The Cumulative Impact of Environmental and Planning related Taxation & Regulation 2013

Second indicative assessment from the Mineral Products sector.

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SUMMARY

This submission is not intended as a comprehensive analysis of all regulation in the Mineral Products sector and the associated burdens. Nor does it seek to argue that regulation is unnecessary. It does seek to use a selection of environmental and planning related legislation and regulation to demonstrate that there is a significant and growing regulatory burden on our industry which involves major costs and which could be environmentally ineffective or even perverse,

1. This assessment of the cumulative impact of environmental and planning related taxation and regulation is unlikely to be comprehensive but indicates that the current annual costs in the scope of this assessment are around £400m pa in 2013 rising to around £665m pa by 2020. This is slightly lower than the £700 million cost estimated for 2020 last year due to assumptions relating to the potential costs of the European Emissions Trading Scheme.

2. For the Aggregates industry the identified costs are equivalent to 35% of industry GVA.

3. For the Cement industry the identified costs are equivalent to 16% of industry GVA in 2013, rising to 77% of industry GVA in 2020. (based on 2011 GVA data)

4. This is in addition to all other taxes paid by the sector, for example VAT, business rates, NI and fuel duty that cost the sector at least £900m annually.

5. Overall these environmental and planning related costs represent a significant additional cost to business in the UK.

6. The level of taxation is one issue but there are also significant regulatory and administrative burdens on business for which costs are more difficult to quantify. There has been a trend towards stealthy growth in regulation and increasing cost recovery models imposed by regulators and public agencies throughout the business process which is unseen, uncoordinated and weakening the will to invest.

7. Since our initial 2012 analysis we acknowledge that Government has taken steps to reduce net industry costs in two particular areas. First it has committed to using the facility in the EU Taxation of Energy Products Directive to reduce the impact of the Climate change Levy on the minerals industry. However, although there has been significant dialogue between Government and industry the outcome of these discussions remains unclear. Second, Government has legislated in the Growth and Infrastructure Act so that there is no requirement for the planning conditions associated with old planning permissions to be reviewed again following an initial review of fifteen year old permissions and planning conditions. We very much welcome both of these steps taken to reduce disproportionate regulatory costs.

8. While the beneficial measures set out in the previous paragraph are very welcome the use of direct and indirect taxation and market measures relating to environmental, energy and climate change policies Government imposes very significant costs on the UK Mineral Products sector. These will be transmitted through the rest of the economy and add costs to the delivery of public investment and infrastructure. The cost of the identified energy and climate change measures in particular will increase very significantly from 2013 onwards.

9. We wrote last year that “the operation of the planning, permitting and regulatory processes in the sector is characterised by duplication, disproportionate implementation and inconsistency.” We remain concerned that the overall impact of
the regulatory systems can be inconsistent and sometimes contradictory with regard to ensuring the most sustainable and cost effective outcomes. The introduction of CE marking requirements in the sector in 2013 is an example of regulation which sector businesses have been required to implement but which provide no material benefits to customers nor suppliers.

10. There remains an urgent need for both the volume and quality of regulation being imposed on the Mineral Products sector, and potentially on other production and manufacturing industries, to be subject to some form of strategic collective management and control within Government. The issue is as much about how regulation is implemented, not just the quantum.

11. Impact assessments for new regulation are often singly focussed. Impacts are assessed for new proposals in the absence of information from other influencing legislation, measures and instruments. This means the cumulative impact of legislation is not part of the decision making process.

12. The Mineral Products sector has a broad scope of activities and a range of regulators and there is no apparent control exercised over the volume and quality of regulation imposed on the sector from these various regulators and the cumulative impact of such regulation. There is a limit to the “absorption capacity” of the industry and we believe, as we indicated last year, that we are at that limit. In short, ‘enough is enough’.

13. The MPA is not opposed to regulation, it supports high operating and sustainability standards and effective regulation designed to achieve clear objectives and implemented efficiently, reasonably, consistently and proportionately. We also recognise that some areas of regulation are inadequate and that inconsistent enforcement remains a major concern of compliant businesses. There is significant progress still required in order to achieve these aims.
INTRODUCTION AND CONTEXT

1. The Mineral Products Association (MPA) is the trade association for the aggregates, asphalt, cement, concrete, dimension stone, lime, mortar and silica sand industries. With the recent addition of The British Precast Concrete Federation (BPCF) and the British Association of Reinforcement (BAR), it has a growing membership of 475 companies and is the sectoral voice for Mineral Products.

1.1 MPA membership is made up of the vast majority of independent SME companies throughout the UK, as well as the 9 major international and global companies. It covers 100% of GB cement production, 90% of aggregates production, 95% of asphalt, 75% of ready-mixed concrete production and 70% of precast concrete production.

1.2 The Mineral Products industry is one of the most significant production and manufacturing sectors in the UK, with a turnover of nearly £9 billion and GVA of over £4 billion.

1.3 The industry supplies 250 million tonnes of materials annually to the construction industry and to a wide range of other industries, including the manufacture of iron and steel, glass, household products and pharmaceuticals and agriculture. The industries supplied by the sector have an annual turnover of £400 billion which supports over 2.5 million jobs.

1.4 Construction activity is now showing early signs of recovery from the 8% market decline in 2012. Private sector housebuilding has improved substantially during the year, supported by Government’s Help to Buy scheme, and indicators are more positive for other construction sectors. There is a growing focus on the delivery of infrastructure projects and a £300 billion of schemes in the pipeline. The regulatory costs imposed on the mineral products sector will therefore feed through into wider developments which are key elements of economic recovery.

1.5 The broad scope of the industry’s activities, encompassing mineral prospecting, mineral extraction, dredging and processing, manufacturing, construction, recycling of products and restoration and afteruse of land, mean that the industry is subject to a very wide range of legislation and regulation. A list of legislation relevant to the industry is included in this paper to illustrate this scope. This lists approximately 228 environment and planning related laws and regulations managed by the industry.

1.6 The aim of this submission is not to investigate every piece of taxation, legislation and regulation, nor to claim that these are unnecessary, but rather to update an analysis first made in 2012 and to identify a number of key areas of regulatory costs. It is inevitable that some direct regulatory costs are difficult to assess as their application can vary from site to site, some planned measures have yet to be fully implemented and the marginal administrative costs of dealing with specific regulations can be difficult to identify and cost. None the less the information included in this submission includes quantitative and qualitative information which provides a reasonable overview of the specific and cumulative nature of impacts in this sector. The assumptions made regarding the complex issue of climate change and energy measures are included in this document.

1.7 The issue is critical for our industry and our customers and clients. Regulatory costs and burdens on the Minerals Products industry feed through into wider economic costs. They can also threaten productive investment in the UK by both SMEs with regional or local perspective and international businesses who make investment decisions at a global level.
2. THE COSTS OF TAXATION AND MARKET MEASURES

2.1. DIRECT TAXATION

2.1.1 Aggregates Levy. The Aggregates Levy (AGL) was introduced in 2002 and applies a £2.00 per tonne ‘tax’ on the “commercial exploitation” of aggregates, which in practice can be defined as the sale of aggregate and products made with aggregates for construction uses. HMRC data indicates that in the ten years 2002/3 to 2012/13 the total cost of the AGL to the mineral products industry was £3.4 billion, an average of £305 million annually even after taking into account several annual indexation freezes. In 2014/15 the revenue arising from the Levy is likely to increase by £20 million/£25 million due to a combination of higher aggregates sales and the broadening of the scope of the aggregates levy which has been announced by HMRC. The AGL was introduced as an environmental tax, but the justification for this description has diminished for a number of reasons including:

- The AGL includes no incentive for aggregates operators to improve environmental performance; it is a sales tax using production as a proxy for adverse environmental impact and does not recognise different levels of environmental performance by operators
- The calculation of the tax level assumes that there are no environmental nor social benefits arising from the restoration of quarries which there undoubtedly are in terms of agricultural, amenity, biodiversity and nature conservation improvements
- The AGL was introduced with an Aggregates Levy Sustainability Fund (ALSF) in order to direct a small proportion of AGL revenue into projects benefitting local communities in quarrying areas and to fund a range of environmental and sustainability projects. The scrapping of the ALSF in England from April 2011 disconnected the AGL from the main mechanism through which the AGL was intended to generate positive outcomes. (NB - MPA has submitted a proposed ‘ALSF2’ scheme focussed on delivering local community and nature conservation and biodiversity benefits at a significantly lower cost than the original ALSF in England)
- The AGL was intended to encourage the use of recycled and secondary materials, but the trend of increase in the use of these materials from the early 1990s suggests that the AGL has had only a marginal impact on an already positive trend. The UK has the lowest per capita consumption of aggregates of any major European country and the share of recycling in the UK aggregates market is over twice as high as the European average.
- There remain significant concerns about a lack of enforcement by HMRC, particularly in Scotland and N Ireland. This has led to an uneven playing field in local markets with reputable operators put at a commercial disadvantage. While the impact of inadequate enforcement may be limited when looking at the Levy in a UK context, it can and does create very significant distortions in local markets.

