

The Cumulative Impact of Environmental and Planning related Taxation & Regulation 2014

3rd 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 £324m pa in 2013 rising to around £641m pa by 2020. This 2013 base year figure is lower than the £400 million estimated for 2013 last year due to lower EUETS costs as a result of cement and lime being given EU carbon leakage status, therefore reducing the number of carbon allowances which needed to be purchased. The 2020 estimate of £641 million is slightly lower than the £665 million cost estimated last year.
2. For the Aggregates industry the identified costs are equivalent to 28% of industry GVA.
3. For the Cement industry the identified costs are equivalent to 7% of industry GVA in 2013, rising to 49% of industry GVA in 2020.
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 mineral products businesses 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. For example it has used the facility in the EU Taxation of Energy Products Directive to reduce the impact of the Climate change Levy on the minerals industry. Government also 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 welcome such 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 over the next six years.
9. 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.
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.

1. INTRODUCTION AND CONTEXT

- 1.1 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 nearly 500 companies and is the sectoral voice for Mineral Products.
- 1.2 MPA membership is made up of the vast majority of independent SME companies throughout the UK, as well as the larger 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.
- 1.3 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.
- 1.4 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.
- 1.5 The Minerals Products industry is by far the largest supplier to the construction industry and its activities represent the largest materials flow in the economy.
- 1.6 The Construction recovery is now underway with likely growth of c. 4% during 2014. To date this recovery has been based largely on improvements in the housing market with stronger growth in infrastructure, commercial and construction expected over the next two years. In particular there is a significant pipeline of potential infrastructure projects identified by Infrastructure UK. Any increases in the regulatory costs imposed on the mineral products sector will feed through into the costs of delivering these programmes.
- 1.7 The broad scope of the industry's activities, encompassing mineral prospecting, mineral extraction, dredging and processing, the manufacture of a range of mineral products including energy intensive materials, 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. An assessment of legislation and regulation relevant to industry businesses has identified approximately 340 environment and planning related laws and regulations managed by the industry - not all of these measures will apply to every business.
- 1.8 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 2013 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 we have quantified a number of significant costs and estimated others to provide indicative costs.
- 1.9 The identified costs estimated for the complex mix of climate change and energy measures are lower than set out in previous years due to lower costs associated with the EU Emissions Trading Scheme, notably for the 2013 base year. We have included details of the assumptions we have made for these measures.

- 1.10 We have also identified and acknowledged examples of regulations which have been amended and/or re-interpreted or where implementation has been improved.
- 1.11 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

