



Development Services – Planning Division
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November 4, 2019

Andrew MacDonald
Natural Resources Conservation Policy Branch
300 Water Street
Peterborough, ON
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Re: Proposed Amendments to the Aggregate Resources Act (ERO 019-0556)

We have reviewed the proposed amendments to the Aggregate Resources Act (ARA) posted on September 20, 2019. The Environmental Registry of Ontario provides that the proposed changes to the ARA are intended to reduce burdens for business while maintaining strong protection for the environment and managing impacts to communities. However, the City of Kawartha Lakes is concerned that the proposed changes may, in fact, negatively impact the environment and our community. The City provides the following comments on the proposed amendment to augment those provided by Top Aggregate Producing Municipalities in Ontario to the Honourable John Yakabuski, Minister of Natural Resources and Forestry on October 30, 2019.

A. Below Water Table Extraction

Municipalities should be permitted to consider the impacts of aggregate proposals that go below the water table. The City of Kawartha Lakes is subject to 16 Wellhead Protection Areas. Therefore, the impacts on the quality and quantity of below the water table operations are very important considerations in protecting natural heritage features and the residents residing in proximity of these operations. It is not clear, however, how the Province is proposing to handle well site specific dewatering, or cumulative impacts to vulnerable and sensitive groundwater resources.

B. Haul Route Agreements

The challenge in the City of Kawartha Lakes is that the local roads are often not built to withstand the rigor of aggregate truck traffic. The annual aggregate fee under the ARA is not sufficient to cover the costs of required road upgrades and maintenance. To supplement, the City enters into haul route agreements to ensure roads are able to support the proposed increase in traffic. The proposed change to make haul route agreements voluntary may mean that there will not be infrastructure to service locations of new pits and quarries and place further burdens on the taxpayer.



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The Environmental Registry of Ontario posting indicated that the Province is open to comments with respect to changes to aggregate fees. The current aggregate fee under the ARA is inadequate based on the last study and proposal that was put forward by TAPMO. Through the ARA change, the Province should consider raising the aggregate fee to the recommended amount in the TAPMO study, especially if the condition of entering into a haul route agreement could no longer be imposed as a condition of a licence.

C. Rehabilitation

The Environmental Registry of Ontario provides that one of the key themes of the Aggregates Summit was to enhance rehabilitation. However, the City is not convinced that the proposed changes to better monitor would in fact meet this objective. The City supports increased monitoring and recommends that the Province employ more proactive tools such as security deposits, increased enforcement, tight rehabilitation timelines and fines.

The proactive approach to rehabilitation may be even more critical should the draft proposed changes to the Provincial Policy Statement (PPS), 2019 come into effect. It is the City's understanding that the draft proposed PPS, 2019 intends to allow extraction in the natural heritage features where long-term rehabilitation can demonstrate no negative impacts on the natural features or their ecological functions. In light of the contemplated changes, it is recommended that municipalities are given more authority to review and comment on the rehabilitation plans, to ensure the impacts to our local natural heritage features are fully considered.

D. Other Comments

The ARA should be better integrated with the Planning Act. This would streamline the two processes, avoid study duplication and result in an enhanced public input.

Pre-Consultation and Cross-Jurisdictional Matters

It is recommended that pre-consultation be required between the applicant, Ministry, a municipality (or municipalities) and any other relevant agencies. The benefits of pre-consultations are widely recognized under the Planning Act for development applications. Under the current regime, however, the City is often excluded from early discussions of a contemplated aggregate resources operation. Early involvement would provide the City with an opportunity to provide recommendations and requirements for a coordinated Planning Act and ARA process.



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Mineral aggregate operations often have cross-jurisdictional impacts by way of environmental impacts, water, haul routes, noise, etc. The ARA should recognize and encourage cross-jurisdictional solutions and mitigation measures to ensure that health and safety are protected for all residents regardless of jurisdiction. This point further exemplifies the importance of pre-consultations.

Administrative Matters

It is recommended that the Aggregate Resources Act be updated to allow more modern means of communication and public notification similar to those used in the Planning Act. Under the current regime, letters need to be sent by registered letter format to the owner, which sometimes preclude valuable submission time. Options to send comments through email to the consultant should be considered.

MPAC

Currently, the Municipal Property Assessment Corporation (MPAC) restricts municipalities from sharing mailing information with 3rd parties who have applied for a Planning Act process. This means that the City cannot share information with aggregate operators for the purpose of their community engagement exercises (i.e. Open House). While this matter is not directly related to the ARA changes, removing this restriction would facilitate more effective information sharing and is the first step to an improved public engagement.

In conclusion, the City is committed to working with the Province in the review of the ARA and look forward to further discussions on this matter.

Sincerely,

A handwritten signature in blue ink that reads "Richard Holy". The signature is fluid and cursive, with a long horizontal stroke at the end.

Richard Holy, MCIP, RPP
Manager of Planning

c.c.: Andy Letham, Mayor
Ron Taylor, Chief Administrative Officer
Chris Marshall, Director of Development Services