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**Comment Submission on the “Proposals to amend Ontario Regulation 244/97 and the Aggregate Resources of Ontario Provincial Standards under the *Aggregate Resources Act* (February 2020)”**

**Reference No.: ERO 019-1303**

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Walker Aggregates Inc. (“Walker”) is a division of Walker Industries. Our company operates several mineral aggregate operations within the Growth Plan, Greenbelt Plan and Niagara Escarpment Plan areas. Walker has a full range of crushed limestone and sand and gravel products supplying the asphalt, concrete, construction and landscaping needs of Southern Ontario.

At Walker, our focus is on sustainability, environmental stewardship and innovation. We are committed to the communities in which we operate and to extracting aggregate in a manner that protects Ontario's other rural resources including agriculture, water and natural heritage.

Overall, Walker welcomes the proposed changes to the Regulations and Provincial Standards under the *Aggregate Resources Act* (ARA). An up-date is due and Walker appreciates the opportunity to provide input into the proposed changes as this largely impacts our day-to-day operations and our ability to help secure aggregate reserves for the long term. The availability of resource close to market is vital to maintaining a healthy, sustainable economy for our Province.

Walker is a long-standing member of OSSGA. While we have been actively involved in the sub-committee established to distill responses through OSSGA, Walker also wants to reiterate the



importance of a number of the comments made by OSSGA (attached for reference) and also provide comments specific to our operations.

## **Section 1 – Proposed Changes for Applications to Establish a New Site**

### **Part 1.1: Study and Information Requirements**

#### **1.1.1 – Water Report**

1. As noted by OSSGA, it is important that 'maximum predicted elevation of the water table' be clarified and clearly defined so it ties in similarly with the existing definition of 'established groundwater table'. The 'established groundwater table' together with the 1.5 m buffer takes into account that there may be variability in the water table from year to year.

To otherwise apply a 'maximum predicted elevation of water' as well as the 1.5 m intended as a buffer for water table variability would be overly cautious, without scientific merit and would result in the sterilization of aggregate above the water table.

2. It should be made clear when a water budget is warranted or not. Where a water budget is deemed necessary, then a Letter of Opinion will not suffice. This would need to be determined through a Level 1 Hydrogeological Report. This adds cost, time and resources for the proponent and the Ministry.
3. It should also be made clear who will be reviewing the additional water report requirements so that duplication amongst various agencies is minimized (e.g. MNRF, MECP, Conservation Authority, upper and lower tier municipalities). One review agency for these reports for aggregate applications would help to streamline agency consultation, reduce additional public resource requirements and avoid conflict amongst inter-agency comments. Again, multiple review agencies adds cost, time and red-tape for all involved.



### **1.1.2 – Cultural Heritage Report**

4. Walker welcomes proposed changes to allow temporary avoidance and protection strategies. This mechanism would help clarify that extraction is permitted outside of areas that require further investigation subject to conditions and safeguards being in place on the site plan. This removes undue delay on areas cleared of archaeological resources and allowing extraction to be undertaken in a responsible manner.

### **1.1.3 – Natural Environment Report**

5. Walker supports this change provided that alignment is with the current natural heritage policies in the PPS and four Provincial Plans while maintaining an appropriate balance and consideration of mineral aggregate policies also contained in those plans. Protection of mineral aggregate resources is also a matter of provincial interest and the Regulations should be clear on the hierarchy of 'significance' as defined in the PPS.
6. In some cases, the adjacent lands (i.e. within 120 m) may not be accessible. The Regulations should also provide direction on acceptable field survey methodology where access to adjacent lands is not available.

### **1.1.4 – Agricultural Impact Assessment**

7. The requirement of an Agricultural Impact Assessment (AIA) should be aligned with the four Provincial Plans and not be a standard requirement across the Province (i.e. outside of those Plan areas that do require an AIA). Where not already required by Provincial Plan policy, this adds cost, time and resources for the proponent and the Ministry.

### **1.1.6 – Summary Statement**

8. The additional requirement for a Summary Statements for all licence and permit applications to include planning and land use considerations will likely the trigger the need for a professional planner to author such Statements and negate the option for Statements to be authored by a lay person. This adds cost to the proponent.



## **Part 1.2: Site Plan and Licence/Permit Conditions**

### **1.2.1 – Site Plan Standards**

9. Walker supports these changes as it will result in appropriate flexibility and allow for less cluttered site plans.

### **1.2.2 – Site Plan Standards - Modernization**

#### Recycling

10. The Ministry is proposing that recycled aggregate removed from the site be counted towards the tonnage condition for the site and reported annually in the production report. We do not agree with this proposed requirement.

This requirement will significantly deter operators from recycling when it should be encouraged. With less operators participating in recycling (i.e. preferring to keep tonnage condition for virgin material), recycled material will not be as readily available for municipal contracts and will likely need to come from operations located farther away. Longer haul distances of recycled material will result in greater social, environmental and financial costs.

It is imperative that MNRF support recycling activities and promote wise resource management.

