TOWNSHIP OF WILMOT

DEVELOPMENT SERVICES
Staff Report

REPORT NO:	**DS 2020-09**
TO:	**COUNCIL**
SUBMITTED BY:	**Harold O'Krafka, MCIP RPP** **Director of Development Services**
PREPARED BY:	**Harold O'Krafka, MCIP RPP** **Director of Development Services**
REVIEWED BY:	**Grant Whittington, CAO**
DATE:	**May 25, 2020**
SUBJECT:	**Proposed Amendments to O.Reg 244/97** **Aggregate Resources Act**

RECOMMENDATION:

That Report DS 2020-09 be received for information.

SUMMARY:

The Township of Wilmot has worked collaboratively with the Schmidt Estate on several projects which have benefitted from both parties, most recently the donation of future road allowances and the widening of Queen Street in Baden to effectively create a parcel of land around the 'Miller House' which will hopefully lead to its preservation and restoration.

BACKGROUND:

The Provincial government has proposed amendments to Ontario Regulation 244/97, the regulation which implements the Aggregate Resources Act (ARA). The proposed amendments flow from recent amendments to the Act in December of 2019 within Bill 132 – the "Better for People, Smarter for Business Act".

As Council will recall, the Township of Wilmot commented on those proposed changes to the ARA Aggregate Resources Act in October of 2019 via staff report DS-2019-25.

Those comments were focused on our continued beliefs:

i) that vertical zoning is a reasonable and transparent approach to license proposals to extract below the water table;
ii) that amendments to site plans whether minor or major should be subjected to municipal scrutiny prior to approval;
iii) that self-regulation and streamlining in general could contradict the public desire for expanded consultation or approvals;
iv) that all extraction activities should be subjected to review prior to approval; and,
v) that the fees paid to municipalities should be increased to better reflect the costs to the municipality of road maintenance and repair related to aggregate operations.

The Provincial government is now seeking comments on the proposed amendments to O.Reg 244/97 which implements the ARA. The Province summarizes the proposed amendments as follows:

“Proposed regulatory changes for new pits and quarries:

- enhancing the information required to be included in summary statements and technical reports at the time of application
- improving flexibility in how some standard site plan requirements can be implemented and modernizing how site plans are created
- creating better consistency of site plan requirements between private and Crown land and better alignment with other policy frameworks
- updating the list of qualified professionals who can prepare Class A site plans
- updating the required conditions that must be attached to a newly issued licence or permit
- adjusting notification and consultation timeframes for new pit and quarry applications
- changing and clarifying some aspects of the required notification process for new applications
- updating the objection process to clarify the process
- updating which agencies are to be circulated new pit and quarry applications for comment

For existing pits and quarries:

- making some requirements related to dust and blasting apply to all existing and new pits and quarries (requirements which were previously only applied to new applications)
- updating and enhancing some operating requirements that apply to all pits and quarries, including new requirements related to dust management and storage of recycled aggregate materials

- providing consistency on compliance reporting requirements, while reducing burdens for inactive sites
- enhancing reporting on rehabilitation by requiring more context and detail on where, when and how rehabilitation is or has been undertaken
- clarifying application requirements for site plan amendments
- outlining requirements for amendment applications to expand an existing site into an adjacent road allowance
- outlining requirements for amendment applications to expand an existing site into the water table
- setting out eligibility criteria and requirements to allow operators to self-file changes to existing site plans for some routine activities without requiring approval from the ministry (subject to conditions set out in regulation)

Allowing minor extraction for personal or farm use:

- outlining eligibility and operating requirements in order for some excavation activities to be exempted from needing a licence (i.e., if rules set in regulation are followed). This would be for personal use (max. of 300 cubic meters) or farm use (max. 1,000 cubic meters)

Fees:

While no changes to aggregates fees are being proposed at this time, we are committed to reviewing and consulting further on any proposed changes to aggregate fees and royalties.

Regulatory impact analysis:

The anticipated environmental consequences of the regulatory proposal are positive as the proposed changes reflect necessary updates to both application requirements for new sites (e.g. technical reports) and existing operational standards and prescribed conditions (e.g. dust mitigation and blast monitoring) that protect the environment and minimize community impacts.

