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February 28, 2019

Mr. Charles O'Hara
Ontario Growth Secretariat
Ministry of Municipal Affairs and Housing
777 Bay Street
23rd Floor, Suite 2304
Toronto, ON M5G 2E5

Dear Mr. O'Hara:

**RE: Proposed Amendment 1 to the Greater Golden Horseshoe Growth Plan
EBR Registry Number 013-4504
Lands owned by Vicdom Sand and Gravel
OUR FILE 09117B**

Vicdom Sand and Gravel ("Vicdom") operates a number of mineral aggregate operations within the Growth Plan, Greenbelt Plan and Oak Ridges Moraine Conservation Plan areas. Vicdom supplies a full range of sand and gravel products serving a continually growing need for these resources across South Central Ontario.

The proposed Amendment to the Growth Plan includes the following new reworded policy (4.2.2.4.):

"Provincial mapping of the Natural Heritage System for the Growth Plan does not apply until it has been implemented in the applicable upper- or single-tier official plan. Until that time, the policies in this Plan that refer to the Natural Heritage System for the Growth Plan will apply outside settlement areas to the natural heritage systems identified in official plans that were approved and in effect as of July 1, 2017."

When this reworded Policy 4.2.2.4 is coupled with Policy 4.2.8.2, an already existing problem is exacerbated.

Policy 4.2.8.2 states:

Notwithstanding the policies in subsections 4.2.1, 4.2.2, 4.2.3 and 4.2.4, within the Natural Heritage System for the Growth Plan, mineral aggregate operations and wayside pits and quarries are subject to the following:

a. no new mineral aggregate operation and no new wayside pits and quarries, or any ancillary or accessory use thereto, will be permitted in the following key natural heritage features and key hydrologic features:

- i. *significant wetlands,*
 - ii. *habitat of endangered species and threatened species; and*
 - iii. *significant woodlands unless the woodland is occupied by young plantation or early successional habitat, as defined by the Province, in which case, the application must demonstrate that policies 4.2.8.4 b) and c) and 4.2.8.5 c) have been addressed and that they will be met by the operation;*
- (emphasis added)*

Growth Plan Policy 4.2.8.2 already has profound implications on the ability to bring forward applications to secure future supply of quality aggregate resource to market - resources needed to support growth and infrastructure in the GGH. When Policy 4.2.8.2 is coupled with the proposed changes to Policy 4.2.2.4, local NHS mapping will now apply this prohibition to a much larger area.

Policy 4.2.8.2 prohibits new mineral aggregate operations within endangered and threatened species habitat and significant woodlands with the Growth Plan Natural Heritage System (NHS).

The implications on providing a future supply of aggregate will be far worse. Further, this 'prohibition' approach is not consistent with the PPS and does not provide for solutions with 'net environmental gain'. Such policies only serve to protect 'sub-standard or mediocre at best' environmental systems while sterilizing quality resource beneath them.

Inconsistencies with Provincial Policy Statement (PPS)

The PPS states "*Development and site alteration shall not be permitted in habitat of endangered species and threatened species, except in accordance with provincial and federal requirements*". Unlike the PPS, the Growth Plan essentially overrides the Endangered Species Act ("ESA").

Despite regulations within the ESA in place to protect species from developmental disturbance (via habitat replacement measures), Policy 4.2.8.2 rigidly states that if habitat is deemed to be present on the lands, extraction is automatically prohibited for new operations. This is overly restrictive and overrides the regulatory process already established under the ESA.

The problem stems from the fact that almost all new aggregate applications include endangered and threatened species habitat due to: (i) the number of species (171) listed by the Province, (ii) the amount of land that is regulated under the ESA, (iii) the transient nature of many species (e.g. birds), and (iv), the reality that some regulated species are under pressure not from habitat loss but from disease (e.g. butternut trees and bats).

In terms of significant woodlands, the PPS allows for aggregate extraction within significant woodlands provided that there will be no negative impact on the feature or its ecological function. Rehabilitation including any on- or off-site compensation is taken into consideration for

demonstrating no negative impact. Unlike the Growth Plan, the PPS provides for 'net ecological gain' solutions through compensation/rehabilitation with greater ecological value.

All provincial plan policies should apply this principle of 'no negative impact' and potential for enhancement opportunities through compensation / rehabilitation that balances the interests of both environmental enhancement and continual supply of quality resource in the long term.