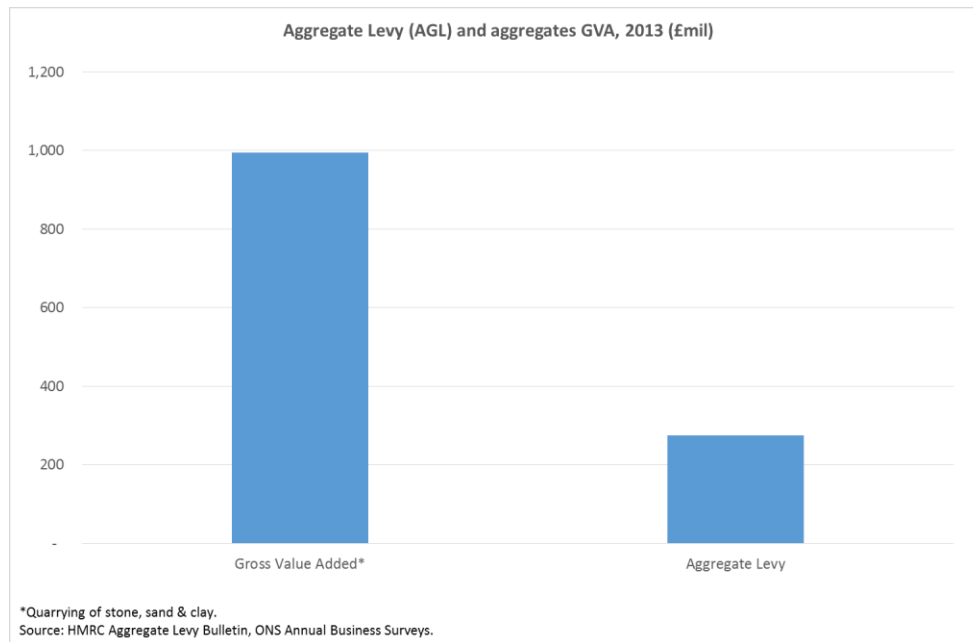
2.1. DIRECT TAXATION

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 twelve years 2002/3 to 2013/14 the total cost of the AGL to the mineral products industry was £3.64 billion, an average of £304 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 introduced in April 2014 while the European Commission investigates the State Aid implications of certain aggregates levy exemptions. 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 community and sustainability outcomes.
- 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 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 has enabled distortions in local markets.
- The European Commission has recently confirmed that the operation of the Northern Ireland Aggregates Levy Relief scheme was compatible with 2001 and 2008 Environmental Aid guidelines. There has been significant and welcome UK Government support for the industry in Northern Ireland during this review process and we hope a new relief scheme can be introduced as soon as possible.

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 In 2013, the cost of the AGL of £275 million to data was equivalent to 28% 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 (SIC code 08.1 - Quarrying of stone, sand & clay).



COST = £275 million (2013)

- 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 1,800,000 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 materials and arisings that can be recycled e.g. concrete, brick, metals, wood being now in the chain of product utility and 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. However the use of materials arising from demolition such as silts and clays to enable the restoration of quarries for beneficial after uses such as the creation of wildlife habitats 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

2.1.8 **The use of waste derived fuels in the Cement and Lime Manufacture.** For many years the cement industry has been involved in a protracted process to improve the flexibility of the industry to use waste derived fuels instead of fossil fuels with high levels of embedded carbon dioxide. These waste-derived fuels have lower embodied carbon than fossil fuels and in some cases (biomass) no embodied carbon. This reducing reliance on virgin fossil fuels is a practical contribution to a more circular economy. While the industry has always recognised the need for rigorous permitting and risk-assessment procedures, the historic operation of the regulatory system has been unreasonably constraining on the ability of the industry to develop the use of waste derived fuels. However following two years of work the industry code of practice for the use of waste derived fuels has been updated, modified and expanded. This includes significant and welcome differences in the way UK Regulators will provide permission for the use of waste derived fuels and waste raw materials. The new risk assessment approach will provide a more efficient means of enabling companies to switch to using waste derived fuels and waste raw materials when alternative supplies have been identified, while retaining appropriate regulatory controls. This is a positive example of co-operation between an industry and the regulator to develop a more efficient regulatory process with the long term benefit of lower carbon dioxide emissions.

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 businesses 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.

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 24%.

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 2014 Budget Government confirmed 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. The benefits accrue to cement, lime, dimension stone, asphalt concrete and mortar production. We very much welcome this

positive action by Government which will reduce Climate Change Levy costs for the industry by approximately £9 million p.a.

- 2.2.6 **Estimated Direct and Indirect costs associated with UK Cement manufacture from UK Government and EU measures** (the costs and assumptions made in reaching these figures are set out later in this document).

	2013	Post 2020
	£ million pa	£ million pa
Indirect costs	15.90	53.58
Direct costs	6.15	139.68
Indirect and Direct Total Costs	22.05	193.26

COST = £22 million rising to £193.3 million pa

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

	2013	Post 2020
	£ million pa	£ million pa
Indirect costs	1.18	5.49
Direct costs	0.41	31.74
Indirect and Direct Total Costs	1.59	37.24

COST = £1.6 million rising to £37.2 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**

	2013	Post 2020
	£ million pa	£ million pa
Indirect costs	9.88	32.55
Direct costs	2.07	5.98
Indirect and Direct Total Costs	11.95	38.53

COST = £12 million rising to £38.5 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**