Aggregate sites that are close to market and can be used for recycling can help reduce truck traffic, greenhouse gas emissions, and conserve natural resources. Sites are usually well screened and material and equipment is on-site that may be necessary for creating new products or enabling resale of recycled material. Trucks are driving on approved haul routes as recycled material has to be moved, regardless of where it goes.

Therefore, Walker would prefer to see clear messaging and regulations that are supportive of recycling within licenced pits and quarries, consistent with the PPS Policy



2.5.2.3: “Mineral aggregate resource conservation shall be undertaken, including through the use of accessory aggregate recycling facilities within operations, wherever feasible”.

If the tonnage condition includes recycled material and is included annually on the production report, it should be reported on a separate line and therefore not be charged the current TOARC fee. This would help to promote recycling.

#### Hours of Operation

11. Additional information is necessary to understand what is intended when the Ministry states: “To better align with the definition of ‘operate’ under the Aggregate Resources Act, it is proposed that this be clarified to include all on-site activities associated with the operation of a pit or quarry”.
12. The main purpose behind adding hours of operation to Site Plans is to control activities that generate noise. Therefore, hours of operation should only apply to activities that generate significant noise. Other activities should continue to be allowed on a site with no restriction on hours of operation if they can be shown to be innocuous, with little influence on the surrounding environs.

#### Modernizing how Site Plans are Prepared and Submitted

13. Walker supports the proposed changes that use technology and electronics to help streamline and minimize costs and use of paper (i.e. electronic submissions, UTM coordinates, self-filing, etc).

#### Other

14. Walker agrees with changes proposed in Sections 1.2.3 and 1.2.4.



## **Part 1.3: Notification & Consultation Requirements**

### **1.3.1 – Notification and Consultation Timelines**

15. Walker has no issue with increasing the notification period with a stronger expectation for meaningful comments within an extended timeframe and not just a standard ‘placeholder’.
16. Walker agrees with the ability to request an extension to the two (2) year notification and consultation period. In some cases, an extension may be appropriate in order to address administrative problems without the risk of having to ‘start over’.

### **1.3.2 - Notification and Consultation Process**

17. Walker supports more flexible options related to methods of notification and is agreeable to the increase in distance of notification.
18. However, Walker disagrees with the addition of the term “resident”. The obligation for notice should be to the landowner who has a vested interest in the property. There is no certainty in providing proper notice to a ‘resident’ or what defines a ‘resident’. Responsibility should be on the landowner to advise any resident living in their household.
19. Although this is commonly practiced now, it would be beneficial to have the Ministry clarify that contact information is to be provided by municipalities to the proponent.

### **1.3.3 - Objection Process on Private Land**

20. Walker strongly agrees with the proposed change to formalize the objection process and not consider all submissions received during the notification period as an objection.
21. A more formal objection process should be similar to that prescribed under the Planning Act, including:
  - a. an official appeal form,



- b. appeal fee
- c. the appeal board or through a motion, may dismiss an appeal where it has not been made in good faith or is frivolous or vexatious or for the purpose of delay;
- d. clearly defining what constitutes an official objector and how they are represented at a Tribunal. For example, landowner groups under one formal objection should be required to be an incorporated body that is represented by one agent or representative and not permitted to make individual submissions before the Tribunal that adds to costly and lengthy hearings. This adds costs and delay to all parties involved.

#### **1.3.4 - Circulating New Applications to Agencies**

22. Walker agrees with the proposed approach for circulating new applications.

## **Section 2 – Prescribed Rules for Minor Excavations**

### **Part 2.1: Excavation from Private Land or Land Owned by a Farm Business**

23. Walker would like to see clarity of the last bullet point in the 3<sup>rd</sup> paragraph and second bullet point in last paragraph both on page 23 which reads: “Excavated aggregate would not be removed from the property from which it was excavated or would only be moved between adjacent properties owned by the same landowner”. The clarity requested is, if the material is to be removed from one property to another of same ownership, can it be transported on the local road/highway to get from one to the other? The term “adjacent” property should be clearly defined and flexibility provided where the property is within a reasonable distance and accessible via a public road.

24. Otherwise, Walker generally agrees with the proposed approach for this Section 2.1 and 2.2.

## **Section 3 – Proposed Changes to How New and Existing Sites are Managed and Operated**



## **Part 3.1: Operating Requirements for All Sites (New and Existing)**

### **3.1.1 - Miscellaneous Changes**

25. Walker agrees the proposed approach re: the removal of the fencing requirement.

26. Walker does not agree with the proposed approach re: tree and stump removal. Trees and stumps can be successfully utilized on site as part of rehabilitation efforts. For example, stumps help to stabilize shorelines, provide erosion control and provide habitat for various species. For above water pits, trees and stumps removed from within the licensed pit or quarry boundaries should be allowed to be buried on that same licensed site to assist in creating final rehabilitated slopes.

27. Walker agrees with the proposed approach to chains and cables (i.e. not being acceptable).

### **3.1.2 - Dust**

28. Walker is agreeable to some requirement to mitigate dust to prevent it from leaving the site. However, the Regulation should be clear that MECP regulates and is governed under the EPA. Also, for licenced sites, the air quality limit should be 500 m and not 1000 m from a site.