Local natural heritage system mapping not intended to prohibit

Further, natural heritage system mapping in municipal official plans was never intended to be an automatic prohibition for extraction in woodlands and habitat of endangered and threatened species. Natural heritage system mapping identified in Official Plans flag areas that warrant further detailed environmental study and through detailed study, allow for refinement and/or mitigate to protect.

Vicdom has purchased several parcels of land in the City of Kawartha Lakes and Simcoe County where quality resources exist.

However, given the proposed changes to Policy 4.2.2.4, local NHS mapping in Official Plans can now trigger Policy 4.2.8.2 and extraction of these resources would be prohibited if any portion of a locally-significant feature contains a woodlot or if the feature or adjacent lands contain an endangered and threatened species. The prohibition would apply regardless of enhancement opportunities through compensation/rehabilitation. Considerable investment can be put at significant risk if such features are identified now or in the future with no ability to apply the regulatory process of the ESA or core principles established in the PPS.

What can be done to fix the issue?

Vicdom is a long-standing member of the Ontario Stone Sand and Gravel Association (OSSGA) and supports their overall submission (attached) on the proposed Amendment. **Attached to OSSGA's submission are recommended policy changes to the Growth Plan that we urge the Province to consider.**

In essence, the proposed Amendments would make the Growth Plan consistent with the PPS for the protection of natural heritage features. Policy language in the Growth Plan aimed at enhancing rehabilitation requirements would continue to apply.

We need strong provincial leadership to ensure that aggregate resources continue to be available to support provincial infrastructure and growth requirements.

This "fix" does not undermine protection of the natural environment and continues to require enhanced rehabilitation

The environmental policies in the PPS are extremely difficult to meet (i.e. no negative impact). Also, aggregate proposals have to do a greater job at rehabilitation given revised policy to require that an 'ecological net gain' be demonstrated.

The entire premise of Policy 4.2.8.2 is not based on science. This Policy prohibits aggregate operations based on broad-based mapping that has not been ground-truthed, undermines the ESA regulatory process and does not provide for solutions that result in an ecological net gain.

For example, if an individual butternut tree is identified in an NHS area (mapped broadly by a municipality), it kills the entire project. It does not allow for the operation to proceed despite a solution that could replace an individual butternut tree with the planting of additional butternut trees in accordance with the requirements of the ESA.

Therefore, the proposed changes to Policy 4.2.8.2 still require compliance with the principles of providing for an overall benefit of endangered and threatened species and solutions that result in a net ecological gain.

SUMMARY

In order to support the Province's objective to increase housing supply and infrastructure, aggregate resources and, in particular, high quality bedrock resources are needed. The Province is the main consumer of these resources (road and transit infrastructure) and maintaining a supply of resources needed to support growth ensures a balanced economy.

If high quality resource area sites are identified as being within the NHS, Growth Plan Policy 4.2.8.2 (and other similar policy restrictions and prohibitions) will have significant impacts on the future supply of quality aggregate across the Province.

We ask that a reasonable and balanced approach be implemented that relies on the regulatory process already in place under the PPS and the ESA to protect endangered and threatened species.

We urge the Province to consider OSSGA's submission and recommendations for policy changes to the Growth Plan, including proposed Amendment 1 (attached to this document).

Yours truly,



Victor Giordano

cc. *Jae Truesdell, Senior Policy Advisor, MMAH*
Jake Sikora, Senior Policy Advisor & Stakeholder Relations, MNRF

February 4, 2019

Ontario Growth Secretariat
Ministry of Municipal Affairs and Housing
777 Bay Street
23rd Floor, Suite 2304
Toronto, ON M5G 2E5

Dear Sir or Madam:

Re: Proposed Changes to the Greater Golden Horseshoe Growth Plan – ERO# 013-4504

OSSGA is a not-for-profit association representing over 280 sand, gravel and crushed stone producers and suppliers of valuable industry products and services. Collectively, our members supply the majority of the 164 million tonnes of aggregate consumed, on average, annually in the province to build and maintain Ontario's infrastructure needs. OSSGA works in partnership with government and the public to promote a safe and competitive aggregate industry contributing to the creation of complete communities in the province.

OSSGA has reviewed the proposed changes to the Growth Plan and note that many of the changes are to assist in increasing housing supply and supporting economic growth. As the Province is aware, over the next 25 years the growth in the GGH requires over 2.5 billion tonnes of aggregate in the GGH, of which 1.5 billion tonnes is needed in the GTA.

