



Bruce County Comments

Date: October 21, 2019

Re: Proposed Changes to the Aggregate Resources Act

Council Resolution:

That the “Proposed Changes to the Aggregate Resources Act report,” with suggestions from Committee, be forwarded to the Ministry of Natural Resources and Forestry as the County of Bruce’s comments on the Environmental Registry of Ontario posting #019-0556.

Background:

Aggregate is governed in Ontario by the Minister of Natural Resources and Forestry (MNRF), through the [Aggregate Resources Act](#) and [Ontario Regulation 244/97](#). This past March, John Yakabuski, Minister of Natural Resources and Forestry hosted the Ontario Government's Summit on Aggregate Reform to garner feedback on how to improve Ontario’s management of aggregate resources. Approximately 70 representatives from industry, municipal government, Indigenous communities and key stakeholders attended the Summit and provided input. The public was also invited to submit their ideas on the challenges and opportunities facing Ontario’s aggregates sector, through an online survey (closed May 31) and email - 378 submissions were received.

As a result of this input, the Ministry is proposing changes to the aggregate resources framework, intent on improving the way aggregate resources are managed in the province.

On September 20th the government forwarded a letter to municipalities inviting their input, seeking comments on the proposed changes. The full proposal is available on the Environmental Registry: <https://ero.ontario.ca/notice/019-0556>), with comments open until November 4, 2019. The proposed changes focus on:

- Improving access to aggregates within road allowances;
- Clarifying jurisdiction on Crown land and depth of extraction;
- Clarifying how haul routes are considered under aggregates legislation; and,
- Strengthening protection of water resources through a more robust application process for requests to extract aggregates below the water table.
- Ontario is also considering some regulatory changes, which they will consult on in the near future.

The summary below provides an overview of the proposed changes to the Aggregate Resources Act and the County's comments in review - serving as our position.

Summary & Review Comments

1. Strengthen protection of water resources by creating a more robust application process for existing operators that want to expand to extract aggregate within the water table, allowing for increased public engagement on applications that may impact water resources. This would allow municipalities and others to officially object to an application and provide the opportunity to have their concerns heard by the Local Planning Appeal Tribunal.

Comment: A number of existing quarries within Bruce County are preparing to or are in process of requesting license amendments to go below the water table. Bruce County appreciates the province recognizing the public interest in extraction below the water table in terms of both the operation and the post-extraction landscape. Clarification and detail should be provided to municipalities prior to this change coming into effect, so that they can adequately prepare to meaningfully participate.

2. Clarify that depth of extraction of pits and quarries is managed under the Aggregate Resources Act and that duplicative municipal zoning by-laws relating to the depth of aggregate extraction would not apply.

Comment: Municipal efforts to regulate depth of extraction or “vertical zoning” have arisen due to a lack of engagement opportunities for license amendments. This change makes sense together with the changes noted in (1) above.

3. Clarify that the application of municipal zoning on Crown land does not apply to aggregate extraction.

Comment: There is relatively little Crown land in Bruce County outside of the Niagara Escarpment Plan (NEP) area. If zoning does not apply, Plan amendments would also not be required to enable a zoning change. The NEP does require aggregate operations to conform to Official Plans, and so Official Plan Amendment(s) may be required if extraction was proposed on crown land within the NEP.

4. Clarify how haul routes are considered under the Aggregate Resources Act so that the Local Planning Appeal Tribunal and the Minister, when making a decision about issuing or refusing a license, cannot impose conditions requiring agreements between municipalities and aggregate producers regarding aggregate haulage. This change is proposed to apply to all applications in progress where a decision by the Local Planning Appeal Tribunal or the Minister has not yet been made. Municipalities and aggregate producers may continue to enter into agreements on a voluntary basis.

Comment: Haul routes can generate neighbourhood concerns regarding offsite impacts of extraction, in terms of noise/dust/vibration, safety, and impacts to road infrastructure. Sorting out agreements can significantly extend the review process. Voluntary agreements may help to address concerns with operations, but if entered into need some mechanism to ensure that they are followed. Bruce County recommends that the province continue to allow Municipalities to require that

proponents address road maintenance and improvements to load ratings on haul routes so that extraction of this important resource can proceed without adverse impacts to the transportation system. To do this Bruce County opposes the removal of mandatory haul route agreements.