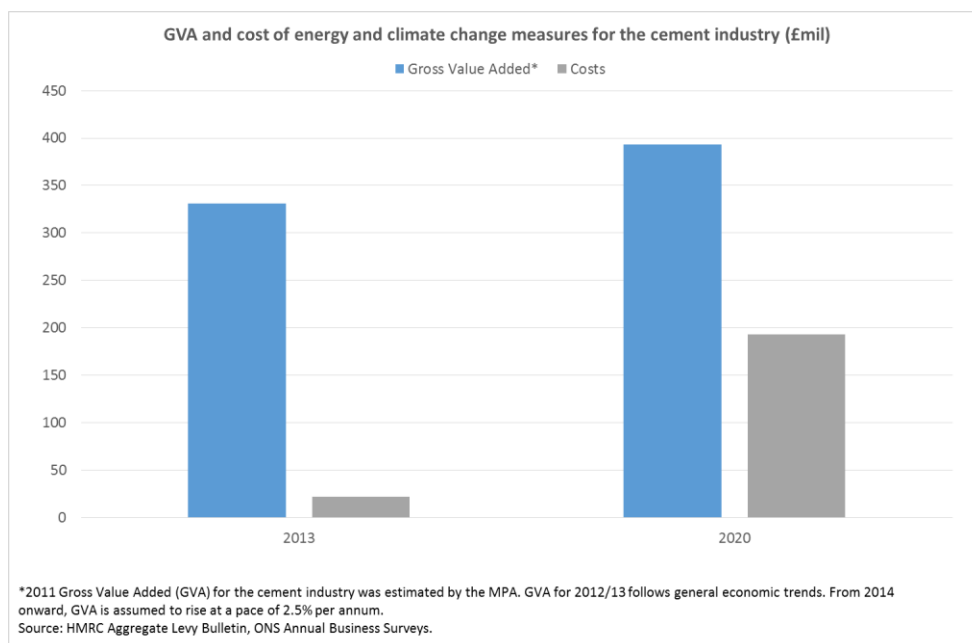
Country	2011	2020
China	10.2	10.3

Japan	3.1	3.1
Russia	0.0	-0.5
USA	-0.6	-0.2
Denmark	9.4	15.7
France	2.5	15.2
Germany	6.3	17.3
Italy	9.9	22.0
UK	14.2	28.3

2.2.11 Exceptionally high costs in the UK will inevitably feed through into the broader economy. 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 indicated 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 In 2013 KPMG 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 £22 million in 2013 to £193 million in 2020, at which point the cost of the measures would be equivalent to 49% of the estimated industry GVA.



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, Natural England, English Heritage, Highways Agency) and other stakeholders (e.g. local communities).
 - 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 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.
- 3.1.6 The scope of EIAs is also increasing as opposed to focussing on significant impacts and as the scope increases so do the costs.
- 3.1.7 The new National Planning Policy Framework (NPPF) sets out a framework for the operation of the mineral planning system but there are increasing concerns that Mineral Planning Authorities (having to cope with depleted specialist staff and resources) and the planning inspectorate are implementing the NPPF in an excessively precautionary manner. One practical problem of deregulation is that there is now insufficient mineral planning guidance published to guide planning decisions. The available guidance is too general and discourages efficient and timely decision making.

- 3.1.8 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.
- 3.1.9 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. It is increasingly common for mineral planning authorities to charge for pre - application discussions. For example Surrey County Council circulated the following notification in September 2014:

Notification of minerals and waste pre-application discussion charging scheme

On the 30 July 2014 Surrey County Council Planning and Regulatory Committee resolved to introduce a charging scheme for pre-application discussions relating to mineral and waste development proposals. The report to the Planning and Regulatory Committee is available to view on our website,

Charging for pre-application advice will enable us to sustain and improve current levels of service. The fees for pre-application advice will be in addition to the fees payable for the submission of planning applications and the chargeable monitoring of mineral and landfill sites

Pre-planning application charges have also been introduced by the Environment Agency and Natural England

- 3.1.10 The Environment Agency has issues guidance introducing charges of £1,500 for water Transfer Licence applications or variations and £135 for Abstraction Licence applications or variations. A company with 50 quarries requiring one water Transfer Licence per quarry will 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.
- 3.1.11 **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 £16 million pa.

<i>COST = £8 - £16 million pa</i>
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3.2 **ENVIRONMENTAL REGULATION**

- 3.2.1 Regulation is necessary and should 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 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 2015/16 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 and is continuing to work 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 (RDS)** 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.

The cost implications of the potential testing requirements associated with RDS may be substantial. It looks increasingly possible that testing requirements for granular aggregates could involve a minimum of two upflow percolation leaching tests to evaluate each aggregates source, possibly followed by a requirement for repeat leaching tests every three years. While the cost of testing is uncertain and there are only a small number of UK laboratories set up to carry out the required tests in accordance with the current draft test method, A figure of £2,000 per test, based on current costs, implies a sectoral cost of £4 million for the UK aggregates industry for the initial testing and annual costs of over £0.5 million. The key issue here is that this level of costs is entirely disproportionate to the underlying risk, which is minimal.

- 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 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. It implies a need for documentation to be supplied with each delivery, so a large construction contract being supplied with 100,000 tonnes of aggregates in delivery vehicles with a standard 20 tonne payload would result in the customer receiving 5,000 identical sets of documents. At a time when it is simple to provide web - based information readily available to customers it is absurd and grossly inefficient for the regulations to insist on paper documentation for each delivery.