While the changes to the Growth Plan will facilitate growth, the Province will not be able to access new high quality aggregate resources located in proximity to the consumer to support this growth. This is a result of the ill-advised policies of 4.2.8.2 of the Growth Plan that prohibit new mineral aggregate operations within endangered or threatened species habitat and significant woodlands within the Growth Plan Natural Heritage System.

As the Province is aware, almost all new aggregate sites in the GGH contain habitat of endangered and threatened species as a result of the 171 species listed by the Province and how habitat is defined which results in large areas being mapped. This policy undermines the Province's Endangered Species Act which allows for development subject to providing an overall net benefit to the species.

As the Province is also aware, some woodlands as small as 0.5 ha are deemed "*significant woodlands*" and some woodlands that have limited to no ecological function are deemed "*significant*" based on the size of the woodland alone. Again, these types of features should not prohibit access to the highest quality aggregate resources in the GGH.

See attached excerpts from OSSGA submission to the Province "*Securing Access to Stone, Sand & Gravel – Ensuring Economic Growth and Future Greenspace in the Greater Golden Horseshoe*" to illustrate the issue related to endangered and threatened species habitat and significant woodlands.

One of the proposed revisions to the Growth Plan will exacerbate this problem. The proposed amendment to the Growth Plan includes the following new policy (4.2.2.4):

“Provincial mapping of the Natural Heritage System for the Growth Plan does not apply until it has been implemented in the applicable upper- or single-tier official plan. Until that time, the policies in this Plan that refer to the Natural Heritage System for the Growth Plan will apply outside settlement areas to the natural heritage systems identified in official plans that were approved and in effect as of July 1, 2017.”

This policy essentially provides municipalities the ability to use existing and future Natural Heritage System mapping to prohibit new mineral aggregate operations and this will undermine the provincial interest in protecting the resource and ensuring it is available close to market.

In addition, OSSGA has reviewed the Natural Heritage System mapping that is found in existing Official Plans and now the prohibitory policies of 4.2.8.2 will apply to areas outside of the Province’s Natural Heritage System. This is a problem for the following reasons:

- Areas outside of the Province’s Natural Heritage System are where some aggregate producers have invested in property acquisitions/licensing projects to avoid the prohibition policies and now they could apply again;
- Undermines years of litigation between OSSGA/aggregate producers and municipalities to ensure that new mineral aggregate operations are not prohibited in endangered and threatened species habitat or significant woodlands within their Official Plans. Now the Growth Plan will override these Official Plan policies and introduce prohibitions that do not currently exist; and
- Provincial natural heritage system mapping is quite different than a County natural heritage system map. The Provincial natural heritage system did not include all natural heritage features including lower quality features. In contrast, County Official Plans typically map all environmental features within their natural heritage system including lower quality features.

We are at a critical point and strong provincial leadership is required to ensure that the aggregate resources are available to meet provincial infrastructure and growth requirements. Municipal approaches that restricted access to mineral aggregate resources is the very reason the Province declared mineral aggregates a matter of provincial interest and represented the first Provincial Policy Statement in 1979 (see attached). We have come full circle and provincial leadership is required on this important issue once again.

To ensure the protection and future availability of mineral aggregate resources, OSSGA has provided suggested policy revisions to Section 4.2.8 of the Growth Plan (see attached).

These changes are more important than ever since the Province is handing over the mapping requirements of the future Natural Heritage System to upper tier municipalities. Instead of a scenario

where OSSGA and its members and provincial resources are required to fight with 21 upper tier municipalities regarding the extent of the Natural Heritage System that overlay aggregate areas, OSSGA recommends that the Province correct the underlying policies that will apply within these Natural Heritage Systems.

Without these changes, the new aggregate resources will not be available to supply the Province's infrastructure and growth requirements close to the consumer which ultimately reduces the cost of construction and infrastructure projects. The current ill-advised policies in the Growth Plan are discouraging investment and the revisions to allow municipalities to map natural heritage system over these aggregate areas will make it worse. Without changes to Section 4.2.8 the Province will not be open for business in a manner which promotes a health economy and natural environment. Our recommended policy changes will ensure extraction results in an overall net benefit/gain to the natural environment while restoring confidence in the aggregate industry's ability to invest in the application process to make this resource available.