2.1.2 While the AGL is regarded nominally as an environmental tax, it has evolved into a revenue tax and gives rise to very significant direct cost for the aggregates industry and customers and an additional cost on private and public sector construction projects.

2.1.3 The average cost of the AGL of £305 million to data is equivalent to over 50% of the Gross Added Value (GVA) of the aggregates industry. The GVA has been estimated from the Mining and Quarrying GVAs published by the ONS in the Annual Business Survey.
2.1.4 **Landfill Tax.** The Mineral Products industry is very efficient in minimising the amount of waste sent to landfill both by recycling material into products or infilling former mineral sites to enable the recycling of land. In 2012 the concrete industry’s use of waste relative to waste generated was a ratio of 62:1. To help put this ratio into perspective the cement industry used over 1.8 million tonnes of waste as fuel and raw materials in 2012 and landfilled only 6,000 tonnes of waste.

2.1.5 Since 1996 from the introduction of the landfill tax the proportion of waste material being recycled or waste used as secondary aggregate, e.g. slate or china clay, as an alternative to primary aggregate has doubled with informed sources such as WRAP recognising that the outstanding volume of “hard” construction and demolition waste currently not being recycled for use in aggregates markets is small. The behavioural shift has now taken place with anything that can be recycled e.g. concrete, brick, metals, wood being now in the chain of product utility with important materials such as silt and clays being recovered to restore mineral workings to agriculture, nature conservation or amenity after uses.

2.1.6 The landfill tax has largely served its purpose in stimulating the reduction in the volume of recyclable waste unnecessarily going to landfill. The use of silts and clays to enable quarry restoration to beneficial afteruse is not equally valued. Indeed because of the perverse regulation relating to the management of ‘waste’ virtually all inert materials used for quarry restoration are classified as ‘disposal’ as opposed to ‘recovery’ and this gives rise to difficulties for quarry operators as it can lead to an artificial scarcity of suitable restoration materials.

2.1.7 MPA members pay an estimated £3.2 million of Landfill Tax in spite of an exemption for inert waste used for the restoration of mineral workings.

**COST = £3.2 million pa**

2.2 **ENERGY, CARBON AND EMISSIONS TAXATION AND MARKET MEASURES**

2.2.1 The Mineral Products industry is subject to a range of taxes and measures related to energy use and carbon emissions. Some of these costs are direct, levied on the emissions
produced by industry operations, and some are indirect energy market measures which influence the energy prices paid by companies.

2.2.2 The Minerals Products industry comprises activities which are energy intensive such as cement and lime manufacture and activities which are less energy intensive such as asphalt and aggregates production. However the increasing scope of taxation and related measures is widening the number of companies subject to increasing costs. The industry has made significant reductions in carbon dioxide emissions over a number of years and will continue to seek to do so but the impact of measures introduced and under development in Europe and the UK represent a substantial threat to competitiveness. At the time of writing the industry is in discussion with Government about the application of support arrangements for additional costs imposed on energy intensive industries as a result of introducing carbon price support.

2.2.3 The UK Cement Industry has reduced absolute carbon dioxide emissions by 55% since 1990 and over the same period carbon dioxide emissions per tonne of product output have declined by 27%.

2.2.4 Currently energy intensive installations in the cement and lime industries operate within the European Union Emissions Trading Scheme (EUETS) and operate Climate Change Agreements (CCA) linked to the UK Climate Change Levy (CCL). Large and medium sized sector businesses are also within the scope of the UK Carbon Reduction Commitment Energy Efficiency Scheme (CRC). EUETS is managed on an installation basis, CCAs on a sector basis and CRC on an organisation basis. All three schemes target reductions in carbon emissions but all have different methodologies for calculating carbon dioxide emissions. Consequently companies involved in more than one of the schemes are required to operate different recording and measurement systems. All schemes are subject to verification or auditing of systems and data, with the threat of punitive penalties if reporting is inaccurate, therefore imposing significant management and administrative burdens on participating companies.

2.2.5 In the March Budget Government announced that it would take advantage of an ability included within the EU Taxation of Energy Products Directive to reduce the burden of Climate Change Levy costs on the minerals industry. We very much welcome this positive action by Government and are working with officials on the implementation and scope of the opportunity.

2.2.6 Estimated Direct and Indirect costs associated with UK Cement manufacture from UK Government and EU measures (the assumptions made in reaching these figures and the figures set out in the following paragraphs are set out in Appendix 2)

<table>
<thead>
<tr>
<th></th>
<th>2013</th>
<th>Post 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indirect costs</td>
<td>£31.4</td>
<td>£79.6</td>
</tr>
<tr>
<td>Direct costs</td>
<td>£19.6</td>
<td>£170.6</td>
</tr>
<tr>
<td>Indirect and Direct</td>
<td>£51.0</td>
<td>£250.2</td>
</tr>
<tr>
<td>Total Costs</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

\[\text{COST} = £51 \text{ million rising to £250.2 million pa}\]

2.2.7 Estimated Direct and Indirect costs associated with UK Lime manufacture from UK Government and EU measures

<table>
<thead>
<tr>
<th></th>
<th>2013</th>
<th>Post 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indirect costs</td>
<td>£31.4</td>
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</tr>
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<td>£51.0</td>
<td>£250.2</td>
</tr>
<tr>
<td>Total Costs</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## Indirect costs

<table>
<thead>
<tr>
<th></th>
<th>2013</th>
<th>2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indirect costs</td>
<td>3.1</td>
<td>7.8</td>
</tr>
<tr>
<td>Direct costs</td>
<td>5.3</td>
<td>41.2</td>
</tr>
</tbody>
</table>

### Total Costs

<table>
<thead>
<tr>
<th></th>
<th>2013</th>
<th>2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indirect and Direct</td>
<td>8.4</td>
<td>49.0</td>
</tr>
</tbody>
</table>

### COST = £8.4 million rising to £49.0 million pa

### 2.2.8 Estimated Direct and Indirect costs associated with UK production of Crushed Rock and Sand and Gravel Aggregates, Asphalt and Ready - Mixed Concrete from UK Government and EU measures

The table below shows the estimated costs for 2013 and post-2020 for indirect and direct costs.

<table>
<thead>
<tr>
<th></th>
<th>2013</th>
<th>Post 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indirect costs</td>
<td>16.3</td>
<td>41.3</td>
</tr>
<tr>
<td>Direct costs</td>
<td>3.4</td>
<td>6.3</td>
</tr>
</tbody>
</table>

### Total Costs

<table>
<thead>
<tr>
<th></th>
<th>2013</th>
<th>Post 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indirect and Direct</td>
<td>19.7</td>
<td>47.6</td>
</tr>
</tbody>
</table>

### COST = £19.7 million rising to £47.6 million pa

### 2.2.9 The relatively high burden of regulatory and tax driven energy costs for UK industry was highlighted in the June 2012 report commissioned from ICF International by BIS “An International Comparison of Energy and Climate Policies Impacting Energy Intensive Industries in Selected Countries”. The report produced indicative incremental cost comparisons of the impact of energy and climate change policies on electricity prices for a number of countries.

