

Date: 4th February 2013

Sent via email to: TRT@defra.gsi.gov.uk.

Dear Sirs,

MPA comments on the Defra Discussion Paper “Triennial Review of the Environment Agency and Natural England”

Thank you for informing the Minerals Products Association of the triennial review of the Environment Agency (EA) and Natural England (NE).

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 450 companies and is the sectoral voice for mineral products. 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 and 95% of asphalt and ready-mixed concrete production and 70% of precast concrete production. Each year the industry supplies £9 billion of materials and services to the £120 billion construction and other sectors. Industry production represents the largest materials flow in the UK economy and is also one of the largest manufacturing sectors.

MPA understands the legal requirement for the review of NE and EA. We welcome this opportunity to provide our thoughts and comments on the questions included in the discussion paper.

Summary of points:

- The needs of economy and society must always be balanced with protecting the environment and ecosystems. The EA and NE have a role to play in providing this balance. It is essential that business can continue to operate in a sustainable way.
- In general we support the proposal to create a single environmental body.
- We consider that the whole permitting and licensing system should be considered as a whole- including the planning system to properly consider how well the Government’s ambition on the environment and flood and coastal risk is managed.

Do the functions and/or form of the EA and NE continue to be appropriate , in terms of delivering the Government’s ambition on the environment and flood and coastal risk management?

We understand that the EA's principal aims are to protect and improve the environment, and to promote sustainable development. NE is the government's advisor on the natural environment to ensure "sustainable stewardship of the land and sea so that people and nature can thrive". We also understand that both bodies have responsibility for delivering the Government's ambition on the environment and flood and coastal risk management. On the whole we consider that the two organisations, along with others including NGOs, are achieving these ambitions.

However, our experience is of a rather disjointed approach to and engagement with the planning system and environmental permitting process. The planning system must be the primary process for deciding land use with the EA and NE providing technical advice where required and where appropriate. Environmental permitting should ensure that development is implemented in an environmentally acceptable manner.

The MPA works closely with NE on biodiversity issues, which is particularly important to our industry given the interface of operations with the natural environment, and the potential of operators to deliver large-scale biodiversity gains through management and restoration of their sites. NE kindly sponsor our Biodiversity Awards scheme for members which has also helped to improve mutual understanding and working relationships

What changes could be made to provide better quality outcomes for the environment, economy and society?

We believe that there is scope for further collaboration between industry and the EA to attain even greater environmental improvements. The cement sector has worked hard over the last 8-10 years to improve performance. The progress made by 2010 has been evidenced by the achievement of most of the environmental targets set for 2015 in the sector plan produced jointly with the EA. However, there is still some reluctance on the part of the EA to work collaboratively to bring about further environmental improvements. Despite initiatives to offer new ways of regulating the EA appears institutionalised in its regulatory approach and this prevents modern ways of working. Too often EA officers seek to 'gold plate' the legislation with overenthusiastic implementation that disadvantages UK operators. The recent decision to remove the 'policy' function from the EA now provides a convenient excuse that the EA simply implements the problems caused by Government departments and is absolved from responsibility. EA has considerable responsibility to interpret the legislation in a manner that provides sufficient flexibility for responsible businesses to operate to their maximum potential. Too many examples exist where the EA an inefficient administrator resulting in restrictions and barriers.

The lack of join up between the planning system and the environmental permitting regime disadvantages both the economy and the environment. Indeed we see little of the EA's commitment to "sustainable development" in the EAs approach to permitting certain operations.

An example of this would be the restoration of mineral workings for biodiversity benefit. Conditions and legal obligations attached to planning permissions generally require and specify site restoration. Often, to achieve the most appropriate outcome this will require,

import of inert material for landscaping and raising of levels. However, rather than treating this as a recovery operation, currently the EA and Defra consider that the restoration of quarries as a landfill operation. However, due to geological conditions it is often impractical to restore a quarry under a landfill permit. The landfill classification also means inert waste is diverted from these quarry restoration activities to other waste operations involving the permanent disposal to land. Therefore, where a waste recovery permit is not granted the restoration of the site will be hampered. This results in conditions and obligations being difficult if not impossible to discharge and the operator left liable to prosecution and also the cessation of any further quarrying. Although discussions with both the EA and Defra continue we do not believe that Government fully understands the implications of not being able to secure a recovery permit for a recovery operation. The minerals industry is well placed to deliver many of the biodiversity objectives but can not do so if regulation stands in its way.

As described the planning and permitting process need to be looked at as a whole. The EA has the opportunity to comment on a potential operation at during the planning application stage as they are a statutory consultee. They make full use of this opportunity to provide any advice on environmental issues that may arise and potentially halt the development. This would be more appropriate than the current situation where the EA provide the majority of their advice during the permitting application stage- often slowing the implementation of the development and in some cases halting it if the correct permits can not be granted.

The National Planning Policy Framework gives a presumption in favour of sustainable development. However, the EA continue to place more and more burden on the operator- be it through the introduction of new screening distances for waste sites and protected species or the inconsistent way guidance is interpreted on the ground. The devolution of the planning and environmental licensing regime has also led to duplication in some of the requirements on operators.

MPA recently commissioned an assessment of the cumulative impact of planning and environment related regulations which identified the burden placed on industry by the cumulative impact of regulations and costs arising from various regulators. We consider that Government needs to take radical action to recognise, assess and better manage the cumulative impact of regulation and the costs arising from various regulators. A copy of the full report can be provided on request.

The merger of NE and the EA would not see a solution to the problem. However, if the planning and permitting regime were considered as a whole a better outcome could be achieved for the environment and the economy.

Of the range of options for reform proposed to the current delivery arrangements, which do you think are the most appropriate- if any- to achieve better quality outcomes for the environment, economy and society on a sustainable basis and why?

Firstly we would consider that the roles do overlap in some areas and it would seem appropriate for the skills of the two organisations to be brought together at some point.

However, with the recent merger in Wales to create Natural Resources Wales it would seem appropriate to wait for the new Body to become established and so learn from mistakes and successes.

The merger of NE and the EA would result in only one organisation to deal with when it comes to environmental permitting and species licenses which we could only consider this to be a good thing. However, NE especially has been through a number of reorganisations and each time this has led to a reduction in staff and a loss of expertise. There is concern that a further reorganisation would lead to a further loss of expertise. There would also be a time of reduced customer service as the organisation understands its new role.

Do you have any further suggestions for alternative delivery options which would achieve better quality outcomes for the environment, economy and society on a sustainable basis, and if so, how would they operate?

There seems to be some contradiction between Government attempting to reduce the number of Arms Length Bodies and on the other hand devolution resulting in different environmental regulators in Scotland, England and now Wales. For industry with operations in all three countries it would be much easier and simpler to deal with one system instead of three. There is considerable responsibility on the EA to ensure that consistent legislative implementation takes place which may mean EA England adopting approaches taken elsewhere. Co-operation and co-ordination between countries is required to insure a consistent regulative system across borders.

I hope you find our comments useful and informative, please do let me know if I can be of further assistance.

Yours sincerely,

Nicola Owen
Environment and Waste Policy Executive
Mineral Products Association