The anticipated social consequences of the proposal are positive. Proposals include modernizing and clarifying timelines, processes and requirements for notification and consultation for both private and Crown land applications. This will ensure proper processes are followed for community engagement and consultation on proposals.

The anticipated economic consequences of the proposal are neutral to positive. While many of the proposed changes are intended to reduce burden, streamline approvals and add flexibility for new applicants and existing operators, some of the proposals may add additional requirements and costs depending upon the unique applicant or operator circumstances and the combinations of applicability of the proposals to a particular application type and existing operation.”

REPORT:

Township staff have reviewed the proposed amendment to O.Reg 244/97 (Attachment 1) and offer the following comments:

Source Water Protection

The protection of source water resources should be of primary concern to the Province, the Region and the Township of Wilmot. For the most part the Township of Wilmot relies on the expertise of the Region of Waterloo in respect of groundwater protection matters.

In this regard, the Region of Waterloo has provided its own comments in this regard through Report PDL-CDL-20-06 (Attachment 2).

The Township continues to believe that the allowance of vertical zoning provisions to ensure that the expansion of a gravel pit into the groundwater table is subjected to the same level of municipal, regional and public review as applications above the groundwater table.

This should not be misconstrued as a request by the Township for the outright prohibition of below ground water extraction but rather a request that decisions in all instances be fact based, informed by science and fully vetted in the public eye. There is a significant and important distinction between the two approaches.

The Township concurs with the Region of Waterloo's request that the Province increase the background monitoring requirements of seasonal groundwater levels from one year to two years to better align with Regional and local hydrogeological study requirements.

Public Notification and Consultation

The proposed addition of 15 days to the ARA notification period, requiring the notification of both property owners and tenants, and allowing consultations to extend beyond 2 years are certainly beneficial an reflect an effort to improve the process.

Having said that the Township concurs with the Region's concern that municipal rights of appeal to LPAT should be formally established for municipalities who feel their concerns within the process have not been appropriately addressed by MNRF - rather than relying on MNRF to exercise its own discretion in referring the matter to the Tribunal.

Compliance Assessment Reporting

While the Township appreciates the efforts of the Province to improve the quality of annual self-monitoring reports, including enhanced information on rehabilitation, the Township would suggest that a formal auditing program should be established to verify the accuracy of self-reporting.

It would seem reasonable that auditing and reporting of the auditing results would balance the streamlining effect of self-compliance reporting with the desire for complete and accurate information.

Pit Rehabilitation

The proposed enhancements to reporting on rehabilitation efforts are welcomed by the Township and should allow for the maintenance of a much more informed base of knowledge on best practices for rehabilitation from existing pits that can be applied to future pit approvals.

Fees

As indicated in previous comments to MNRF on the changes to the ARA, the Township believes that annual license payments to host municipalities should be increased and sufficiently indexed to ensure that the true annualized costs of road maintenance and upkeep resulting from licensed pits is received.

Next Steps

Council should be aware that the abov comments were submitted by staff to the MNRF via the ERO portal prior to the deadline of May 15, 2020.

The timing of approval of the review of comments and approval of amendments to O. Reg 244/97 is not known at this time but staff would anticipate it will be shortly after the closure of the commenting period.

ALIGNMENT WITH THE TOWNSHIP OF WILMOT STRATEGIC PLAN:

Communication of proposed changes to Provincial legislation promotes an informed community.

Providing comments to MNRF on the proposed amendments to O.Reg 244/97 provides the opportunity to promote the protection of our natural environment in concert with economic development, our quality of life and our continued belief that approvals should be transparent and open to public input and review.

FINANCIAL CONSIDERATIONS:

There are no financial impacts of providing comments on the proposed amendments to O.Reg 244/97.

ATTACHMENTS:

Attachment 1: Proposals to amend O.Reg 244/97
Attachment 2: Regional Report PDL-CDL-20-06

Proposals to amend O.Reg. 244/97 and the Aggregate Resources of Ontario Provincial Standards under the Aggregate Resources Act

February 2020

Ontario

Contents

Introduction

The Ministry of Natural Resources and Forestry (MNRF) is responsible for managing Ontario's aggregate resources. Aggregate resources, like sand, stone and gravel, support the quality of life that Ontarians enjoy and play a vital role in Ontario's economy. Aggregates are essential for building critical infrastructure like homes, schools, hospitals, roads, airports and subway tunnels, which help support the needs of communities across the province. Aggregates are also used in a variety of products like brick, glass, paper and even toothpaste. The aggregate industry had a production revenue of approximately $1.6 billion in 2017 and supports over 29,000 aggregate sector related jobs in Ontario.