### 2.2.10 Indicative Incremental impacts in 2011 and 2020 on electricity prices (£/MWh 2010 prices) of energy and climate change policies

<table>
<thead>
<tr>
<th>Country</th>
<th>2011</th>
<th>2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>China</td>
<td>10.2</td>
<td>10.3</td>
</tr>
<tr>
<td>Japan</td>
<td>3.1</td>
<td>3.1</td>
</tr>
<tr>
<td>Russia</td>
<td>0.0</td>
<td>-0.5</td>
</tr>
<tr>
<td>USA</td>
<td>-0.6</td>
<td>-0.2</td>
</tr>
<tr>
<td>Denmark</td>
<td>9.4</td>
<td>15.7</td>
</tr>
<tr>
<td>France</td>
<td>2.5</td>
<td>15.2</td>
</tr>
<tr>
<td>Germany</td>
<td>6.3</td>
<td>17.3</td>
</tr>
<tr>
<td>Italy</td>
<td>9.9</td>
<td>22.0</td>
</tr>
<tr>
<td>UK</td>
<td>14.2</td>
<td>28.3</td>
</tr>
</tbody>
</table>

### 2.2.11 Exceptionally high costs in the UK will have the effect of increasing the cost which will inevitably feed through into the many sectors and industries supplied by the industry. For energy intensive industries subject to international competition the consequences of regulation driven energy cost increases are more pointed and raise concerns about the long term supply of essential materials such as cement and lime from UK sources. The same BIS analysis indicates that the cost increases for cement manufacture as a result of climate change and energy policies will be higher in the UK than in any other country surveyed giving rise to a competitive disadvantage and the risk of carbon leakage and offshoring of our current indigenous supply base.

### 2.2.12 KPMG have published a Green Tax Index “to raise awareness of the complex, fragmented and rapidly evolving green tax landscape worldwide”. The analysis is based on information
available up to the 23 April 2013 and indicates that businesses operating in the UK have the highest burden of carbon and climate change measures compared with 16 other major economies, including France, Germany, Spain, the USA, Japan, China and India.

2.2.13 The level of costs arising from energy and climate change measures can be compared with sector gross added value to give an indication of relative impact. For the cement industry the following chart indicates that the estimated impact of the measures highlighted in this paper rises from £51 million in 2013 to £250 million in 2020, at which point the cost of the measures is equivalent to 77% of the current value of industry GVA.

![UK Cement Industry GVA and Costs of Energy, Climate Change measures](image)

3. PLANNING, DEVELOPMENT AND REGULATION

3.1 PLANNING AND DEVELOPMENT

3.1.1 Traditionally the operation of the planning system has been the most significant regulatory issue for most companies in the Mineral Products industry.

3.1.2 The planning process is increasingly complex, time consuming and expensive. It can be summarised as follows:

- Identification and exploration of mineral resources and reserves
- Negotiations with landowners for access to minerals
- Pre-application discussions with the mineral planning authority, often incurring pre-application fees
- Pre-application discussions with other statutory and non-statutory stakeholders increasingly incurring pre-application fees
- Potential archaeological investigations which only increase in scope and cost
- Environmental Impact Assessment potentially also Habitats Regulations Assessment incurring major evaluation costs
- Submission of the planning application including payment of increasing application fees
• Formal input of views from statutory consultees (e.g. Environment Agency, English Nature, English Heritage, Highways Agency) and other stakeholders (e.g. local community)
• Determination of the planning application. If positive negotiations with mineral planning authority over planning conditions & Section 106 agreements. If negative, potential appeal process.
• Subject to agreement over planning conditions and Section 106 agreements, development can start
• Continuing monitoring and related costs.

3.1.3 Each of these stages has cost implications and the regulatory costs are significant. The timing of the stages listed can vary significantly and in total it takes between 5 to 15 years to progress a development from site identification until all permitting is completed and operational activity can start.

3.1.4 MPA survey work has indicated that overall planning costs for individual applications range from £108,000 to £565,000 for sand and gravel quarries and from £115,000 to £865,000 for crushed rock quarries. These costs include non-regulatory elements such as exploration and option agreements with landowners.

3.1.5 It is increasingly common for mineral planning authorities to charge for pre - application discussions. The application of charging, and the amount of charge, varies considerably and other regulators such as the Environment Agency and Natural England are considering introducing such charges.

3.1.6 As planning skills and experience drain away from Local authorities and their ability to make balanced decisions wains it is replaced by more and more requests for more data, evaluation and monitoring. This adds time, cost and uncertainty and there is little evidence that more information enables better, quicker and more informed decisions to be made rather the opposite; i.e. slower and more expensive ones.

3.1.7 The scope of EIAs is also increasing as opposed to focussing on significant impacts and as the scope increases so do the costs.

3.1.8 Overall the planning process feels to many MPA members that too often it is about ‘finding a reason to refuse’ as opposed to enabling informed, timely and appropriate decisions. In spite of the obstacles our members secure around 90% success rate but the time to secure permission is now measured in years and the costs in the hundreds of thousands of £s.

3.1.9 Review of Old Mineral Permissions (ROMPS). Mineral development is unique in that it is required that planning conditions are reviewed after 15 years. The ROMP process also requires the quarry operator to submit new Environmental Impact Assessments. The original ROMP legislation was focussed on updating planning conditions for operations with old permissions and conditions not up to current standards. Having been through this updating process once, the benefits of a second review were highly questionable and likely to be marginal in terms of benefits but the costs and burden, especially delay and uncertainty were significant. The Growth and Infrastructure Act of 2013 removed the obligation for additional ROMP reviews following the initial 15 year ROMP requirement; a significant reduction in future regulatory burdens.

3.1.10 Mineral planning authority officials frequently charge operators for pre application meetings and charges for monitoring visits carried out to assess whether operations are in accordance with planning conditions are widespread. An MPA survey has identified charges for pre-application meetings varying from no charge to £1,440 and the costs of monitoring visits are £250 - £300 with local authorities free to determine the frequency of such visits.
Previously it was the expectation of a potential developer that such discussion would be free and accessible given that the ensuing development would generate tax and rate revenue for Government. The discussions are now an additional cost in many local authority areas and could therefore have a perverse impact of discouraging pre-application dialogue between developers and local authorities.

3.1.11 The Environment Agency is currently reviewing charges including a proposal to increase the cost of applying for water transfer licenses from £135 to £1500. A company with 50 quarries requiring such licenses would therefore incur costs of £75,000 for applications alone with associated Environmental Impact Assessments likely to cost £50,000 to £100,000 per site, giving total costs of between £2.575 million and £5.075 million.

3.1.12 The Environment Agency has identified a total cost in 2011/12 of £1.3 million for a range of permitting and regulatory charges collected from the Cement industry. For the wider minerals industry £251,324 of charges were identified, excluding “subsistence income from mining waste directive permits.”

3.1.13 **Direct Regulatory Costs.** The variation of sites and proliferation of charges from regulators and consultees in the planning process makes it difficult to assess total industry costs, but based on information supplied during MPA surveys we would estimate such direct costs to the industry within a range of £8 million and £12 million pa.

\[ \text{COST} = \£8 - \£12 \text{ million pa} \]

3.2 **ENVIRONMENTAL REGULATION**

3.2.1 Regulation is necessary but it needs to be effective, cost effective and proportionate. There are examples of environmental regulation which are contrary to those principles or regulations which are poorly implemented and administered. In some cases direct costs to industry arising from these regulations are difficult to identify but the existence and operation of such regulations impose significant additional burdens on industry. We support fully the use of appropriate, effective and proportionate regulation. We acknowledge that initiatives have been introduced to review the application of regulation, for example the Defra Smarter Environmental Regulation Review, but are concerned that there remains a fundamental and deep rooted problem of excessive and duplicated regulation. Currently despite the best of intentions there are few meaningful examples of ‘red tape’ which has been cut yet for this sector.

3.2.2 **Regulatory Duplication.** An area of increasing concern and regulatory duplication has been the development of substantial overlaps between different regulatory agencies. For quarrying based activities the regulation of environmental issues through the planning system has generally worked effectively but there are increasing examples where such regulatory responsibilities are shared by more than one agency.

3.2.3 It is fundamental to the proper consideration of a mineral planning application that all environmental issues that are material to the proposal are considered before a decision is made. To facilitate that, many mineral planning applications are submitted with Environmental Impact Assessments (EIAs). All of the agencies with regulatory (permitting) responsibilities are statutory consultees during the planning process and therefore a process is available to ensure that the environmental issues are properly considered. It is our view that currently the regulatory (permitting) bodies are not making proper use of their opportunities as consultees and fundamental issues that could even render the development unviable, are not considered until late in the permitting process and outside of the checks and balances on reasonableness that the planning system provides. In some
cases these issues are not considered until after a mineral site has been in operation for some time.