Yours truly,



Norm Cheesman

cc. Jae Truesdell, Policy Advisor, Planning, Zoning and Development, Minister's Office, MMAH
Cordelia Clarke Julien, Assistant Deputy Minister, Ontario Growth Secretariat, MMAH
Ala Boyd, Director, Natural Resources Conservation Policy Branch, MNRF
Jake Sikora, Senior Policy Advisor and Stakeholder Relations, MNRF

THE FIX:

ENDANGERED AND THREATENED SPECIES (ESA) HABITAT

Within the Growth Plan NHS, Greenbelt NHS and ORMCP Linkage Area

1

Allow aggregate extraction within endangered and threatened species habitat subject to authorization under the *Endangered Species Act*.

- Currently there are 117 endangered and 54 threatened species in Ontario. Due to the number of species, the transient nature of these species and their habitat requirements (i.e. forests, open fields, building structures, etc.) almost all current aggregate applications contain habitat of endangered and threatened species.
- Prohibition within this habitat undermines the *Endangered Species Act* and deters investment from the aggregate industry since new species or habitat could be identified during the approval process that prohibit the application after several years of process and millions of dollars invested.
- The solution is a win for the economy and the environment. The application is allowed to proceed if the Province is satisfied the application will result in an overall benefit for the species.



SITE STATS

This site is located within the Natural Heritage System of the Growth Plan. Potential extraction area being studied: 32 ha (79 ac). Site contains 32 million tonnes of highest quality bedrock in southern Ontario and the site is located within close proximity of the GTA. Due to the location of the identified endangered and threatened species, this site is no longer viable for aggregate extraction.

CONCLUSION

This is a no-win situation. Allowing for the replacement of these species would have provided a net overall benefit to the species while making available significant aggregate resources in a close to market location.

THE FIX:

SIGNIFICANT WOODLANDS

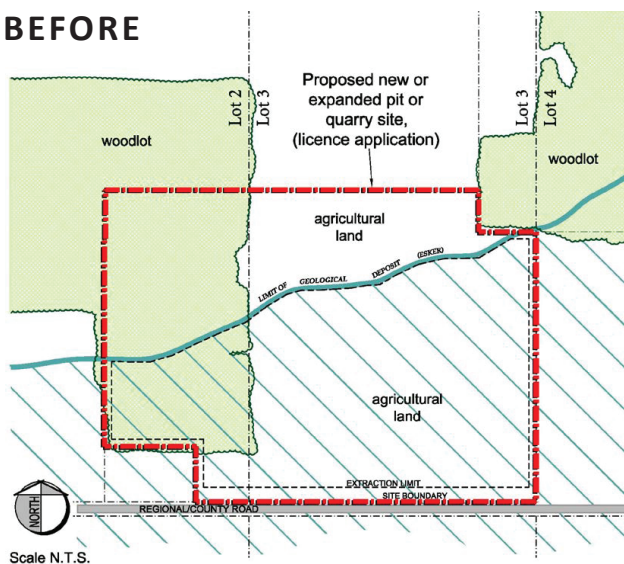
Within the Growth Plan NHS, Greenbelt NHS and ORMCP Linkage Area, Countryside Area and NEP Escarpment Area

2

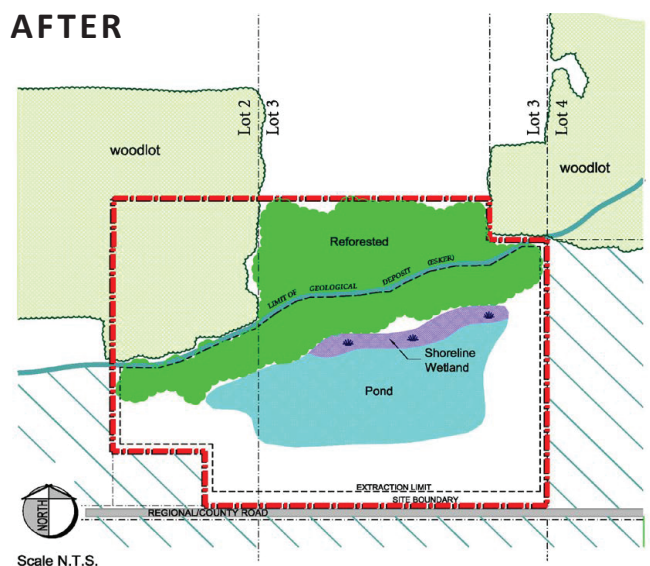
Permit extraction in significant woodlands that can be replaced and enhanced on the landscape subject to demonstration of 'no negative impact.'