The excavation of aggregates is primarily regulated under the *Aggregate Resources Act* (ARA). The act applies to Crown-owned aggregate and topsoil and privately-owned aggregate located on private land (within geographic areas identified in regulation). Other laws and regulations may also apply to aggregate sites, such as municipal planning approvals, permits to take water and environmental compliance approvals. There are approximately 6,000 pits and quarries[1] authorized under the ARA. A pit is a site where unconsolidated material, such as sand and gravel, is removed and quarries are sites where consolidated material or "bedrock" (e.g., limestone, granite) is removed. Nearly 60 percent of pits and quarries are on private land. Most of the aggregate produced in Ontario comes from southern Ontario where most of the demand exists. Studies have shown that our need for aggregate material is expected to increase[2].

While Ontario requires a continued supply of aggregate resources, it is equally important to recognize and manage the impact excavation operations can have on the natural environment and on the communities that surround them. These operations are located across our diverse province, and the regulatory framework that manages them must be modern, fair, consistent and efficient to support Ontario's needs today and into the future.

This document outlines proposed regulatory changes under *Aggregate Resources Act* (ARA) and the Aggregate Resources of Ontario Provincial Standards (i.e., "Provincial Standards") and builds from recent changes to the ARA that were made through the passing of Bill 132, *Better for People, Smarter for Business Act*, 2019. The legislation, regulations, Provincial Standards and policy that comprise the key policy framework for regulating the extraction of aggregates in Ontario in Figure 1. The changes being proposed are intended to modernize the way aggregate resources are managed and to promote economic growth within the aggregate industry while also protecting the

[1] For more information about pits and quarries, visit https://www.ontario.ca/page/find-pits-and-quarries and follow the link at the top of the page.

[2] Source: State of Aggregate Resources in Ontario, 2010.

environment and addressing community impacts. In addition to the regulatory changes proposed in this paper, the ministry will also be developing guidance materials to better communicate best practices for preparing applications under the ARA.

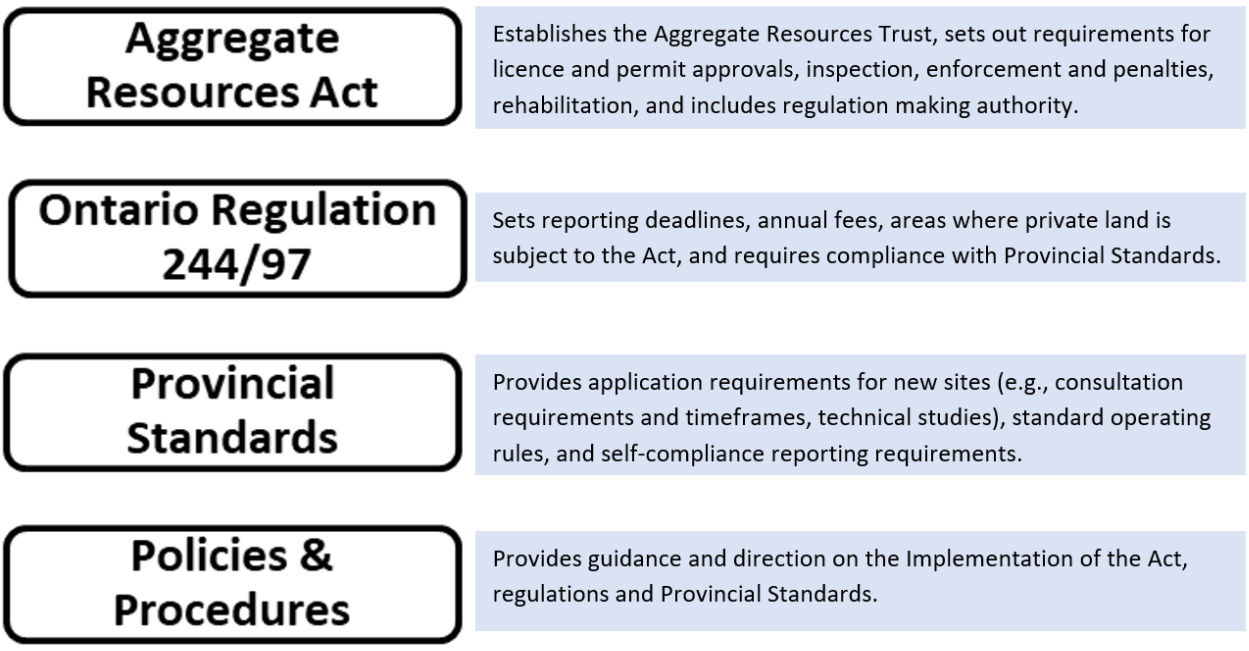
Over the last year, MNRF has been listening to members of the aggregate industry, the public, municipalities, non-governmental organizations, and Indigenous communities to find ways to reduce the regulatory burdens facing the aggregate industry while also maintaining strong environmental controls to ensure our water, air and natural environment are protected.

