OSSGA
ONTARIO STONE, SAND
& GRAVEL ASSOCIATION

May 31, 2019

Planning Act Review
Provincial Planning Policy Branch
777 Bay Street
13th floor
Toronto, ON
M5G 2E5

Re: ERO 019-0016 Bill 108 (Schedule 12) More Homes, More Choice Act: Amendments to the Planning Act

---

Thank you for the opportunity to provide comments on Bill 108, and specifically, Schedule 12 of the Bill which outline proposed changes to the *Planning Act*.

The Ontario Stone, Sand & Gravel Association (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 substantial 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 strong communities in the province.

Included with this letter is a chart that sets out existing or proposed sections of the *Planning Act* and provides OSSGA's detailed comments with respect to each of those sections.

Ensuring strong provincial leadership for mineral aggregate resources

On a broader scale, OSSGA believes that Bill 108 provides an important opportunity to consider how *More Homes, and More Choices* come into being, and what frameworks need to be in place to ensure growth in Ontario. Consider that at the very beginning of any construction project, whether for new houses, hospitals, roads or sewers – is a supply of Ontario stone, sand and gravel. Without it, these projects don't get built. To ensure the adequate future supply of aggregate, it is imperative that the Province maintains a strong leadership role with respect to the regulation of the resource – from the time of the initial licence application – to when the licence is ultimately surrendered.

The current policy framework is not working. New mineral aggregate operations in Southern Ontario now take up to 10 years to complete the process for approval. One of the main contributing factors to the lengthy timelines is that there are too many overlapping policies and inconsistent approaches between the Provincial Plans, Regional Official Plans, Local Official Plans and Conservation Authority policies regarding the management of this essential non-renewable resource. The process has also become too cumbersome for small and independent aggregate producers and this will ultimately result in reduced competition, reduced product availability and increased costs.

5720 Timberlea Blvd., Ste. 103, Mississauga, ON L4W 4L2 905 507 0711

The Planning Act needs to provide clear language to ensure that municipalities are not implementing a restrictive/prohibitory approach regarding the protection, availability and operation of mineral aggregate operations.

Recommendations: Add the following to the Purpose of the Act (1.1):
"(g) to provide leadership on protecting and making resources of provincial interest available."

Add the following to section 16 Contents of Official Plan: "An official plan shall contain: (a.2) such policies and measures as are practical to ensure the protection and utilization of resources of provincial interest as identified in section 2."

Clarify that section 37 Community Benefits Charges, does not apply to the establishment of new pits and quarries (see detailed recommendations).

Section 69 Tariff of Fees, add that:
"The council of a municipality or a planning board shall not establish fees for the purposes of reviewing matters that are governed by another Act."

The attached detailed recommendations provide further language and recommendations on other sections that would help underscore the provincial interest of important aggregate resources.

Two-year moratorium on Official Plan Amendments and Zoning

OSSGA was disappointed these sections of the Act were not repealed, or at least an exemption included for mineral aggregate resource applications.

Aggregate applications nearly always require amendments to Official Plans and/or zoning. Placing a moratorium on applications to permit pits and quarries adds delay and cost and is an impediment to the investment Ontario needs in order to maintain close to market supply. Repealing these sections is the preferred solution. The alternative is to have an exception clause allowing applications where there are no pre-designed or pre-zoned areas available.

LPAT Hearings and other amendments

OSSGA supports the changes made to the LPAT under *The Planning Act*. As we have commented in previous submissions, the procedures introduced in 2017 have proven to be ineffective and cumbersome for all parties involved.

OSSGA thanks you for the opportunity to comment. The industry is literally the foundation on which Ontario is built, and we look forward to our continued conversations on reducing red tape, streamlining the industry's regulatory framework and ensuring that all Ontarians have More Homes and More Choices!

Yours truly,

Norm Cheesman
Executive Director

5720 Timberlea Blvd., Ste. 103, Mississauga, ON L4W 4L2 905 507 0711

SECTION 1- TOP PRIORITY CHANGES*	
Planning Act Provision (Existing or Proposed)	**OSSGA Comments**
Two-year Application Moratorium (OPA) **22**(2.1) No person or public body shall request an amendment to a new official plan before the second anniversary of the first day any part of the plan comes into effect.	Delete. Aggregate applications typically require amendments to Official Plans to permit pits or quarries. This is often the only way new or expanded operations can be established. This provision has effectively barred applicants from proceeding with their applications. Red Tape Reduction: This provision creates unnecessary delays and barriers to making significant aggregate resources available. The moratorium clause should be deleted. Alternately, add an exception where the request for an amendment is allowed when the proposed use can only proceed by official plan amendment since the use is not predesignated.
Two-year Application Moratorium (Zoning) **34** (10.0.0.1) If the council carries out the requirements of subsection 26 (9) by simultaneously repealing and replacing all the zoning by-laws in effect in the municipality, no person or public body shall submit an application for an amendment to any of the by-laws before the second anniversary of the day on which the council repeals and replaces them.	Delete. Aggregate applications almost always require amendments to Zoning By-laws to permit pits or quarries. It would be extremely rare for a municipality to "pre-zone" pits and quarries. This provision has effectively barred applicants from proceeding with their application. This provision creates unnecessary delays and barriers to making significant aggregate resources available. The moratorium clause should be deleted. (Alternately, add an exception where the application for amendment is allowed when the proposed use can only proceed by zoning bylaw amendment since the use is not prezoned).