3.2.4 To provide an illustration; a planning permission for a substantial quarry development, including consideration of an Environmental Impact Assessment which will include water related issues, may enable 25 years of quarry operation, subject to satisfying the planning conditions. However there remains uncertainty about whether the new water abstraction and transfer permits regime likely to be implemented in 2014 will be based on the same timescales as planning approvals. (This regulatory process follows the introduction of the Water Act in 2003 and is taking place at a time when there is new consultation underway about a new abstraction system.) Such uncertainty would be removed if the statutory consultees fulfilled their statutory obligations and commented on all aspects of the planning application before them, including the proposed life of the development. Other forms of development, that are in most cases more permanent features of the environment than mineral workings, are not subject to separate regulatory regimes and the uncertainty that they introduce. In addition, mineral planning permissions are subject to review after 15 years at which time changes can be made to planning conditions. Planning authorities also have powers to deal with situations where undesirable impacts of development occur after planning permission is granted. The decision of a planning authority should have primacy. In other words the planning process decides if the development is sustainable and can proceed and the other regulatory bodies work on that presumption and require only the minimum reasonable additional regulation associated with the development.

3.2.5 As indicated earlier, Environmental Impact Assessments (EIAs) are required for both planning applications and reviews of old planning permissions (ROMPS). EIAs are also required for permitting quarry operations under the Mining Waste Directive. As the rules do not allow the use of the same EIA for both a planning application / review and a Mining Waste Directive permit, industry is subjected to duplicated costs and administration associated with multiple EIAs. This duplication is wholly unreasonable and a single EIA should in general be acceptable for both regulatory purposes.

3.2.6 Regulatory cost increases. We have already commented on the costs and bureaucracy imposed by regulatory duplication and the increasing incidence of charges being imposed by regulators for activities which should be regarded as mainstream services by public agencies. There have also been increasing costs arising from associated or pseudo-regulatory activities.

3.2.7 It is our perspective that some agencies have used the regulatory process to treat quarry operators as funding opportunities, for example requiring excessive levels of archaeological investigation when there may be little apparent justification for the level of investigation imposed. All pre and post permission investigations are funded by the quarry developer. In spite of the availability of guidance recommending a methodical and proportionate approach to such archaeological investigation there are persistent examples of excessive requirements being imposed on operators.

3.2.8 Regulatory Inconsistency. The Environment Agency’s stance on what constitutes a “waste disposal” activity and what constitutes a “recovery” activity has been a source of continuing frustration for the quarrying industry. The use of inert waste arising from construction sites, for example, for the restoration of quarries is defined by the Defra as a “disposal” activity, leading to adverse consequences for the operator. This can lead to potential restoration materials being difficult to source as it is a more convenient option for the “owner” of the waste material to send the waste to destinations which are exempt from the Landfill Directive. Construction and development companies may be reluctant to send materials to “disposal” sites as opposed to “recovery” sites because by doing so they may conflict with corporate and industry targets to reduce the amount of waste sent to
landfill. These definitions therefore matter and the unwillingness of regulators to define quarry restoration as a recovery activity is likely to be having perverse environmental impacts. For operators who frequently have planning conditions requiring the use of inert materials to restore quarries while extraction is still underway, so called progressive restoration is a common planning condition, the diversion of such inert materials can also constrain the operation of the quarry.

3.2.9 In contrast the EA has permitted the use of spoil from the London Crossrail project to be used for the filling of land in the Thames Estuary to develop Wallasea Island, a planned wildlife habitat, as a “recovery” activity and so outside the scope of the Landfill Directive. Therefore the use of construction spoil for the creation of a wildlife habitat at Wallasea is permitted by the EA as recovery but the use of the same spoil for restoring a quarry site to a wildlife habitat is defined by the EA as “disposal”. This makes no environmental sense and imposes uncertainty about the future ability to operate and a continuing regulatory burden on the quarry industry but EA and Defra responses to industry representations have been consistently negative. The “recovery” definition applied to the use of inert construction waste for the Wallasea Island development is the right one and there should be no reason why the use of similar materials for quarry restoration is also permitted as a “recovery” activity which it clearly is.

3.2.10 Unnecessary/Gold plated Regulation. The Mining Waste Directive was implemented by the EU to protect against the potential environmental damage arising from mining waste - for example the poisoning of watercourses with heavily polluted flood water from abandoned former metal mines. In the UK the 1966 Aberfan disaster was caused by the instability of a stockpile of coal mining waste, an example of a potential mining waste hazard but one which has been successfully managed in the UK since 1966 by appropriate regulation and improved management practices. The transposition of the Directive into English law introduced a wholly disproportionate new tier of regulation to mineral activities, the vast majority of which constitute no “waste” risk to the surrounding environment and communities, and which are already managed effectively. In Scotland, in contrast, the Directive was transposed into law in a proportionate manner following early constructive consultation with stakeholders. In practice the industry has worked with the regulator to manage the operation of the Directive in England but for most operators it remains an unnecessary additional bureaucratic burden. The Mining Waste Directive transposition into UK law has of course taken place, but the process of transposition in England remains an example of how not to do it.

3.2.11 The EU regulations on Regulated Dangerous Substances may require mineral products to be subject to a new testing regime to “prove” that such materials are not dangerous to the environment. If extensive additional testing is required for materials which are currently perceived not to be any risk in use this would be an unnecessary and disproportionate requirement.

3.2.12 During 2013 CE Marking requirements were implemented in the UK. These require the provision of a range of product information to be supplied with each delivery. The expansion of CE Marking from products such as toys to aggregates, asphalt, cement and mortar has created a generated a significant and unnecessary burden on the industry. The information required by CE marking is already available in published product standards and there is little demand from industry customers for the information which producers are now required to provide. The implementation of CE marking into the sector has been a waste of time and resources, providing no material benefit to industry nor customers.

3.2.13 These are just some examples of regulations which contribute to the cumulative regulatory burden on industry. Such legislation and regulation is generally well intentioned but the
process of implementation can cause regulators to lose sight of the underlying environmental and sustainability objectives of the measure. The burden of regulation, as evidenced by the examples above, is made worse by disproportionate and inconsistent transposition of EU measures into UK law and the associated implementation processes.
### Estimated Direct and Indirect costs associated with UK Portland Cement manufacture (2013 onwards).

**Using DECC Policy Appraisal Carbon Costs. Published 16th September 2013**

### INDIRECT COSTS

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### DIRECT COSTS

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### Summary of the Main Assumptions

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*Exchange rate (DECC) 1GBP = €*
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<th>All cost is in €</th>
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<tbody>
<tr>
<td><strong>TOTAL COSTS</strong></td>
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<td><strong>TOTAL INDIRECT COSTS (€m)</strong></td>
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<td><strong>TOTAL COSTS (€m)</strong></td>
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**Summary of the Main Assumptions**

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Estimated Direct and Indirect costs associated with Lime manufacture by BLA Members (Quicklime and Dolomitic Lime) (2013 onwards).
Using DECC Policy Appraisal Carbon Costs Published 16th September 2013

### INDIRECT COSTS

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### DIRECT COSTS

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<tr>
<td>EU ETS CO₂ if carbon leakage status is lost</td>
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### TOTAL COSTS

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### Summary of the Main Assumptions

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<tr>
<td>Carbon Price (DECC) (€)</td>
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<td>Level of Auctioning if carbon leakage status is lost (%)</td>
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<td>0%</td>
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<td>70%</td>
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<td>Electricity Use (kWh)</td>
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<td>74,642,893</td>
<td>74,642,893</td>
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<td>74,642,893</td>
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<td>Annual CCL inflation</td>
<td>2.5</td>
<td>2.5</td>
<td>2.5</td>
<td>2.5</td>
<td>2.5</td>
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<td>Transport Efficiency (improvement on 2011)</td>
<td>0.00%</td>
<td>1.00%</td>
<td>2.50%</td>
<td>2.75%</td>
<td>3.00%</td>
<td>3.50%</td>
<td>4.00%</td>
<td>5.00%</td>
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<td>Exchange rate (DECC) 1GBP = €</td>
<td>1.16</td>
<td>1.16</td>
<td>1.16</td>
<td>1.16</td>
<td>1.16</td>
<td>1.16</td>
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</table>
Estimated Direct and Indirect costs associated with Production of Sand and Gravel, Ready Mix Concrete, Asphalt and Crushed Rock (2013 onwards).

