



October 06, 2022

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Submitted by email to: Alejandra.Perdomo@ontario.ca

RE: Comment on the Adopted Niagara Official Plan for Council (adopted June, 2022)
ERO number: 019-5717
Ministry reference number: 25-OP-171748

For the past two years, Walker Aggregates Inc. (Walker) have been working with Niagara Region on wording for their new Official Plan.

Walker has been grateful for the opportunity to work with Niagara Region Staff and, for the most part, were able to reach general agreement on the Niagara Official Plan policies and mapping prior to its adoption, including important transitional policies.

For the most part, a large number of Walker's comments have been addressed which is greatly appreciated. In general, aggregate producers can live with the new policy direction.

However, there are outstanding issues outlined in this letter that continue to be of fundamental concern.

Natural Environment System (Section 3.1)

The issue that is most impactful and critical Walker and all aggregate producers in the Niagara Region is Section 3.1, as described below.

Essentially, the Official Plan, as adopted, will prohibit mineral aggregate extraction in non-provincially significant features beyond what the PPS and Provincial Plan policies would require when it comes to mineral aggregate resource applications.



This is directly in conflict with Provincial objectives which aim to protect mineral aggregate resources provided that all tests of the PPS and Provincial Plan policies are met. We are bringing this to your attention as we are concerned that this policy approach can:

- i) be precedent-setting;
- ii) sterilize significant amounts of mineral aggregate resource contrary to the intentions of the PPS and Provincial Plan policies;
- iii) remove the ability to enhance and improve natural heritage features through compensation and the application process;
- iv) restrict access to close-to-market resources which is contrary to provincial policy

We have a simple solution to this issue that can be addressed by the following modification:

Modifications Note: Added text is shown in red	
Chapter 3 – Sustainable Region	
Section 3.1.9 – Lands Outside of a Provincial Natural Heritage System and Outside of the Niagara Escarpment Plan Area	
Policy 3.1.9.5.3	Notwithstanding Policies 3.1.9.2, 3.1.9.3 , 3.1.9.5.1 and 3.1.9.5.2 permitted uses in a natural heritage feature and area are limited to:.... g) mineral aggregate operations and wayside pits and quarries except in accordance with Provincial policy and Section 4.3 of this Plan;

This modification would ensure that the policies of the PPS and the Provincial Plans would continue to apply to mineral aggregate applications for areas outside of the Provincial NHS.

We note that the proposed exception wording in (g) above is consistent with Section 3.1.5.5(f) of the Region’s Official Plan, which permits mineral aggregate operations in natural features on “Lands within the Provincial Natural Heritage System”, subject to meeting certain tests (i.e. Provincial policy and the aggregate policies of the Official Plan).

If such change is not made, new and expanding mineral aggregate operations would then be prohibited in several natural features outside the Provincial natural heritage system such as other woodlands and significant wildlife habitat where provincial policy otherwise contemplates such uses subject to applicable policies.



The effect of this prohibition would potentially constrain approximately 55% or almost 15,000 ha of high quality mineral aggregate resources in the Region that are located outside of the Provincial Natural Heritage System and the Region's settlement areas¹. This amount does not take account other potential constraints experienced at a local level such as land use compatibility issues and built constraints, which further reduces mineral aggregate resources ultimately available.

Red-Tape reduction and remove redundant need for Regional Official Plan Amendment

The Region's Official Plan (Sections 4.3.4.2 and 4.3.2.5), as adopted, states that all new and expanding mineral aggregate operations require an amendment to their Official Plan.

If an amendment is required to the Regional Official Plan, then there should not also be a requirement for an amendment to the local Official Plan. If an amendment is necessary to the local Official Plan, then there should not be the requirement for a Regional Official Plan Amendment also. One amendment process makes sense as governments are looking for ways to reduce red tape and reduce the burden on municipal resources. The Region is the approval authority for local Official Plan Amendments and would also have the opportunity to comment and object, if required, to licence applications under the Aggregate Resources Act.

Section 4.3.4.6 – Provincial Natural Heritage System Tests

Section 4.3.4.6 of the Official Plan sets out specific tests for proposed mineral aggregate operations where the lands are within a Provincial natural heritage system. The new Official Plan also contains other tests for development within a Provincial natural heritage system (Section 3.1.5.8.2) which we understand are not intended to be applied to mineral aggregate operations given the more specific policy set out in 4.3.4.6.

To provide clarity and which is consistent with the approach taken in the Growth Plan and Greenbelt Plan, Section 4.3.4.6 should be revised to provide a notwithstanding clause so it is not wrongfully interpreted in the future that Section 4.3.4.6 would also apply to mineral aggregate operations. Accordingly, we recommend the following change to this section (**Added text is shown in red**):

¹ Mineral aggregate operations are further prohibited by Section 4.3.4.1 of the adopted Official Plan, which does not permit new mineral aggregate operations within settlement areas.



Chapter 4 – Competitive Region	
Section 4.3.4 – Proposed Mineral Aggregate Operations	
Policy 4.3.4.6	Notwithstanding Policy 3.1.5.8.2 , any application for a new mineral aggregate operation within a Provincial natural heritage system will be required to demonstrate how:...

This change would ensure the policy is consistent with the Growth Plan (see Section 4.2.8.2) and Greenbelt Plan (see Section 4.3.2.3).

We appreciate the Province is embarking on the review of a large number of upper-tier and single-tier official plans over the next few months. Walker appreciates the Province's consideration of our comments and welcomes the opportunity to work with Provincial staff to clarify and further discuss the comments included in our submission.

Yours truly,

A handwritten signature in black ink, appearing to be 'RW' with a stylized flourish.

RYAN WALL
EXECUTIVE VICE PRESIDENT
AGGREGATES & CONSTRUCTION DIVISION