Key themes heard so far include:

- Ensure environmental protection, particularly related to water resources
- Increase opportunities for community engagement on applications
- Improve access to aggregates
- Cut red tape by reducing duplication and inefficiencies that create barriers to industry
- Ensure pit and quarry rehabilitation

No changes to aggregate fees and royalties are being proposed at this time. If changes are proposed in the future, additional consultation would occur.

Figure 1: Aggregate Resources Act Policy Framework



For more information:

- Aggregate Resources Act [https://www.ontario.ca/laws/statute/90a08]
- Ontario Regulation 244/97 [https://www.ontario.ca/laws/regulation/970244]
- Aggregate Resources of Ontario Provincial Standards, which is incorporated by reference under Ontario Regulation 244/97[https://www.ontario.ca/page/application-standards-proposed-pits-and-quarries]
- Policies and procedures [https://www.ontario.ca/rural-and-north/aggregate-resources-policies-and-procedures]

How to provide feedback on the proposed changes

You can provide comments through the Environmental Registry posting (#019-1303) at www.ero.ontario.ca, or by sending comments via email to aggregates@ontario.ca.

The ministry is interested in your perspectives on the proposals outlined in the discussion paper, including:

- how these proposed changes may affect you or your business (e.g. implementation costs and timelines, community impacts and concerns),
- how effective these changes would be at reducing regulatory burdens while maintaining appropriate levels of environmental protection,
- suggestions for improvements to these proposals, and
- ideas for additional changes or improvements.

Dimension stone quarry with equipment used to mechanically remove the limestone bedrock.

Section 1 - Proposed Changes for Applications to Establish a New Site

Part 1.1: Study and Information Requirements

The Aggregate Resources of Ontario Provincial Standards or "Provincial Standards" outline the application requirements for establishing a new pit or quarry in Ontario. These requirements include reports that help inform the proposal and identify potential impacts of the activities that are proposed to take place. Recommendations from the reports to mitigate potential impacts are incorporated on the site plan that acts like a blueprint for the operation. The following sections outline proposed changes to the technical report requirements for applicants under the *Aggregate Resources Act*.

1.1.1 Water Report

Currently, all new pit and quarry applications must identify the proposed maximum depth of extraction in relation to the water table. In addition, most applications that propose to extract below the ground water table must include a hydrogeological report ("water report"). These reports must be prepared by a person with appropriate training and experience in hydrogeology (i.e., a 'qualified person'). The objective of the report is to identify any potential adverse effects to ground water and surface water resources and their uses (e.g., private and municipal wells, aquifers, waterbodies) as a result of the proposed activities. If the potential for adverse effects is identified, an impact assessment is required to determine the significance of the effects and the feasibility of mitigation.

Applications that are not proposing to extract below the water table must determine the elevation of the water table at the proposed site or demonstrate that the final depth of extraction will be at least 1.5 metres above the water table if a pit is proposed or at least 2.0 meters above the water table if a quarry is proposed.

Proposed Approach:

The ministry is proposing to better clarify how the water table is determined, who is qualified to prepare a water report and enhance the information required as part the report.

