessary economic development; i.e. in certain situations, it would be unreasonable to use this aspect as a right of veto over a development. The assessment of the quality and location of mahinga kai can be subjective over time, and variable across a range of views. This variability is not certain enough for parties to move ahead with future development to provide for economic wellbeing of communities as a whole.

Accordingly, Swaps seeks changes to the draft NPSFM provisions to provide greater recognition of the economic importance and benefits of quarrying, to require protection from adverse effects of reverse sensitivity, and to adopt an approach of ‘no net loss’ rather than ‘no further loss or degradation’ regarding effects on waterbodies and wetlands.

3.0 Proposed NESF

The proposed NESF is a new planning instrument setting out regulations for the management of wetlands, river bed infilling, and fish passage. Farming activities are also captured. The proposed rules relate to:

- Vegetation destruction - in, or within 10 m of, any part of a natural wetland
- Earth disturbance - in, or within 10 m of, any part of a natural wetland
- Earth disturbance for drainage - in or within 100 m of any part of a natural wetland
- Water takes
- River bed infilling
- Culverts and weirs – includes permitted activity rules
- Farming

These rules identify certain activities as being Discretionary (not Non-complying or Prohibited), such as for flood control, significant infrastructure, and hydro schemes. However, quarrying plays a significant part in supporting the domestic needs of New Zealand; and by their very nature are limited in where they can locate, and involve mineral extraction - with all the associated disturbances to land, water and vegetation. They should **not, therefore be unduly restricted or required to avoid** vegetation destruction, general earth disturbance, earth disturbance for drainage, water takes (affecting natural wetlands) or infilling of a river or stream bed **where alternative options such as offsetting can be pursued**.

Accordingly, **provision should be made** in the respective rules for ‘quarrying to supply the domestic needs of New Zealand’.
4.0 Draft NPSFM and NESF Submission Points

The following submission points are made:

NPSFM Submission:

1. Swaps supports within the Objective 2.1 (c) the provision for the ability of people and communities to provide for their social, economic and cultural wellbeing now and in the future, provided it is amended to strengthen provision for necessary economic wellbeing and productive opportunities, as follows:

   **Objective 2.1**

   The objective of this National Policy Statement is to ensure that resources are managed in a way that prioritises:
   a) first, the health and wellbeing of waterbodies and freshwater ecosystems; and
   b) second, the essential health needs of people; and
   c) third, the ability of people and communities to provide for their social, economic, and cultural wellbeing, **including productive economic opportunities**, now and in the future.

2. Swaps seeks that Policy 8 is amended to adopt an approach of ‘no further net loss’ rather than ‘no further loss or degradation’ of natural inland wetlands, as follows:

   **Policy 8**

   There is **no further net loss** of natural inland wetlands.

3. Swaps supports Policy 9 in principle, relating to ‘no further net loss’ of streams.

4. Policy 13 is supported in principle, provided it is amended to strengthen provision for economic wellbeing and productive opportunities, as follows:

   **Policy 13**

   Communities are enabled to provide for their economic wellbeing, **including productive economic opportunities**, while managing freshwater in a manner consistent with Te Mana o te Wai and as required by the national objectives framework and other requirements of this National Policy Statement.

5. Clause 3.4(5) requires regional councils to insert certain wording into their regional policy statement requiring district plans to address cumulative adverse of land use on freshwater bodies/ecosystems/sensitive receiving environments from urban development. Clause 3.4(6) has similar requirements for territorial authorities to address cumulative effects of land use from urban development on waterbodies and sensitive receiving environments. Swaps supports both of these requirements for territorial authorities to address cumulative effects of land use from urban development on waterbodies and sensitive receiving environments. Swaps supports both of these requirements in principle, provided that a further requirement is added to both Clauses 3.4(5) and 3.4(6) which directs that **reverse sensitivity** is to be taken into account for all existing activities and approved activities yet to commence, particularly for productive economic activities.

6. Clause 3.7 identifies values and environmental outcomes for ‘freshwater management units’ (FMU), setting out how compulsory values in Appendix 1A are to be addressed; as are other values as set out in Appendix 1B (refer to Clauses 3.7(1a) and b,). Clause 3.7(2)c identifies the value of **Mahinga kai**. Swaps supports this value being considered in principle, provided it is included in **Appendix 1B for other values that must be considered**. It does not need to
be included separately in Appendix 1A for Compulsory values, as it is already covered there under the second compulsory value of ‘Human contact’.