*Suggested changes shown in red

Community Benefits Charges **37** (2) The council of a municipality may by by-law impose community benefits charges against land to pay for the capital costs of facilities, services and matters required because of development or redevelopment in the area to which the by-law applies. (3) A community benefits charge may be imposed only with respect to development or redevelopment that requires, (a) the passing of a zoning by-law or of an amendment to a zoning by-law under section 34; (b) the approval of a minor variance under section 45; (c) a conveyance of land to which a by-law passed under subsection 50 (7) applies; (d) the approval of a plan of subdivision under section 51; (e) a consent under section 53; (f) the approval of a description under section 9 of the Condominium Act, 1998; or (g) the issuing of a permit under the Building Code Act, 1992 in relation to a building or structure. (4) A community benefits charge may not be imposed with respect to such types of development or redevelopment as are prescribed.	It is OSSGA's understanding that the use of Section 37 benefits is applicable to development proposing additional height and density such as residential uses and this section only applies to "soft services". However, the proposed changes to Section 37 create some ambiguity regarding what types of development would be subject to this section. All aggregate licences are subject to a levy fee under the Aggregate Resources Act which is based on the amount of aggregate extracted from a site per year. The majority of the levy is distributed to municipalities. In recognition of this levy, the Municipal Act states that municipalities may not impose fees or charges that are based on the extraction, processing or transportation of natural resources (394(1)). Simply put, it would not be acceptable for municipalities to use Section 37 to impose additional charges from the establishment of new pits and quarries. This should be clarified in the new Section 37 so there is no confusion moving forward. There are several options available: 1. Prescribe mineral aggregate operations under the Aggregate Resources Act for the purposes of 37(4). 2. Insert "or as set out in the *Municipal Act, 2001*" at the end of 37(4). 3. State that Section 37 only applies to "development" as defined in Section 41 of the Planning Act.
Pits and Quarries **Zoning By-law** **34** (2) The making, establishment or operation of a pit or quarry shall be deemed to be a use of land for the purposes of paragraph 1 of subsection (1).	Add the following to 34(2): *"By-laws passed under this Act shall not regulate operational matters or impose conditions that are addressed under the Aggregate Resources Act for licensed pits and quarries."* This change is consistent with the existing requirements of Section 124 of the Municipal Act. The regulation of aggregate operations is a clearly defined Provincial jurisdiction under the Aggregate Resources Act. Duplication of regulation creates unnecessary delays and barriers to making significant aggregate resources available.

*Suggested changes shown in red

SECTION 2- OSSGA SUPPORTS	
LPAT Hearing Procedures (Official Plans) **17** (49.1) to (49.12) *REPEALED*	Support repeal. The procedures introduced in 2017 have proven to be ineffective and cumbersome for all parties involved. Referring LPAT's decision back to council for a new decision adds uncertainty, cost, delays and complexities to the development approvals process. OSSGA supports the repeal of the two-step appeal.
Basis for Appeal and Notice of Appeal Requirements (OPA) **22**(7.0.0.1), (7.0.0.2), (8)(a.1 & a.2) *REPEALED*	Support repeal. Repealing the basis for appeal and notice of appeal requirements would help reduce unnecessary delays and barriers to making significant aggregate resources available as outlined in the Feb 2019 OSSGA submission.
LPAT Hearing Procedures (OPA) **22**(11) to (11.0.19) *REPEALED*	Support repeal. The procedures introduced in 2017 have proven to be ineffective and cumbersome for all parties involved. Referring LPAT's decision back to council for a new decision adds uncertainty, cost, delays and complexities to the development approvals process. OSSGA supports the repeal of the two-step appeal procedures.
Basis for Appeal and Notice of Appeal Requirements (Zoning) **34** (11.0.0.0.2) to (11.0.0.0.5) *REPEALED*	Support repeal. Repealing the basis for appeal and notice of appeal requirements would help reduce unnecessary delays and barriers to making significant aggregate resources available as outlined in the Feb 2019 OSSGA submission.
LPAT Hearing Procedures (Zoning) **34** (26) to (26.13) *REPEALED*	Support repeal and the proposed policy regarding the powers of LPAT in new Section 34(26). The rules introduced in 2017 have proven to be ineffective and cumbersome for all parties involved. OSSGA supports the repeal of the LPAT hearing procedures.