Proposed changes to how the water table is established:

The following changes would apply to all new applications, regardless of whether the proposal is to extract below water or not:

- Require that the water table be established using the maximum predicted elevation of the water table. The water table (to be referenced as the "maximum predicted water table") would be assessed by monitoring the ground water table at the site for a minimum of one year to account for seasonal variations and influences due to precipitation. If information sources already exist on or adjacent to the site (e.g., previous hydrogeological study, existing well data) a determination of the maximum predicted water table elevation could be made by a qualified person with the submission of supporting data.

- For sites proposing to extract in Precambrian shield where it is difficult to determine the elevation of the water table, a qualified person would need to drill to the depth of the proposed extraction plus 2.5 metres to determine if the water table will be encountered. The number of drill holes and seasonal timing would be determined by the qualified person and based on site conditions.

- Require that the maximum predicted water table must be determined for all proposed pits and quarries on Crown land that are proposing excavation below the water table, even those in remote or isolated areas[3].

Proposed changes to the content of a water report:

The ministry is proposing to clarify some of the current requirements for the assessment of impacts to water in order to determine the significance and potential of impacts and the feasibility of mitigation. For example:

- Water wells, including private and municipal wells.
- Surface water courses and water bodies, including sensitive ground water dependent features (e.g., wetlands, water courses).

Also, a water budget, determining the relationship between input and output of water through the site with consideration of precipitation and potential evapotranspiration of the supply of water and the natural demand for water may be required.

Clarification would also be made to better describe what qualifications are required in order to prepare a water report. Specifically, this person must be a registered Professional Geoscientist or exempted Professional Engineer as set out in the *Professional Geoscientists Act, 2000* who has appropriate ground water experience and expertise.

A new requirement would be added to the water report that summarizes how local source water protection plans and policies are addressed. Specifically, in this new section, applicants would be required to identify:

[3] Remote or isolated areas are defined as areas not within: 500 metres of a coldwater stream, 1000 metres of a water well, whether dug or drilled, and 5000 metres of a sensitive receptor.

- If the proposed operation is within a Wellhead Protection Area A or B (WHPA-A or B).
- If activities (e.g., fuel or salt storage) proposed at the site have the potential to cause a significant threat to local source water. This assessment would include referencing local existing source water protection plans or policies approved under the *Clean Water Act*.
- If proposed aggregate extraction at the site has the potential for changes to the 'vulnerability' within a Wellhead Protection Area (A or B). Note: The vulnerability score determines how other proposed on-site activities would be managed under the source water protection plan.
- If the proposed site is in a Wellhead Protection Area for Quantity (WHPA-Q), the potential for impacts to the sustainability of a municipal water taking. Note: a WHPA-Q is the area around a municipal well associated with the potential for water quantity threats.

1.1.2 Cultural Heritage Report

The Minister of Heritage, Sport, Tourism and Culture Industries (MHSTCI) is responsible for the administration of the *Ontario Heritage Act* and may determine policies, priorities and programs for the conservation, protection and preservation of the cultural heritage of Ontario. Cultural heritage resources include archaeological resources, built heritage resources and cultural heritage landscapes. All applicants under the *Aggregate Resources Act* (ARA) must prepare a cultural heritage report to determine if any significant archaeological resources may be present on the proposed site, and if so, to assess potential impacts and propose mitigation strategies.

The current report requirements focus on archaeological resources, however, an assessment of impacts to built heritage and cultural heritage landscapes may sometimes be required.

Proposed Approach:

The ministry is proposing to update the cultural heritage report requirements to ensure that the scope and content is consistent with the Province's cultural heritage policy framework. With this alignment, applicants can benefit from the tools and information developed by the province to streamline approvals for other types of development.

For example, one approach that is sometimes used in other types of development, is to allow temporary avoidance and protection strategies as a mechanism in archaeological assessments. Where a licenced archaeologist has recommended a detailed investigation in a limited area of a development footprint, it may be possible to permit extraction (subject to appropriate conditions and safeguards) outside of the area that requires further investigation. The archaeologist would recommend appropriate mitigation (e.g., setbacks to excavation, use of equipment) to protect the resources and the site plan would make these restrictions enforceable. These restrictions would be in place until the outstanding reports are completed and accepted by MHSTCI and the appropriate consultation has occurred.