7. Subpart 3 provides specific requirements, and under Clause 3.15(1) sets out the definition of the ‘effects management hierarchy’. Swaps supports this hierarchy in principle, provided that instead of all/any adverse effects being avoided where possible, this should only be for ‘significant adverse effects’. Amend Clause 3.15(1) for ‘effects management hierarchy’ to state:

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<tr>
<th>effects management hierarchy means an approach to managing the significant adverse effects of subdivision, use, and development that requires that:</th>
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<tr>
<td>a) <strong>significant</strong> adverse effects are avoided where possible; and</td>
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<tr>
<td>b) <strong>significant</strong> adverse effects that cannot be demonstrably avoided are remedied where possible; and</td>
</tr>
<tr>
<td>c) <strong>significant</strong> adverse effects that cannot be demonstrably remedied are mitigated; and</td>
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<tr>
<td>d) in relation to <strong>significant</strong> adverse effects that cannot be avoided, remedied, or mitigated, offsetting is considered; and</td>
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<tr>
<td>e) if offsetting is not demonstrably achievable, compensation is considered</td>
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8. Clause 3.15(2) adopts the same approach as Policy 8 requiring that loss or degradation of all or any part of a natural inland wetland is avoided. Swaps seeks that Clause 3.15(2) is amended to adopt an approach of ‘no further net loss’ rather than ‘no further loss or degradation’ of natural inland wetlands, as follows:

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<th>(2) Every regional council must include in its regional policy statement the following policy (or words to the same effect):</th>
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<td>“The impact on all or any part of a natural inland wetland is to avoid any further net loss of natural inland wetlands.”</td>
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9. Clause 3.16 “Streams” requires regional councils to include the following policy (or words to the same effect) in its regional policy statement:

- “The extent and ecosystem health of rivers and streams in the region, and their associated freshwater ecosystems, are at least maintained”.

10. This approach is supported by Swaps in principle, provided **provision is made for environmental offsets** and compensation where diversions, infilling and modifications are unavoidable. This also allows for beneficial enhancement through remedy and mitigation options where appropriate. Amend Clause 3.16(1) accordingly, and make any subsequent amendments required for Clause 3.16(3) relating to the effects management hierarchy.

11. This approach also supports Clause 3.16(4) requiring **no net loss** from permanently diverting or culverting a stream.

12. Clause 3.16(5) adopts a similar approach, however, Swaps also seek amendments to ensure that infilling of a river or stream bed is (also) possible where it is part of an activity required for domestic productive economic opportunities. Quarrying plays a significant part in supporting the domestic needs of New Zealand; and by their very nature are limited in where sites can be located, and involve mineral extraction - with all the associated disturbances to land, water and vegetation. They should not, therefore be unduly restricted, or required to avoid infilling of a river or stream bed.
5.0 NESF Submission:

1. Swaps seeks to ensure that any activity required for domestic productive economic opportunities is also included in the 'Discretionary Activity' related rules, where appropriate to avoid 'Non-complying Activity' status. Quarrying plays a significant part in supporting the domestic needs of New Zealand; and by their very nature sites are limited in where they can be located, and involve mineral extraction - with all the associated disturbances to land, water and vegetation. They should not, therefore be unduly restricted, or required to avoid vegetation destruction, general earth disturbance, earth disturbance for drainage, water takes (affecting natural wetlands) or infilling of a river or stream bed.

2. Accordingly, Swaps seeks amendments to the following rules to include provision for 'economic activities/opportunities supporting the domestic needs of New Zealand'; in particular quarrying activities of significance to the domestic needs of New Zealand:

- Vegetation destruction – Discretionary activities: Add a new subclause (f) to Clause 7: “for productive economic activities/opportunities supporting the domestic needs of New Zealand.”
- General earth disturbance – Discretionary activity: Add a new subclause (e) to Clause 10: “for productive economic activities/opportunities supporting the domestic needs of New Zealand.”
- Earth disturbance for drainage – Discretionary activities: Add a new subclause (iii) to Clause 12(3)a): “productive economic activities/opportunities supporting the domestic needs of New Zealand.”
- Earth disturbance for drainage – Non-complying activity: Add a new subclause (iv) to Clause 13(a): “productive economic activities/opportunities supporting the domestic needs of New Zealand.”
- Earth disturbance for drainage – Prohibited activity: Add a new subclause (d) to Clause 14: “productive economic activities/opportunities supporting the domestic needs of New Zealand.”
- Water take activities - Discretionary activity: Add a new subclause (iii) to Clause 16(4)a): “productive economic activities/opportunities supporting the domestic needs of New Zealand.”
- Infilling bed of river – Discretionary Activity: Add a new subclause (e) to Clause 18(1): “required productive economic activities/opportunities supporting the domestic needs of New Zealand.”

3. All subsequent amendments required in relation to the amendments sought by Swaps above.

Swaps appreciates the opportunity to engage in consultation on the draft NPSFM and NESF but highlights the need for the NPSFM and NESF to recognise the importance of the economic wellbeing and productive economic opportunity. This is particularly the case, for the role that the mineral extraction industry plays, including the lack of alternative building materials to construct infrastructure New Zealand society needs.