- 3.2.13 The UK is currently implementing the **EU Accounting Directive** which will require UK extractive businesses to participate in a new financial reporting scheme. This measure has broadly similar objectives and reporting requirements to the UK **Extractive Industries Transparency Initiative (EITI)** which the UK Government is now in the process of implementing. A Government announcement on the UK implementation of the Accounting Directive in August 2014 stated:

“Oil, gas and mining can, if well managed, deliver precious economic benefits to the populations of developing countries. Too often though the assets from resource-rich

countries are not benefitting local people or the local economy. The UK is determined to lead by example which is why we have introduced reporting requirements on UK based extractives companies early. These changes will result in greater transparency, helping build a stronger economy and ensuring people around the world have the information they need to hold their governments to account. This new reporting requirement implements Chapter 10 of the EU Accounting Directive, which was agreed in June 2013.”

The purpose of the two measures is a desire to improve the transparency of the financial arrangements between minerals businesses and governments to lessen the likelihood of bribery and corrupt behaviour and to help ensure that the operations of extractive businesses benefit the wider populations of resource rich counties. The objectives are fully supported by MPA but we remain unclear why two parallel sets of disclosure and reporting are being required of extractive businesses in the UK when the regulation and operation of such businesses in the UK is already comprehensive, effective and transparent?

- 3.2.14 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. There is currently no process we are aware of within Government which monitors this cumulative impact of regulation of sectors such as mineral products. Impact assessments are carried out for individual regulations prior to implementation but no assessment of cumulative impacts.

Estimated Direct and Indirect costs associated with UK Portland Cement manufacture (2013 onwards).
Using DECC Policy Appraisal Carbon Costs. Published 24th September 2014

INDIRECT COSTS

	All cost is in £		
	2013	2017	2020
EU ETS CO ₂ in electricity	1,891,829	10,160,445	12,636,111
Carbon Price Support tax on fossil fuel use in power generation	3,394,639	12,369,131	12,369,131
Small Scale Feed in Tariffs	1,984,287	3,685,104	4,960,716
Renewable Obligation	7,937,146	10,771,841	12,897,862
Electricity Market Reform	0	0	0
Electricity Market reform	0	5,655,217	10,020,647
Capacity Market	694,500	694,500	694,500
TOTAL INDIRECT COSTS (€)	15,902,401	43,336,238	53,578,968

DIRECT COSTS

	All cost is in £		
	2013	2017	2020
EU ETS CO ₂ : Cost of meeting the benchmark following the retention of carbon leakage status.	812,501	3,937,768	4,897,234
Cost as a result of reduction in free allocation from CSCF	1,665,475	17,457,007	30,778,154
EU ETS CO ₂ if carbon leakage status is lost	2,477,975	81,360,798	136,810,090
EU ETS CO ₂ if carbon leakage status is lost from 2017 onwards	2,477,975	81,360,798	136,810,090
Climate Change Levy (with CCA)	3,668,670	4,077,893	4,391,445
Climate Change Levy with mineralogical process exemption on fuel only	3,668,670	600,928	647,133
Climate Change Levy with mineralogical process exemption on all energy (fuel and electricity)	3,668,670	66,000	71,075
CCA Compliance Cost	350,346	580,566	694,685
Taxation of energy products (amendment) directive	0	2,299,839	2,801,239
Cost of meeting new Emission Limits- version 1 (see IED sheet)	0	0	0
TOTAL DIRECT COSTS (€)	6,146,645	83,726,637	139,682,404

TOTAL COSTS

	All cost is in £		
	2013	2017	2020
TOTAL INDIRECT COSTS (€m)	15.90	43.34	53.58
TOTAL DIRECT COSTS (€m)	6.15	83.73	139.68
TOTAL COSTS (€m)	22.05	127.06	193.26

Summary of the Main Assumptions

	2013	2017	2020
Carbon Price (DECC) (€)	5.0	24.2	30.1
Level of Auctioning if carbon leakage status is lost (%)	0%	49%	70%
Assumed Production of Cement (tPCe)	10,000,000	10,000,000	10,000,000
Electricity Use normalised to assumed production of cement (kWh)	992,143,267	992,143,267	992,143,267
Annual CCL inflation	2.5	2.5	2.5
Transport CO ₂ tax	5	24.2324	30.1368
Transport Efficiency (improvement on 2011)	0.00%	3.00%	5.00%
Exchange rate (DECC) 1GBP = €	1.16	1.16	1.16