The process to implement the proposed changes need to consider how the objectives of the proposal are achieved while avoiding unnecessary burden on the applicant and on review agencies, especially where built heritage resources and cultural heritage landscapes are already considered through the *Planning Act* process.

Aligning the Provincial Standards with the Province's cultural heritage policy framework creates a process that allows information necessary to better support meaningful engagement of potentially affected stakeholders and Indigenous communities to be shared through the ARA process and ensures that any mitigation relevant to the operation of the pit or quarry is reflected on the ARA site plan.

1.1.3 Natural Environment Report

All pit and quarry applications are required to include a natural environment report, as outlined in the Provincial Standards. The report is required to identify natural heritage features on or within proximity to the proposed pit or quarry. These features currently include significant wetlands, significant wildlife habitat, significant habitat of endangered or threatened species, fish habitat, significant areas of natural and scientific interest; and, depending on where the site is located, significant woodlands and significant valleylands. If any of these features are located on or within 120 metres of the proposed pit or quarry, the report must determine any potential negative impacts on the features or their ecological functions and propose any necessary measures to prevent, mitigate or remediate the negative impacts.

Proposed Approach:

The ministry is proposing to update the requirements in the natural environment report to align with the current natural heritage policies in the Provincial Policy Statement (PPS) and the four Provincial Plans (Oak Ridges Moraine Conservation Plan, the Greenbelt Plan, A Place to Grow: Growth Plan for the Greater Golden Horseshoe, and the Niagara Escarpment Plan). Requirements for a natural environment report were developed in 1997. Since that time, the PPS and Provincial Plans have been updated and they now include policies related to, for example, coastal wetlands (in ecoregions 5E, 6E and 7E), and natural heritage systems (in Ecoregions 6E and 7E). Changes would ensure that the requirements for the natural environment report align with the PPS and Provincial Plans, as amended from time to time.

1.1.4 Agricultural Impact Assessment

The four Provincial Plans contain policies that require the completion of an Agricultural Impact Assessment for new aggregate operations. However, the Provincial Standards do not currently require these assessments to be submitted as part of an application for a licence.

Proposed Approach:

In order to align with what is currently required under Provincial Plan policies, the ministry is proposing that all applications for new pits and quarries on private land be required to include an Agricultural Impact Assessment if the proposed pit or quarry is within a prime agricultural area that is also located within a portion of a Provincial Plan that is subject to an Agricultural Impact Assessment policy requirement. Prime agricultural areas are defined in the applicable Provincial Plan.

1.1.5 Blast Design Report

A blast design report is required for all new quarry applications on private land that are proposing to remove more than 20,000 tonnes per year (i.e. Class A licences) where there is a sensitive receptor (e.g., residences, hospitals, schools) within 500 metres of the proposed limit of extraction. A blast design report is currently not required for new quarries on Crown land or for new quarries on private land that are proposing to remove 20,000 tonnes or less per year (i.e., Class B licences). The blast design report must demonstrate that provincial guidelines (NPC 119 - Blasting) for ground vibration and overpressure (i.e., noise) can be met during blast events.

Proposed Approach:

To better align application requirements on Crown land with those on private land, the ministry is proposing to require blast design reports for new quarries on Crown land that propose to remove more than 20,000 tonnes per year and that have a sensitive receptor within 500 metres of the limit of extraction.

A construction aggregate limestone quarry conducting a blast.

1.1.6 Summary Statement

Currently, a summary statement is required as part of a new pit or quarry application. Information required in a summary statement varies depending on where the proposed site is located, whether the site will be extracting below the water table and how much aggregate is proposed to be produced each year. The Provincial Standards require, among other things, that a summary statement for Class A licence applications include information about planning and land use considerations.

Proposed Approach

The ministry is proposing that the summary statement for all proposed pits and quarries on private land and Crown land contain planning and land use considerations. Information about how the operation of the site would align with these considerations would need to be reflected on the site plan. For example, no below water table extraction is permitted within the Natural Linkage Area of the Oak Ridges Moraine Conservation Plan.

Applications proposing extraction above the water table, would be required to identify activities (e.g., fuel or salt storage) proposed at the site that are significant threats to source water and they would be required to reference existing source water protection policies approved under the *Clean Water Act* on the site plan. Note: for applications proposing to extract below the water table, this information would be addressed in the water report.