### **3.1.3 – Blasting**

29. Walker is generally agreeable to the proposed approach. However, Walker would like to see the Regulations provide clarity on jurisdiction and avoid duplication of regulatory regimes. Duplication of these efforts leads to additional costs, potential inter-agency conflict and additional red tape overall.

### **3.1.4 - Recycling**





30. Walker strongly disagrees with the proposed approach to recycling for the reasons provided earlier under Section 1.2.2.

## **Part 3.2: Annual Compliance Reporting**

### **3.2.1 - Compliance Assessment Reports**

31. Walker agrees with the proposed approach and the timeframe in which the inspections are required to be completed (May to September). However, Walker would like the Ministry to reconsider a submission date closer to the end of the calendar year. September is a busy time for producers and two weeks is a tight timeframe to produce the necessary reports when operations are still very active.

### **3.2.2 - Rehabilitation Reporting**

32. Walker agrees with the proposed approach and that a best management practice guideline would be helpful. From years of experience testing different techniques, the industry has a wealth of practical knowledge when it comes to both progressive and final rehabilitation. Walker recommends that both the Ministry and industry collaborate on this initiative.

## **Part 3.3: Site Plan Amendments**

### **3.3.1 - Site Plan Amendment Process**

33. Walker supports the use of a standardized form.

34. Walker would like to see more clarity and updated direction provided by the Ministry on what is considered a major vs. minor site plan amendment. Also, clarity should be provided on circulation requirements. For example, it is not clear what is considered an “interested party” and this should be more clearly defined.

### **3.3.2 - Amendment to Expand into a Road Allowance**



35. Walker overall supports this change and generally agrees with the proposed approach.

36. Walker requests that the Ministry clarify that submission of a final application to the Ministry for approval may be made where it has been demonstrated to the Ministry's satisfaction that valid attempts have been made to resolve all reasonable comments made by landowners, agencies and the public.

### **3.3.3 - Amendment to Expand an Existing Site Below the Water Table**

37. Walker generally agrees with the proposed approach. As noted in Walker's earlier comments under Section 1.3.1, flexibility should be similarly applied to the two (2) year submission deadline.

### **3.3.4 - Self-Filing of Site Plan Amendments**

38. Walker welcomes this proposed change. Clarity needs to be provided by the Ministry moving forward that there are three categories: self-filing amendments, minor amendments, and major amendments. Furthermore, that the Ministry will provide ongoing direction to licencees on whether a certain amendment would qualify for self-filing.

39. Walker asks that the following additional examples be considered eligible for self-filing:

- a. Monitoring changes approved by the MECP through a Permit to Take Water or through an ECA to address any potential inconsistencies; and,
- b. The addition of other buildings for processing of on-site materials. For example this could include buildings that house gang saws and guillotines on dimension stone quarry sites or repair shops or storage buildings for all pit and quarry sites.
- c. Height/number of lifts
- d. Minor variation to operational sequence
- e. Berm location/height, where not required for noise mitigation
- f. Wash pond additions or re-configuration where in accordance with OWRA approval.



- g. Reduction in setbacks, where it does not meet the locational criteria for setback reduction listed under major site plan amendments.
  
- 40. Under “Importation for Aggregates for Blending” (second bullet), it is noted that “when removing aggregate material from the site that was imported for blending, the amount of aggregate imported for blending, when combined with the amount of aggregate removed from the site during the calendar year, would not exceed the total amount of aggregate that is authorized to be removed from the site during the year in question”. Walker would like the Ministry to clarify what is expected of the licensee/operator to avoid counting this material twice. For example, does the licensee/operator report the material from the feeder site in the site’s production report and not again in the processing site.
  
- 41. Under “Recycling” (sixth bullet, fourth sub-bullet), Walker reiterates that recycling tonnage should not be part of the processing site’s annual tonnage limit. This will result in drastically reducing recycling operations overall which is contrary to the Province’s objective of encouraging and promoting aggregate recycling.

#### **Section 4 - When Changes are Proposed to Come into Effect**

- 42. While Walker agrees with the proposed timeline for implementation, Walker prefers to see the Regulations be thoroughly vetted through meaningful consultation with the industry, particularly with respect to Items in Table 1, to ensure they promote effective and practical change.

#### **Section 5 – Regulatory Impact Assessment**

- 43. Walker would appreciate clarity from the Ministry on how dollar amounts were arrived at in this Section.

Walker welcomes the opportunity to work with MNR’s policy staff to clarify and further discuss the comments included in our submission.



We appreciate the opportunity to provide comments on the proposed Regulations. As always, we would be pleased to meet to review and further discuss our comments.

Yours truly,

A handwritten signature in black ink, appearing to read 'K. Kehl.', with a horizontal line through the middle of the letters.

**Kevin Kehl**

**Project Manager**

**AGGREGATES & CONSTRUCTION DIVISION**