*Suggested changes shown in red

SECTION 3- OTHER COMMENTS	
Purpose of Act **1.1** The purposes of this Act are, (a) to promote sustainable economic development in a healthy natural environment within the policy and by the means provided under this Act; (b) to provide for a land use planning system led by provincial policy; (c) to integrate matters of provincial interest in provincial and municipal planning decisions; (d) to provide for planning processes that are fair by making them open, accessible, timely and efficient; (e) to encourage co-operation and co-ordination among various interests; (f) to recognize the decision-making authority and accountability of municipal councils in planning.	Add the following purpose: *"(g) to provide leadership on protecting and making resources of provincial interest available;"* 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. We have come full circle and provincial leadership is required on this important issue once again.
Provincial Interest **2** The Minister, the council of a municipality, a local board, a planning board and the Tribunal, in carrying out their responsibilities under this Act, shall have regard to, among other matters, matters of provincial interest such as, (a) the protection of ecological systems, including natural areas, features and functions; (b) the protection of the agricultural resources of the Province; (c) the conservation and management of natural resources and the mineral resource base; (d) the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest;…	Revise the following subsections: "(a) the protection of *significant* ecological systems, including natural areas, features and functions *identified as significant*;" "(c) the conservation, management, *protection and utilization* of natural resources *including mineral aggregate resources* and the mineral resource base;" The proposed change to (a) provides a top-down foundation to the protection of the most important natural features as opposed to the protection of any natural feature regardless of significance which restricts access to aggregate resources which could otherwise be made available. The proposed change to (c) makes it clear that aggregate is included since the PPS defines "mineral resources" differently. It also

*Suggested changes shown in red

	strengthens the provincial interest in the protection of important resource areas and making them available for future use to accommodate planned growth and development.
Contents of Official Plan **16** (1) An official plan shall contain, (a) goals, objectives and policies established primarily to manage and direct physical change and the effects on the social, economic, built and natural environment of the municipality or part of it, or an area that is without municipal organization; (a.1) such policies and measures as are practicable to ensure the adequate provision of affordable housing; (b) a description of the measures and procedures for informing and obtaining the views of the public in respect of, (i) proposed amendments to the official plan or proposed revisions of the plan, (ii) proposed zoning by-laws, (iii) proposed plans of subdivision, and (iv) proposed consents under section 53; and (c) such other matters as may be prescribed.	Add the following: *"(a.2) such policies and measures as are practical to ensure the protection and utilization of resources of provincial interest as identified in section 2;"* Requires municipal official plans to include appropriate measures to protect resources of provincial interest.
Tarrif of Fees **No appeal of Minister's Decision** **17** (36.5) Despite subsection (36), there is no appeal in respect of a decision of the approval authority under subsection (34), if the approval authority is the Minister.	Remove. There is no clear rationale for why the Minister's decision on a new Official Plan or Official Plan Amendment is not subject to appeal. Prohibiting such appeals is contrary to due process and meaningful participation.
69 (1) The council of a municipality, by by-law, and a planning board, by resolution, may establish a tariff of fees for the processing of applications made in respect of planning matters, which tariff shall be designed to meet only the anticipated cost to the municipality or to a committee of adjustment or land division committee constituted by the council of the municipality or to the planning board in respect of the processing of each	Add the following: *"(1.1) The council of a municipality or a planning board shall not establish fees for the purposes of reviewing matters that are governed by another Act."* Duplication of review is a significant concern for aggregate applications.

*Suggested changes shown in red

type of application provided for in the tariff.	Increasingly municipalities are charging exorbitant fees including retaining external experts to review matters already addressed by the Province through MNRF, MECP, etc. (e.g. natural heritage and endangered species, protection of water supply, etc.). Providing clear limits on this authority would reduce costs, delays and complexity for aggregate applications and assist in making significant aggregate resources available to accommodate planned growth and development.
Regulations **Official Plan Amendments (O. Reg. 543/06) and Zoning By-law Amendments (O. Reg. 545/06)**	Add the following to each regulation: *"In determining what information to require for such amendments, municipalities shall not exceed the requirements that are addressed under other provincial legislation including the Aggregate Resources Act."* Duplication of review is a significant concern for aggregate applications. Increasingly municipalities are requiring additional studies beyond those that are required under the Aggregate Resources Act. Providing clear limits on this authority would reduce costs, delays and complexity for aggregate applications and assist in making significant aggregate resources available to accommodate planned growth and development.

*Suggested changes shown in red