1.1.7 Application Requirements for Extraction from Land under Water

Applications for operations proposing to extract aggregate from land under water (e.g., from the bed of a lake or river) are required to provide different information than other pit or quarry proposals [https://files.ontario.ca/environment-and-energy/aggregates/provincial-standards/mnr_e000038.pdf]. Most of the beds of lakes and rivers in Ontario are Crown land and managed by the Ministry of Natural Resources and Forestry. This type of approval is rare, and the ministry has not received any applications since these requirements were established.

Proposed Approach

The ministry is proposing to review the requirements relating to the excavation of aggregate materials from the bed of a lake or river. Since the consideration of impacts related to these types of applications are specific to the location, the ministry is proposing that the technical reports, information and notification and consultation requirements be customized for each site. As such, the applicant would submit a proposed custom plan to the ministry for approval. The custom plan would set out the technical reports, information and consultation approach necessary to ensure potential impacts resulting from the proposed activities are minimized.

1.1.8 Forestry Aggregate Pits

Currently, the forest industry is exempt from the requirement to obtain an aggregate permit for small, above-water pits on Crown land if they meet specific exemption criteria and follow the operating requirements set out in the Forest Management Planning Manual approved under the *Crown Forest Sustainability Act*. These forestry aggregate pits may be operated for a maximum of 10 years, but there are existing streamlining provisions available to the forest industry if they are seeking an aggregate permit to allow the pit to operate longer than 10 years. Specifically, if they meet certain criteria they are exempt from submitting the technical reporting requirements (e.g., natural environment, cultural heritage) with their aggregate permit application.

Proposed Approach

As part of proposed changes to revise the forest manuals regulated under the *Crown Forest Sustainability Act* [https://ero.ontario.ca/notice/019-0715], a proposal was put forward to remove the 10-year time limit for forestry aggregate pits. Should these proposed changes be approved, the forest industry would no longer need to transition to an aggregate permit to continue operations beyond a 10-year period and the associated technical reporting exemption would be eliminated from the aggregate permit application standard.

Part 1.2: Site Plan and Licence/Permit Conditions

Every licence and permit must have a site plan that describes how the site will be managed. The Provincial Standards outline what information must be addressed on the site plan – this includes information about:

- existing features on or nearby the proposed site,
- details about how the site will be operated, and
- information about how the site will be rehabilitated.

1.2.1 Site Plan Standards – Improving Flexibility

While much of the information required is the same for all pit and quarry applications, there are some differences that reflect the type of operation (e.g. pit or quarry), the location of the operation (e.g., on private or Crown land) and the relative scale of the operation (e.g. a Class A licence versus a Class B licence). Site plans may also contain additional site-specific information. For example, to implement recommendations from the required technical studies or to address concerns raised during consultation.

Proposed Approach:

The ministry is proposing to provide more flexibility regarding how certain items are identified on the site plan. Currently, site plans must speak to many things, including (but not limited to) the location of

- buildings and structures (e.g. storage shed, scale house, office building),
- temporary/portable processing equipment,
- scrap storage area,
- portable concrete and asphalt plants,
- piles of aggregate, topsoil and overburden,
- internal haul roads (licences only, currently not required for permits).

The proposed changes would clarify that the location of the items listed above may be illustrated on the site plan or that details could be provided in the site plan notes to indicate the general areas of the site such items are permitted. Licence and permit holders would still be required to ensure that these items are not located within setbacks specified in the Operational Standards [https://www.ontario.ca/page/application-standards-proposed-pits-and-quarries] that apply to all sites (unless specifically varied).

Fencing: Currently, pit and quarry applications on private land are required to include the location, type and installation of fencing around the licenced boundary of the site. The ministry is proposing to allow applicants greater flexibility in how they demarcate the boundary of the pit or quarry. Instead of fencing being required, boundaries would need to be clearly demarcated and maintained to help ensure the operator knows the boundary of the site and measures would need to be taken to discourage inadvertent access to the site by the public in accordance with the *Trespass to Property Act* (as a minimum). Note: this proposal aligns with a proposed change to the Operational Standards (see section 3.1).