Using DECC Policy Appraisal Carbon Costs Published 16th September 2013

### INDIRECT COSTS

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<tr>
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<td>6,491,485</td>
<td>6,988,143</td>
<td>7,523,604</td>
<td>8,105,626</td>
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<td>11,254,166</td>
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<td>on fossil fuel use in</td>
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<td>Small Scale Feed in</td>
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<td>Renewable Obligation</td>
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<td>6,540,934</td>
<td>7,077,076</td>
<td>7,613,218</td>
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<td>Capacity Market</td>
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<td><strong>TOTAL INDIRECT COSTS</strong></td>
<td><strong>16,330,944</strong></td>
<td><strong>21,885,374</strong></td>
<td><strong>29,278,256</strong></td>
<td><strong>32,097,742</strong></td>
<td><strong>35,100,924</strong></td>
<td><strong>36,043,433</strong></td>
<td><strong>37,024,743</strong></td>
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### DIRECT COSTS

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<td>EU ETS CO₂ Cost of meeting</td>
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<td>805,517</td>
<td>1,122,191</td>
<td>1,483,726</td>
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<td>the benchmark (asphalt</td>
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<td>Carbon leakage status)</td>
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<td>196,639</td>
<td>223,717</td>
<td>245,118</td>
<td>258,620</td>
<td>261,877</td>
<td>252,138</td>
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<td>reduction in free</td>
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<td>allocation from CSCF</td>
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<td>717,007</td>
<td>734,932</td>
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<td>772,138</td>
<td>791,442</td>
<td>811,228</td>
<td>831,508</td>
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<td>(without CCA)</td>
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<tr>
<td><strong>TOTAL DIRECT COSTS (€)</strong></td>
<td><strong>3,426,371</strong></td>
<td><strong>3,721,772</strong></td>
<td><strong>4,048,472</strong></td>
<td><strong>4,410,597</strong></td>
<td><strong>4,812,366</strong></td>
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## TOTAL COSTS

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<th>Year</th>
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<th>TOTAL DIRECT COSTS (€m)</th>
<th>TOTAL COSTS (€m)</th>
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<td>19.76</td>
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<td>2016</td>
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<td>4.41</td>
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<td>2020</td>
<td>41.34</td>
<td>6.27</td>
<td>47.61</td>
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All cost is in €

## Summary of the Main Assumptions

<table>
<thead>
<tr>
<th>Year</th>
<th>Carbon Price (DECC) (€)</th>
<th>Assumed Production of Cement</th>
<th>Electricity Use (kWh)</th>
<th>Annual CCL inflation</th>
<th>Transport CO₂ tax</th>
<th>Exchange rate (DECC) 1GBP = €</th>
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<td>2013</td>
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<td>200,000,000</td>
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<td>30.1368</td>
<td>1.16</td>
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Assumed Production of Cement: 200,000,000
Electricity Use (kWh): 545,471,092
Annual CCL inflation: 2.5
Transport CO₂ tax: 18.0612
Exchange rate (DECC) 1GBP = € 1.16
EXAMPLES OF LEGISLATION AND REGULATION MANAGED BY MINERAL PRODUCTS BUSINESSES RELATING TO ENVIRONMENTAL ISSUES.