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 24th September 2014

INDIRECT COSTS

	All cost is in £		
	2013	2017	2020
EU ETS CO ₂ in electricity	214,047	1,159,491	1,442,010
Carbon Price Support tax on fossil fuel use in power generation	-243,163	791,909	791,909
Small Scale Feed in Tariffs	226,443	420,537	566,108
Renewable Obligation	905,773	1,229,263	1,471,881
Electricity Market Reform	0	645,363	1,143,538
Capacity Market	79,255	79,255	79,255
TOTAL INDIRECT COSTS (€)	1,182,355	4,325,818	5,494,700

DIRECT COSTS

	All cost is in £		
	2013	2017	2020
EU ETS CO ₂ if carbon leakage status is lost from 2017 onwards	-669,542	16,255,888	30,248,510
Climate Change Levy with mineralogical process exemption on all energy (fuel and electricity)	1,078,104	68,113	73,351
Taxation of energy products (amendment) directive	0	1,168,394	1,423,121
TOTAL DIRECT COSTS (€)	408,562	17,492,396	31,744,982

TOTAL COSTS

	All cost is in £		
	2013	2017	2020
TOTAL INDIRECT COSTS (€m)	1.18	4.33	5.49
TOTAL DIRECT COSTS (€m)	0.41	17.49	31.74
TOTAL COSTS (€m)	1.59	21.82	37.24

Summary of the Main Assumptions

	2013	2017	2020
Carbon Price (DECC) (€)	5.0	24.4	30.4
Level of Auctioning if carbon leakage status is lost (%)	0%	49%	70%
Assumed Production of quicklime (t)	1,000,000	1,000,000	1,000,000
Assumed Production of dolomitic lime (t)	500,000	500,000	500,000
Electricity Use (kWh)	69,388,666	69,388,666	69,388,666
Annual CCL inflation	2.5	2.5	2.5
Transport CO ₂ tax	5	24.4413	30.3966
Transport Efficiency (improvement on 2011)	0.00%	3.00%	5.00%
Exchange rate (DECC) 1GBP = €	1.17	1.17	1.17

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 24th September 2014

INDIRECT COSTS

	All cost is in £		
	2013	2017	2020
EU ETS CO ₂ in electricity	1,163,554	5,687,754	7,073,616
Carbon Price Support tax on fossil fuel use in power generation	2,128,295	7,754,922	7,754,922
Small Scale Feed in Tariffs	1,230,940	2,286,031	3,077,350
Renewable Obligation	4,923,760	6,682,246	8,001,110
Electricity Market reform	0	3,508,179	6,216,247
Capacity Market	430,829	430,829	430,829
TOTAL INDIRECT COSTS (€)	9,877,378	26,349,960	32,554,074

DIRECT COSTS

	All cost is in £		
	2013	2017	2020
EU ETS CO ₂ : Cost of meeting the benchmark (asphalt only- does not have Carbon leakage status)	67,846	1,279,074	2,474,439
Cost as a result of reduction in free allocation from CSCF	31,089	211,309	217,360
Climate Change Levy (without CCA)	0	1,216,129	1,309,638
CRC	1,975,542	1,975,542	1,975,542
TOTAL DIRECT COSTS (€)	2,074,477	4,682,053	5,976,979

TOTAL COSTS

	All cost is in £		
	2013	2017	2020
TOTAL INDIRECT COSTS (€m)	9.88	26.35	32.55
TOTAL DIRECT COSTS (€m)	2.07	4.68	5.98
TOTAL COSTS (€m)	11.95	31.03	38.53

Summary of the Main Assumptions

	2013	2017	2020
Carbon Price (DECC) (€)	5.0	24.4	30.4
Assumed Production of Cement (tPCe)	200,000,000	200,000,000	200,000,000
Electricity Use (kWh)	394,271,829	394,271,829	394,271,829
Annual CCL inflation	2.5	2.5	2.5
Transport CO ₂ tax	5	24.4413	30.3966
Exchange rate (DECC) 1GBP = €	1.17	1.17	1.17

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 £3,643 million of revenue from 2002/3 to 2013/14 (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, 50% of the full Levy rate, for example, the additional cost over the same period (2002/3 to 2013/14) would have been £665 million, generating additional costs resulting from the Levy of £4,308 million (£3,643 million Levy cost + £665 million higher recycling prices), equivalent to £359 million pa (i.e. £4,308 million / 12 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 £114 per tonne (£1906 million cumulative 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-levied 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.