- Woodlands are a renewable resource and aggregate resources are a non-renewable resource.
- Currently, woodlands can be deemed significant based on size alone without any consideration to quality or function of the woodland.
- The no negative impact test is a difficult test to achieve and will ensure high quality woodlands with important ecological functions are not extracted.
- The aggregate industry has demonstrated its ability to rehabilitate to woodland conditions and to expand and enhance significant woodlands.

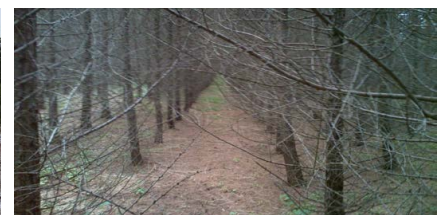
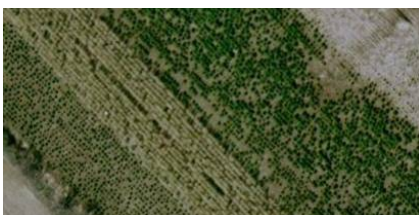
BEFORE



AFTER



Example of what has been called a significant woodland and sterilized access to the highest quality aggregate in Southern Ontario. This is not effective resource management.





Ontario

Ministry of Natural Resources
Mineral Resources Group

MINERAL AGGREGATE POLICY FOR OFFICIAL PLANS

1. That all parts of the Province possessing aggregate resources should share the responsibility for future demands; at first approximately in proportions existing under present market patterns until new long term sources of supply can be made available based on efficient long distance transportation systems;
2. That aggregates must be available at reasonable cost to the consumer including environmental, transportation and energy costs;
3. That licensed pits and quarries under provincial legislation must be recognized and protected in official plans;
4. That the Province provide municipalities with the basic surficial geological information on the location and extent of potential mineral aggregate deposits including stone, sand and gravel;
5. That the Province in cooperation with the municipalities must identify areas of high aggregate resource potential and define these areas required for possible future extraction adequate to meet future provincial demands;
6. That the identification, designation and protection of high aggregate resource potential areas should occur jointly by regional/county and local official plans;
7. That uses of land which would preclude the possible future extraction of aggregates should not be permitted in required areas of high aggregate resource potential. Prohibited uses would include residential, commercial and industrial development. Other land uses would be permitted such as agriculture and forestry;
8. That because of time and cost constraints, there should be special approval procedures for wayside pits and quarries, therefore policies should be included in official plans to allow the opening of wayside pits and quarries without amendment to the plan or its implementing zoning by-laws;
9. That the Ministry of Natural Resources should have ultimate authority to ensure that adequate supplies of aggregate are available for future use and official plans should not be approved until they ensure that municipalities will have available their fair share of future aggregate supplies;
10. That the Province requires rehabilitation of land after excavation either through restoring the land to its former use or condition or to another use or condition that is or will be compatible with the use of adjacent land.

Approved by:
Dr. J. K. Reynolds
Deputy Minister
April 12, 1979

Sept. 11, 1979.

J. A. C. Auld
Minister

4.2.8 Mineral Aggregate Resources

1. Municipalities will develop and implement official plan policies and other strategies to conserve *mineral aggregate resources*, including:
 - a) the recovery and recycling of manufactured materials derived from *mineral aggregate resources* for reuse in construction, manufacturing, industrial, or maintenance projects as a substitute for new *mineral aggregate resources*; and
 - b) the wise use of *mineral aggregate resources*, including utilization or extraction of on-site *mineral aggregate resources* prior to development occurring.
2. Notwithstanding the policies in subsections 4.2.1, 4.2.2, 4.2.3 and 4.2.4, within the *Natural Heritage System*, *mineral aggregate operations* and wayside pits and quarries are subject to the following:
 - a) Any application for a new or expanded mineral aggregate operation shall be consistent with the policies of the PPS and satisfy the rehabilitation requirements in this subsection.
~~no new mineral aggregate operation and no new wayside pits and quarries, or any ancillary or accessory use thereto, will be permitted in the following key natural heritage features and key hydrologic features:~~
 - ~~i. significant wetlands;~~
 - ~~ii. habitat of endangered species and threatened species; and~~
 - ~~iii. significant woodlands unless the woodland is occupied by young plantation or early successional habitat, as defined by the Province, in which case, the application must demonstrate that policies 4.2.8.4 b) and c) and 4.2.8.5 c) have been addressed and that they will be met by the operation;~~
 - b) any application for a new *mineral aggregate operation* will be required to demonstrate:

- i. how the connectivity between adjacent *key natural heritage features* and *key hydrologic features* will be maintained before, during, and after the extraction of *mineral aggregate resources*;
 - ii. how the operator could replace *key natural heritage features* and *key hydrologic features* that would be lost from the site with equivalent features or features that provide increased ecological diversity on another part of the site or on adjacent lands;
 - iii. how the *water resource system* will be protected or enhanced; and
 - iv. how any *key natural heritage features* and *key hydrologic features* and their associated *vegetation protection zones* not identified in policy 4.2.2.3 a) will be addressed in accordance with policies 4.2.8.4 b) and c) and 4.2.8.5 c); and
- ~~c) an application requiring a new approval under the Aggregate Resources Act to expand an existing *mineral aggregate operation* may be permitted in the *Natural Heritage System*, including in *key natural heritage features*, *key hydrologic features* and any associated *vegetation protection zones*, only if the related decision is consistent with the PPS and satisfies the rehabilitation requirements of the policies in this subsection.~~
3. In *prime agricultural areas*, applications for new or expanded *mineral aggregate operations* will be supported by an *agricultural impact assessment* consistent with the policy requirements of the PPS and, where possible, will seek to maintain or improve connectivity of the *Agricultural System*.
4. For rehabilitation of new or expanded *mineral aggregate operation* sites, the following apply
 - a) the disturbed area of a site will be rehabilitated to a state of equal or greater *ecological value* and, for the entire site, long-term *ecological integrity* will be maintained or enhanced;
 - ~~b) if there are *key natural heritage features* or *key hydrologic features* on the site, or if such features existed on the site at the time of the application:~~
 - ~~i. the health, diversity, and size of these *key natural heritage features* and *key hydrologic features* will be maintained or enhanced; and~~
 - ~~ii. any permitted extraction of *mineral aggregate resources* that occurs in a feature will be completed, and the area will be rehabilitated, as early as possible in the life of the~~

operation;

- be) aquatic areas remaining after extraction are to be rehabilitated to aquatic enhancement, which will be representative of the natural ecosystem in that particular setting or ecodistrict, and the combined terrestrial and aquatic rehabilitation will meet the intent of policy 4.2.8.4 b); and
 - ce) outside the *Natural Heritage System*, and except as provided in policies 4.2.8.4 a), b) and c), final rehabilitation will appropriately reflect the long-term land use of the general area, taking into account applicable policies of this Plan and, to the extent permitted under this Plan, existing municipal and provincial policies. In *prime agricultural areas*, the site will be rehabilitated in accordance with policy 2.5.4 of the PPS, 2014.
5. Final rehabilitation for new or expanded *mineral aggregate operations* in the *Natural Heritage System* will meet these additional criteria:
- a) where there is no extraction below the water table, an amount of land equal to that under natural vegetated cover prior to extraction, and no less than 35 per cent of the land subject to each license in the *Natural Heritage System*, is to be rehabilitated to forest cover, which will be representative of the natural ecosystem in that particular setting or ecodistrict. If the site is also in a *prime agricultural area*, the remainder of the land subject to the license is to be rehabilitated back to an *agricultural condition*;
 - b) where there is extraction below the water table, no less than 35 per cent of the non-aquatic portion of the land subject to each license in the *Natural Heritage System* is to be rehabilitated to forest cover, which will be representative of the natural ecosystem in that particular setting or ecodistrict. If the site is also in a *prime agricultural area*, the remainder of the land subject to the license is to be rehabilitated in accordance with policy 2.5.4 of the PPS, 2014; and
 - c) rehabilitation will be implemented so that the connectivity of the *key natural heritage features* and the *key hydrologic features* on the site and on adjacent lands will be maintained or enhanced.
6. Operators are encouraged to consider and provide for public access to former aggregate sites upon final rehabilitation, where appropriate.
7. Except as provided by the policies of this subsection, decisions on planning matters must be consistent with the policies in the PPS that pertain to the management of *mineral aggregate resources*. In addition, Municipal Official Plans and Zoning By-laws shall not contain provisions that are more restrictive than the policies of 4.3.2.

8. Where an application under the Aggregate Resources Act has been received and deemed complete by the Province as of July 1, 2017, any applications under the Planning Act to permit the making, establishment or operation of the pit or quarry to which the Aggregate Resources Act application relates, ~~if approved,~~ will not be subject to the policies of this Plan.