Clean Air (Heights of Chimneys) (Exemption) Regulations 1969 (SI 1969 411)
Clean Air Act 1993
Climate Change Act 2008 (c. 27)
The Air Quality (England) Regulations 2000 (SI 2000/928)
The Air Quality (Scotland) Regulations 2000 (SSI 2000/97)
The Air Quality (Wales) Regulations 2000
The Air Quality Standards (Scotland) Regulations 2010 (SSI 2010/204)
The Air Quality Standards (Wales) Regulations 2010
The Air Quality Standards Regulations 2010
The Carbon Accounting Regulations 2009
The Clean Air (Emission of Dark Smoke)(Exemption) Regulations 1969 (SI 1969 1263)
The Clean Air (Measurement of Grit and Dust from Furnaces) Regulations 1971 (SI 1971 161)
The Clean Air Act (Emission of Grit and Dust from Furnaces) Regulations 1971 (SI 1971 162)
The Cleaner Road Transport Vehicles (Scotland) Regulations 2010 (SSI 2010/390)
The Climate Change Act 2008 (2020 Target, Credit Limit and Definitions) Order 2009 (SI 2009/1258)
The Climate Change Agreements (Eligible Facilities) Regulations 2001 (SI 2001/662)
The Climate Change Agreements (Eligible Facilities) Regulations 2006 (SI 2006/60)
The Climate Change Agreements (Energy-intensive Installations) Regulations 2006 (SI 2006/59)
The Climate Change Levy (General) Regulations 2001 (SI 2001/838)
The Community Emissions Trading Scheme (Allocation of Allowances for Payment) Regulations 2008 (SI 2008/1825)
The Community Emissions Trading Scheme (Auctioning Of Allowances) (No.2) Scheme 2009
The Control of Volatile Organic Compounds (Petrol Vapour Recovery) (Scotland) Regulations 2004 (SSI 2004/512)
The Dark Smoke (Permitted Periods ) Regulations 1958 (SI 1958/498)
The Environment Act 1995 Part IV National Air Quality Strategy
The Environmental Protection (Controls on Ozone-Depleting Substances) Regulations 2011
The Large Combustion Plants (National Emission Reduction Plan) Regulations 2007 (SI 2007/2325)
The Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008
The Motor Vehicles (Refilling of Air Conditioning Systems by Service Providers) Regulations 2009
The Non-Road Mobile Machinery (Emission of Gaseous and Particulate Pollutants) Regulations 1999 (SI 1999/1053)
The Ozone-Depleting Substances (Qualifications) Regulations 2009 (SI 2009/216)
The Road Traffic (Vehicle Emissions) (Fixed Penalty) (Scotland) Regulations 2003 (SSI 2003/212)
The Road Traffic (Vehicle Emissions) (Fixed Penalty) (Wales) Regulations 2003
The Road Vehicles (Construction and Use) Regulations 1986
The Road Vehicles (Registration and Licensing) Regulations 2002 (SI 2002/2742)
The Smoke Control Areas (Authorised Fuels) (Scotland) Regulations 2010
The Smoke Control Areas (Authorised Fuels) (Wales) Regulations 2008
The Smoke Control Areas (Exempt Fireplaces) (Scotland) Order 2010 (SSI 2010/272)
The Solvent Emissions (Scotland) Regulations 2004 (SSI 2004/26)
The Sulphur Content of Liquid Fuels (Scotland) Regulations 2007 (SSI 2007/27)
The Value Added Tax (Emissions Allowances) Order 2009
The Value Added Tax (Emissions Allowances) Order 2010 (SI 2010/2549)
Building Act 1984 (c.55)
Planning (Hazardous Substances) Act 1990 (c.10)
Planning Act 2008 (c.29)
Planning and Compulsory Purchase Act 2004 (c.5)
Planning etc. (Scotland) Act 2006 (2006 asp 17)
The Building (Approved Inspectors etc.) Regulations 2010 (SI 2010/2215)
The Building (Fees) (Scotland) Regulations 2004 (SSI 2004/508)
The Building (Forms) (Scotland) Regulations 2005 (SSI 2005/172)
The Building (Scotland) Regulations 2004 (SSI 2004/406)
The Building Regulations 2010 (SI 2010/2214)
The Building Standards (Scotland) Regulations 1990 (SI 1990/2179 (S.187))
The Energy Performance of Buildings (Scotland) Regulations 2008 (SSI 2008/309)
The Environmental Assessment of Plans and Programmes (Scotland) Regulations 2004 (SSI 2004/258)
The Environmental Assessment of Plans and Programmes (Wales) Regulations 2004
The Environmental Assessment of Plans and Programmes Regulations 2004 (SI 2004/1633)
The Planning (Control of Major-Accident Hazards) Regulations 1999 (SI 1999/981)
The Planning (Hazardous Substances) Regulations 1992 (SI 1992/656)
The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 (SSI 2008/432)
The Town and Country Planning (Development Planning) (Scotland) Regulations 2008 (SSI 2008/426)
The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011
The Town and Country Planning (General Permitted Development) Order 1995 (SI 1995/418)
The Town and Country Planning (Modification and Discharge of Good Neighbour Agreement) (Scotland) Regulations 2010 (SSI 2010/433)
The Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010 (SSI 2010/432)
The Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010 (SSI 2010/434)
Town and Country Planning Act 1990 (c. 8)
Petroleum (Consolidation) Act 1928 (c. 32)
Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) 2006 (1907/2006/EC)
The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 (SI 2009/1348)
The Chemicals (Hazard Information and Packaging for Supply) Regulations 2009 (SI 2009/716)
The Control of Asbestos in the Air Regulations 1990 (SI 1990/556)
The Control of Asbestos Regulations 2006 (SI 2006/2739)
The Control of Asbestos Regulations 2012
The Control of Major Accident Hazards Regulations 1999 (COMAH) (SI 1999/743)
The Control of Substances Hazardous to Health Regulations 2002 (SI 2002/2677)
The Dangerous Substances (Notification and Marking of Sites) Regulations 1990 (SI 1990/304)
The Dangerous Substances and Explosive Atmospheres Regulations 2002 (SI 2002/2776)
The Dangerous Substances in Harbour Areas Regulations 1987 (SI 1987/37)
The Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (England and Wales) Regulations 2000 (SI 2000/1043)
The Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (Scotland) Regulations 2000 (SSI 2000/95)
The Merchant Shipping (Dangerous or Noxious Liquid Substances in Bulk) Regulations 1996
The Merchant Shipping (Reporting Requirements for Ships Carrying Dangerous or Polluting Goods) Regulations 1995
The Notification of Installations Handling Hazardous Substances Regulations 1982 (SI 1982/1357)
The Persistent Organic Pollutants Regulations 2007 (SI 2007/3106)
The REACH (Appointment of Competent Authorities) Regulations 2007 (SI 2007/1742)
The REACH Enforcement Regulations 2008 (SI 2008/2852)
The Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2008 (RoHS) (SI 2008/37)
Aggregates Levy - Part 2 of the Finance Act 2001 (c.9)
Coast Protection Act 1949 (c. 74)
Countryside and Rights of Way Act 2000
Environment Act 1995
Environmental Protection Act 1990 - Parts VII - IX
Marine (Scotland) Act 2010 (ASP 2010/5)
Marine and Coastal Access Act 2009
National Parks and Access to the Countryside Act 1949
Natural Environment and Rural Communities Act 2006 (c.16)
Protection of Badgers Act 1992 (c. 51)
Salmon and Freshwater Fisheries Act 1975
The Aggregates Levy (General) Regulations 2002
The Conservation (Natural Habitats &c.) Regulations (SI 1994/2716)
The Conservation of Habitats and Species Regulations 2010
The Environmental Impact Assessment (Scotland) Regulations 1999 (SSI 1999/1)
The Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) (Scotland) Regulations 2002 (SSI 2002/6)
The Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (England and Northern Ireland) Regulations 2007 (SI 2007/1067)
The Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (Scotland) Regulations 2007 (SSI 2007/485)
The Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (Wales) Regulations 2007
The Environmental Liability (Scotland) Regulations 2009 (SSI 2009/266)
The Harbour Works (Environmental Impact Assessment) Regulations 1999 (SI 1999/3445)
The Hedgerows Regulations 1997 (SI 1997/1160)
The Marine Licensing (Exempted Activities) Order 2011
The Marine Works (Environmental Impact Assessment) Regulations 2007
The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (SI 2007/1842)
The Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001 (SI 2001/1754)
The Sites of Special Scientific Interest (Appeals) Regulations 2009 (SI 2009/197)
Weeds Act 1959 (c.54)
Wild Mammals (Protection) Act 1996 (c.3)
Wildlife and Countryside Act 1981
Regulation 106/2008/EC on a Community energy-efficiency labelling programme for office equipment
The Capital Allowances (Energy-saving Plant and Machinery) Order 2001 (SI 2001/2541)
The CRC Energy Efficiency Scheme Order 2010
The Electromagnetic Compatibility Regulations 2006
The United Kingdom Ecolabelling Board (Abolition) Regulations 1999 (SI 1999/931)
Control of Pollution (Amendment) Act 1989
Control of Pollution Act 1974
Directive 2008/1/EC concerning integrated pollution prevention and control
Environmental Protection Act 1990 (c. 43) Part 1 IPPC
Merchant Shipping (Pollution) Act 2006
Pollution Prevention and Control Act 1999
Prevention of Oil Pollution Act 1971
The Environmental Damage (Prevention and Remediation) Regulations 2009 (SI 2009/153)
The Environmental Information (Scotland) Regulations 2004 (SSI 2004/520)
The Environmental Permitting (England and Wales) Regulations 2010
The Environmental Protection (Prescribed Processes and Substances) Regulations 1991 (SI 1991/472)
The Large Combustion Plants (Scotland) Regulations 2002 (SSI 2002/493)
The Merchant Shipping (Anti-Fouling Systems) Regulations 2009
The Merchant Shipping (Prevention of Pollution by Sewage and Garbage from Ships) Regulations 2008
The Pollution Prevention and Control (Scotland) Regulations 2000 (SSI 2000/323)
Environment Act 1995 - Part II Contaminated Land
The Contaminated Land (Scotland) Regulations 2000 (SSI 2000/178)
The Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) (Wales) Regulations 2002
Control of Pollution Act 1974 (c. 40) - PART III
Environmental Protection Act 1990 - Part III and Part IV
Noise and Statutory Nuisance Act 1993
The Control of Noise at Work Regulations 2005 (SI 2005/1643)
The Environmental Offences (Use of Fixed Penalty Receipts) Regulations 2007 (SI 2007/901)
The Noise Emission in the Environment by Equipment for use Outdoors Regulations 2001
Food and Environment Protection Act 1985
Pesticides Act 1998
The Biocidal Products Regulations 2001 (SI 2001/880)
The Control of Pesticides Regulations 1986 (SI 1986 1510)
The Pesticides (Maximum Residue Levels) (England and Wales) Regulations 2008 (SI 2008/2570)
The Possession of Pesticides (Scotland) Order 2005 (SSI 2005/66)
Environment Act 1995 - Part V Waste
Environmental Protection Act 1990 - Part II Waste
Landfill Tax - Chapter III of the Finance Act 1996 (c.8)
The Collection and Disposal of Waste Regulations 1988
The Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991 (SI 1991/1624)
The Deposits in the Sea (Exemptions) Order 1985
The End-of-Life Vehicles Regulations 2003 (SI 2003/2635)
The Environmental Protection (Duty of Care) Regulations 1991 (SI 1991/2839)
The Hazardous Waste (England and Wales) Regulations 2005 (SI 2005/894)
The Hazardous Waste (Wales) Regulations 2005
The Landfill (Scotland) Regulations 2003 (SSI 2003/235)
The Landfill Tax (Material Removed from Water) Order 2007 (SI 2007/2909)
The Landfill Tax (Prescribed Landfill Site Activities) Order 2009
The Landfill Tax (Qualifying Material) Order 2011
The Landfill Tax Regulations 1996 (SI 1996/1527)
The List of Wastes (Wales) Regulations 2005
The Major Accident Off-Site Emergency Plan (Management of Waste from Extractive Industries) (England and Wales) Regulations 2009
The Management of Extractive Waste (Scotland) Regulations 2010 (SSI 2010/60)
The Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003
The Packaging (Essential Requirements) Regulations 2003 (SI 2003/1941)
The Site Waste Management Plans Regulations 2008
The Special Waste Regulations 1996 (SI 1996/972)
The Transfrontier Shipment of Waste Regulations 2007 (SI 2007/1711)
The Waste (England and Wales) Regulations 2011
The Waste Batteries and Accumulators Regulations 2009 (SI 2009/890)
The Waste Electrical and Electronic Equipment Regulations 2006 (SI 2006/3289)
The Waste Information (Scotland) Regulations 2010 (SSI 2010/435)
The Waste Management (England and Wales) Regulations 2006 (SI 2006/937)
The Waste Management Licensing (Scotland) Regulations 2011
The Anti-Pollution Works Regulations 1999 (SI 1996/1006)
The Capital Allowances (Environmentally Beneficial Plant and Machinery) Order 2003 (SI 2003/2076)
The Control of Pollution (Applications, Appeals and Registers) Regulations 1996 (SI 1996/2971)
The Control of Pollution (Oil Storage) (England) Regulations 2001 (SI 2001/2954)
The Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998
The Private Water Supplies Regulations 2009
The Surface Waters (Abstraction for Drinking Water) (Classification) Regulations 1996 (SI 1996/3001)
The Surface Waters (Dangerous Substances) (Classification) Regulations 1989 (SI 1989/2286)
The Surface Waters (Dangerous Substances) (Classification) Regulations 1992 (SI 1992/337)
The Surface Waters (Dangerous Substances) (Classification) Regulations 1997
The Surface Waters (Dangerous Substances) (Classification) Regulations 1998 (SI 1998/389)
The Trade Effluents (Prescribed Processes and Substances) Regulations 1989
The Water Environment (Controlled Activities) (Scotland) Regulations 2005 (SSI 2005/348)
The Water Environment (Oil Storage) (Scotland) Regulations 2006 (SSI 2006/133)
The Water Resources (Abstraction and Impounding) Regulations 2006 (SI 2006/641)
The Water Supply (Water Fittings) Regulations 1999 (SI 1999/1148)
Water Act 2003 (c.37)
Water Consolidation (Consequential Provisions) Act 1991 (c.60)
Water Industry Act 1991 (c. 56)
Water Industry Act 1999
Water Resources Act 1991 (c.57)
The Merchant Shipping (Marine Equipment) Regulations 1
APPENDIX 1
The Environmental Impact of the Aggregates Levy - more detailed analyses of issues for consideration