5. Improve access to aggregates in adjacent municipal road allowances through a simpler application process (i.e. amendment vs a new application) for an existing license holder, if supported by the municipality.

Comment: South Bruce Peninsula Official Plan policies currently recognize opportunities to extract within road allowances and even beneath roads subject to the Aggregate Resources Act. Reducing barriers to extraction in these circumstances could help to make materials available and increase flexibility and options in developing a comprehensive approach to rehabilitation where there are clusters of aggregate operations. This flexibility should be integrated into extraction and progressive rehabilitation plans to maintain natural corridor functions that unopened road allowances and extraction setbacks often provide between extraction operations.

6. Provide more flexibility for regulations to permit self-filing of routine site plan amendments, as long as regulatory conditions are met.

Comment: Streamlining routine amendments is appropriate. We note that many operations are increasingly complex, and the definition of “routine” is important to understand.

A summary of some regulatory (Ontario Regulation 244/97) changes also being considered follows - further consultation will occur on regulations.

7. Enhanced reporting on rehabilitation by requiring more context and detail on where, when and how rehabilitation is or has been undertaken.

Comment: Bruce County supports provincial efforts to encourage rehabilitation of areas where extraction has been completed that are not needed for ongoing operations.

8. Allowing operators to self-file changes to existing site plans for some routine activities, subject to conditions set out in regulation. For example, re-location of some structures or fencing, as long as setbacks are respected.

Comment: These amendments appear to be appropriate; we would suggest that the regulation include ‘and other operational requirements.

9. Allowing some low-risk activities to occur without a license if conditions specified in regulation are followed. For example, extraction of small amounts of aggregate if material is for personal use and does not leave the property.

Comment: A personal use exemption is appropriate. Bruce County encourages the province to take care in crafting the details of the regulation and provide adequate resources to monitor it for abuse.

10. Clarifying requirements for site plan amendment applications.

Comment: Bruce County encourages clarity in requirements.

11. Streamlining compliance reporting requirements, while maintaining the annual requirement.

Comment: Recent aggregate extraction proposals in Bruce County have included complex annual monitoring requirements to avoid impacts to groundwater, species at risk, and other provincial interests. To support reporting on these requirements, staff and proponents have worked together to develop streamlined reports that supplement standard Aggregate Resources Act compliance checklists. Bruce County encourages the province to ensure that streamlining annual reporting requirements maintains or enhances their effectiveness in tracking compliance with operations requirements. Bruce County recommends that the province provide adequate resources for inspection, monitoring and enforcement of aggregate extraction activities.

12. Reviewing application requirements for new sites, including notification and consultation requirements.

Comment: Bruce County recognizes that review under the Aggregate Resources Act often generates changes to proposed aggregate developments and encourages proponents to proceed through the Aggregate Resources Act notification and consultation process, including First Nations engagement, and to resolve issues under that Act to the extent possible before filing formal applications for local planning approvals.

13. While no changes to aggregates fees are being proposed at this time, the Ministry is also interested in hearing feedback on fees.

Comment: Review of Aggregate fees would be appropriate.

Financial/Staffing/Legal/IT Considerations:

There are no financial, staffing, legal or IT considerations associated with this report.

Interdepartmental Consultation:

Staff from Planning & Development and Office of the CAO co-wrote the report and consulted with Transportation and Environmental Services regarding haul routes.

The report will be shared with the local municipalities for awareness and in support of building our collective local voice if they wished to provide comments to the Ministry.

Link to Strategic Goals and Elements:

Goal 5: Eliminate our own red tape:

- e. focus on the internal and external customer / client needs first

Goal 7: Stimulate and reward innovation and economic development:

- a. Streamline and simplify our Planning Processes (Official Plan, Zoning By-law)

Goal 9: Coordinated, Concerted effort to advance our agenda:

- b. Politicians and staff lobby associations and government in support of local policy needs;

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Approved by:

A handwritten signature in cursive script that reads "Bettyanne Cobean".

Bettyanne Cobean
Acting Chief Administrative Officer