1. The impact of the Levy on sales of recycled and secondary materials

- When querying the effectiveness of the Aggregates Levy, the general response from Government has been that it is justified based on its record of increasing the supply of recycled materials into aggregates markets. But is this correct? Given that the levy represents a significant proportion of aggregates supply costs it will undoubtedly have had some impact on the primary/recycled market shares - the question is how much? The attached table includes our estimates of the supply and market share of recycled materials in aggregates markets since 1990. The availability of information on the recycled sector is not good historically and remains unsatisfactory. Our figures are based on occasional surveys of recycling activity commissioned by DCLG (most recently in 2005) and by WRAP (2008). We have used market intelligence to produce trend data but with regard to assessing the Aggregates Levy impact it is helpful that one of the DCLG-commissioned surveys was carried out in 2001, immediately pre-Levy.

- Looking in more detail at the value-for-money and cost effectiveness of the Levy, the Levy generated £3,358 million of revenue from 2002/3 to 2012/13 (source HMRC). However, given that 60 million tonnes of recycled aggregates were sold in aggregates markets pre-Levy in 2001, and were therefore price competitive with primary aggregates without the Levy effect, it would be reasonable to assume that prices of recycled materials also increased when the Levy was introduced. Even if we assume that prices of recycled materials increased by less than the rate of the Levy, there would nevertheless have been a significant additional cost to construction clients from this knock-on effect.

- If suppliers of recycled materials increased their prices by, say, 75% of the full Levy rate, for example, the additional cost over the same period (2002/3 to 2012/13) would have been £921 million, generating additional costs resulting from the Levy of £4,279 million (£3,358 million Levy cost + £921 million higher recycling prices), equivalent to £389 million pa (i.e. £4,279 million / 11 years).

- Sales of recycled materials in 2007 (the last year before recessionary impacts made trends negative) were an estimated 10.5 million tonnes pa higher than 2001, and over that period the cumulative total increase in sales of recycled materials above the 2001 pre Levy level of 60 million tonnes was 39 million tonnes. If we assume that 50% of this cumulative increase in sales of recycled materials was attributed to the Aggregates Levy, it would mean that each additional tonne of recycled material supplied due to the Aggregates Levy over the period 2002/3 to 2007/8 would have had a Levy cost of around £120 per tonne (£395 million pa Levy cost x 6 years / 39 million tonnes x 50%). This cost is in the order of ten times higher than the market cost of a tonne of aggregates, which, even taking account of the assumptions made in the preceding calculations, suggests a policy measure to increase recycling which is very expensive in both absolute and relative terms.

- The historic sales trend indicates that recycled volumes increased rapidly between 1990 and 2001, and we believe that the introduction of the Landfill Tax was the main driver of recycling. Other drivers to date include:

  1. *Increasing landfill costs not related to Landfill Tax, notably the declining availability of landfill sites which has driven up the costs of landfill*
2. Increasing confidence in the quality of recycled materials, due to an increasingly professional recycling sector - including the involvement of primary aggregates companies able to offer clients both primary and recycled and blended aggregates

3. The development of protocols between industry, clients, WRAP and the Environment Agency to clarify the point at which waste materials can be classified as “products”.

4. Increasing awareness of the availability and performance of recycled materials

5. Increasing demands from clients for recycled content due to greater sustainability awareness

6. The widespread use of sustainability assessment tools for construction work (e.g. The Code for Sustainable Homes, Breeam) which encourage the use of recycled materials

- As a consequence of these drivers, and taking account of the fact that the pre-1990 base level market share of recycling was already 10% it became clear that most of the potential volume of recycled supply from the major source (construction and demolition waste) was being achieved in the mid 2000s. In the 2005 recycling survey commissioned by DCLG it was concluded “as in the previous surveys, very little evidence was found of hard C and D (construction and demolition) waste which could be recycled into aggregates being landfilled as waste, and only very modest tonnages were identified being used within landfills in an unprocessed form (and then it was mainly for site engineering.” (source: Paragraph 1.2, Survey of Arisings and Use of Alternatives to Primary Aggregates in England, 2005 DCLG) In other words the great majority of construction and waste materials (the “hard” materials) were being used productively in aggregates markets.

- Having reached the stage where most recycled materials are in the market we believe the main constraint on supply is the level of demolition work being undertaken. On the assumption that there is a close relationship between demolition activity and construction activity it may be significant that the statistical relationship between changes in the use of recycled materials in aggregates markets and changes in construction activity (measured by ONS Construction Output data) is close.

- This would suggest that marginal changes in the Aggregates Levy have little impact on levels of recycling and the market is relatively established and mature. Pre Levy in 2001 the supply of recycled materials into aggregates markets was 60 million tonnes, so clearly the supply of that volume of material was a commercial proposition pre-Levy. Post the Levy the share of recycled materials continued to increase at roughly the pre Levy trend. We have not seen a dramatic increase in supply because, as described earlier, most potential supply was in the market by the early 2000s.

- Given this market context and the continuing impact of the factors listed in a previous paragraph there seems no reason to judge that continuing increases in the Levy rate are necessary to sustain the supply of recycled materials or, indeed, any relative or absolute reductions in the Levy rate would have any material impacts on supply.
2. The Relationship of the Levy to Environmental Outcomes and Performance in the Aggregates Sector

The environmental outcomes of the Levy are very difficult to identify and the justification for increasing Levy rates difficult to understand for reasons including:

- There has been a theme in Budget and Pre Budget Reports since 2002 to describe the environmental impacts of the Levy as “reductions in noise and vibration, dust and other emissions to air, visual intrusion, loss of amenity and damage to wildlife habitats” (2008 Budget). To the best of our knowledge these statements were not based on any assessment of actual Levy impacts, but on the assumption that recorded reductions in primary aggregates sales were the result of the Levy and these reductions in sales were a proxy for lower environmental impacts. However, the assumption that any recorded decline in aggregates sales since 2001 was due to the impact of the Aggregates Levy takes no account of other market factors - aggregates sales increased in 2004, 2006 and 2007 before the recession took effect and historic sales volumes have been volatile without any Levy impact - for example the significant fall in sales between 1989 and the late 1990s.

- The analyses take no account of the fact that one impact of the Levy has been the substitution of some primary aggregates by other extracted minerals. There is anecdotal evidence of increasing shale sales in some markets - most recently in Northern Ireland and government statistics record higher sales of slate aggregates since the introduction of the Levy. It is likely that a significant share of these non-levedied minerals were quarried specifically for use in aggregates markets as opposed to being by products of extraction being carried out for other purposes and there appears to have been no account taken of the environmental impacts of such supply. This is of course an issue recognised in the current EC Investigation into certain Aggregates Levy exemptions.

- While acknowledging that the Aggregates Levy is likely to have led to some reduction in sales of taxed aggregates we believe it is overly simplistic to assume that there is a strong relationship between changes in aggregates sales and adverse environmental impacts. The levy impact on aggregates sales is likely to have been relatively marginal, which makes any assumptions about significant associated changes in environmental impacts questionable at best.

- The fact that this relationship has not been quoted in more recent Budgets is perhaps indicative that HM Treasury recognises that the type of statement referred to in the earlier bullet point is not reliable. We repeat that we are not aware of any empirical evidence collected to assess the environmental impacts of the aggregates levy.

3. The Justification for the Levy based on the internalisation of external social and environmental impacts and costs not reflected in pre-aggregates levy market prices.

We have two fundamental concerns about the historic and continuing justification for the Levy on this basis. Both are based on a fundamental question, does the analysis which led to the calculation of monetary values for the environmental costs of aggregates supply, which underpins the Aggregates Levy rate, provide a reasonable basis for the Levy?

- The research commissioned by Government to assess the industry’s external costs was entitled “The Environmental Costs and Benefits of the Supply of Aggregates.” However this analysis assessed only the costs and not the benefits. A reasonable and comprehensive assessment would have included the long term environmental
and social benefits arising from the restoration of quarries, but such benefits were
given, in effect, zero value in the research calculations. This omission has become
an issue of greater significance since the introduction of the Levy. There is
increasing information and evidence relating to high quality restoration of
aggregates quarries for nature conservation, biodiversity and amenity purposes.
Such beneficial restoration is independently evidenced and highlighted by
organisations such as Natural England, The RSPB and the Wildlife Trusts. Such
benefits are not captured in the cost analysis implicit in the current Levy rate,
which is a wholly unreasonable situation.

• We believe that the Research was also biased to achieve high external costs and
that the methodology and practice of the Research was neither fair nor reasonable
in a number of key respects including:

1. A very low proportion of the population survey sample in quarrying areas
identified costs associated with quarrying activities, but the extrapolation of a
small survey sample to the national population generated a significant cost
sum

2. The survey questionnaires included a significant bias which was likely to have
had the effect of encouraging higher cost outcomes

3. The survey results were manipulated by Government to increase the calculated
environmental costs (the “costs” of aggregates supply were increased
substantially after the market research was completed on the assumption that
the calculated costs of supply attributed to aggregates from National Parks
could also be applied to aggregates supplied from Areas of Outstanding Natural
Beauty. No research results to justify this assumption existed.)

We appreciate that these concerns about the origin of the aggregates levy value are in
some respects ancient history. However, the fact that the current Levy rate has been
determined by a process which neither acknowledges nor credits the industry for its
outstanding restoration and aftercare of sites providing lasting benefits to people and
nature is an issue of fundamental inequity.
APPENDIX 2
Proposal for a New Aggregates Levy Sustainability Fund (ALSF) in England

25th September 2013

Richard Benyon MP
Parliamentary Under-Secretary for
Natural Environment and Fisheries
Nobel House
Smith Square
London
SW1P 3JR

Dear Richard,

MPA proposals for a new Aggregates Levy Sustainability Fund (ALSF) in England

You may recall that, after our last meeting with you earlier this year, we discussed our revised proposals for the above. Whilst you were broadly supportive in principle, you asked us to consider how we could strengthen the proposals, particularly given that Treasury would still need to be convinced.

We have held back from resubmitting our proposals as a number of key issues have been developing which are arguably relevant. For example, the energy sector, particularly the wind and shale gas and oil operators, have been involved with proposing quite significant financial incentives for local communities to try and either reduce opposition, or offset impacts.

We are also closely monitoring developments with regards to ecosystems services and the recently published Green Paper on biodiversity offsetting which we think, if properly constructed, offers opportunities for our sector to enhance its already significant contribution to biodiversity.

The levy itself continues to be a live issue, with the recent announcement by the European Commission that it is undertaking a Phase 2 investigation relating to some of the levy’s exemptions and reliefs, which HMRC and Treasury have indicated their intention to suspend, pending the outcome of this investigation and other related legal matters.

There are fragile signs that there is something of a recovery in demand taking place, albeit not evenly spread geographically, or by products and still tilted generally towards London and the South East. We are hopeful that this improvement in demand may last beyond the election, but that must be a conjecture with over 18 months still to go.

Finally, our Annual Mineral Planning Survey results for 2011, published in 2012 show that applications remain well below pre-2007 levels, that the time taken to obtain permission is still lengthening and whilst success rates remain reasonable replenishment rates for
sand and gravel continue to remain below 60%, which is building up a cumulative shortfall in both reserves and capacity to supply for the medium and long term.

In short, the planning system is still a constraint on the release of sites and, as ‘localism’ takes firmer root, something needs to be done to help minimise the impacts unduly.

Consequently, our attached proposal differs from those we have previously submitted in 2 key respects. Firstly, the scope is narrower and secondly, the quantum is halved.

On scope we are limiting this, at this stage, to 2 key areas, i.e. Local community engagement & projects and Biodiversity/nature conservation and, on quantum, to a ‘rebate’ of 4 pence per tonne, equivalent to around £5mpa from the prevailing Aggregate Levy rate of £2.00 pt. This represents around 2% of current Aggregates levy receipts.

Such a scheme could be operated in a similar way to the Landfill Tax Communities Fund, through which landfill operators are able to contribute a small percentage of Landfill Tax liabilities to environmental bodies to improve the environment and deliver community benefits close to their sites.

Our view remains that, for so long as the levy exists, an ALSF should exist.

By making the scope narrower and reducing the quantum significantly, we think this makes the proposition stronger, particularly as volumes should be increasing and because a number of reliefs and exemptions will be suspended soon, which we estimate could raise well in excess of £10m pa, thus offsetting any financial impact this proposal creates.

We believe a rebate of 4 pence per tonne, whilst small, would still achieve a lot locally.

We would very much welcome the opportunity to meet with you again and also look forward to welcoming you to our Restoration and Biodiversity awards event at the Royal Society on 16 October.

Yours sincerely,

[Nigel Jackson
Chief Executive]
MPA Proposal for a new Aggregates Levy Sustainability Fund (ALSF) in England

Purpose
To re-introduce ALSF in a revised form and build on its substantial legacy at lower cost with a narrower and more relevant focus and to support delivery of the Government’s ‘localism’ agenda. There is a very clear precedent in the Landfill Tax Communities Fund which in 2012 enabled landfill operators to claim tax credits of £65.3 million related to £1,130 million of landfill tax declarations, i.e. 6.8%. Our proposal would equate on a similar basis to around 2% of Aggregates levy receipts.

Key features

- **Quantum** - significantly less than previously at up to £5m pa, notionally equivalent to up to a 4 pence per tonne rebate from the prevailing level of the Aggregates Levy (AGL), currently £2.00/t.
- **Scope** - narrower than before focussing on local community engagement, biodiversity and nature conservation. In the event that this new scheme proves successful, the scope of the scheme could be widened out to include carbon reduction, heritage and security of supply issues at a later date.
- **Timescale** - to be introduced in April 2015

<table>
<thead>
<tr>
<th>Key elements and amounts</th>
<th>Amounts (£/mpa)</th>
<th>Notional pence per tonne</th>
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<td>Local community engagement</td>
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<td>2.8</td>
</tr>
<tr>
<td>Biodiversity/nature conservation</td>
<td>1.5</td>
<td>1.2</td>
</tr>
</tbody>
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**TOTAL**                                      | 5              | 4                       |

Local community engagement
The ‘Localism’ Act will have increasingly profound impacts on the planning system as local communities become ‘empowered’ and have a greater influence over major developments. This may increase opposition to development generally and aggregate extraction in particular.

To help offset this and to increase and improve stakeholder dialogue and engagement ‘Local Aggregate Community Trusts’ (LACTs) should be set up which can receive Aggregates Levy (AGL) credits for use in the local community. Trusts would involve representation from the operator, the local community, Parish, District and County Councils.

LACTs would operate under a national governance and probity model. They would manage the fund according to an agreed plan that conforms to the national governance model. The community most affected would receive the lion’s share of the funds although there should be flexibility to enable apportionment to other communities, if appropriate.
Lessons could be learned from the Landfill Tax Communities Fund. The possibility of using the existing landfill tax credit administrative structure could be explored e.g. a County based ‘Aggtrust’ which distribute funds to schemes which have been brokered by operators with local communities as part of the planning application. Centrally-distributed funding by DEFRA may also have a role to play.

Based on annual sales of say 120mnt in England the rate to be rebated from the AGL for this element would be 4ppt. On a typical 200,000tpa aggregate operation this would generate AGL credits of £8kpa for typically 10 to 15 years i.e. £80/120k for appropriate use in the community. This strikes a reasonable balance between creating an incentive without risking the accusation of ‘buying permission’ as the sums involved are not great.

Biodiversity, Nature Conservation
The £1.5m fund identified for Biodiversity, Nature Conservation could be overseen by Natural England (NE) although there is a strong case for allocating this fund directly to LACTs, albeit with NE input to ensure that schemes on the ground maximise their contribution to UK biodiversity priorities and take account of the Lawton findings and the Natural Environment White Paper where possible. It would not preclude input from the local Wildlife Trusts, RSPB and other expert environmental organisations where relevant.

Funding
As indicated above, the total funding for this new arrangement would come from the Aggregates Levy, at a rate of up to 4p per tonne. Whether the mechanism for it to reach its destination follows the recent HM Treasury practice of collecting the whole Levy and then allocating up to £5 million pa to DEFRA for subsequent redistribution, or allows it to be placed straight into a Trust, for subsequent distribution, needs to be considered.