Trees and Stumps: Currently, pit and quarry applications are required to include details on the site plan regarding how trees and stumps will be disposed of or used. It is proposed that this information would no longer be required on the site plan; instead, a new operating requirement would specify that trees and stumps need to be properly disposed of (e.g., not buried). Note: see the proposed change to operating requirements (section 3.1).

1.2.2 Site Plan Standards – Modernization

The issuance of a licence or permit under the *Aggregate Resources Act* is often not the only requirement to establish a pit or quarry. There are often other approvals or land use policies that apply to the development.

Proposed Approach:

To better align with other policy frameworks and to improve consistency between Crown land and private land applications, the following additional information is proposed to be required on a site plan for a new pit or quarry:

- Applications for a pit or quarry on Crown land would be required to provide details on the importation of excess soil to facilitate rehabilitation on the site (this is already a requirement for new applications on private land).
- When a proposed pit or quarry is located within the Protected Countryside of the Greenbelt Plan, applicants would need to identify the "maximum disturbed area" on their site plans.

Currently, applicants are required to include a statement on the site plan to indicate the maximum number of tonnes of aggregate that would be removed from the site in any calendar year (known as a 'tonnage condition'). It is proposed that any recycled aggregate removed from the site in each calendar year be counted towards the tonnage condition for the site and would need to be reported annually in the production report.

Currently, site plans are required to include details on the hours of operation of the site. 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.

In addition, it is proposed that applicants would need to provide details on the proposed method of excavation (e.g. cutting or drilling), as well as details on the general type of equipment that will normally be used on the site.

Several changes are also being proposed to modernize how sites plans are prepared and submitted. This includes:

- Encouraging electronic submissions of site plans (e.g. pdf format).
- Requiring that Universal Transverse Mercator (UTM) coordinates be provided to identify the boundaries of the site.
- Ensuring compliance with provincial accessibility standards (e.g. black and white or greyscale site plans).
- Requiring a separate schedule to be included as part of the site plan to describe amendments, including self-filed site plan amendments (see section 3.3.4).

1.2.3 Qualified Professionals to Prepare Site Plans

Currently, a site plan accompanying an application for a Class A licence (private land) must be prepared under the direction of and certified by a professional belonging to one of three specific associations: professional engineers, Ontario land surveyors, or landscape architects. The ministry may approve other qualified persons as well.

Proposed Approach:

The ministry is proposing to update the list of professionals that are considered to be qualified to prepare a site plan for Class A licences to include professional geoscientists and professional planners. It is also proposed that

site plans for pit and quarry applications on Crown land that are proposing a tonnage condition of greater than 20,000 tonnes per year, also be required to be prepared by a qualified professional.

Construction aggregate limestone quarry with muck pile produced from blast.

1.2.4 Prescribed Licence and Permit Conditions (New Sites)

Standard conditions that are placed on the licence or permit at the time of issuance are known as “prescribed conditions”. These conditions address potential impacts that are common to pits and quarries, such as dust and blasting. Prescribed conditions have been required on new licences and permits since 1997. They vary depending on the type of operation and cannot be changed later.

Proposed Approach:

Conditions related to noise mitigation

Class B licences are currently issued with a condition requiring that noise be mitigated at source with appropriate noise attenuation devices and site design. Aggregate permits (Crown land) are also required to mitigate noise at the source, but only if a sensitive receptor is located within 2000 metres of the site boundary.

The ministry is proposing that all new Class B licences and aggregate permits would be required to mitigate noise at source with appropriate noise attenuation devices and site design, if a sensitive receptor is located within 500 metres of the site boundary.

Conditions related to other approvals

Several of the prescribed conditions that are currently in place on new licences and permits are intended to ensure that, where required, certain approvals from other ministries are obtained (e.g., environmental compliance approvals for air emissions and Permit to Take Water). Because these are requirements under other legislation and not the *Aggregate Resources Act*, the ministry is proposing to remove the need to add such conditions to new licence and permits. To help make operators aware of other approvals that might be required, this information would instead be communicated as part of the ministry's correspondence to the operator that accompanies a new licence or permit approval.

Conditions related to dust and blasting

The ministry is proposing that some conditions, which are currently only applied to new sites, also be applied to existing pits and quarries (unless an existing site plan already addresses these activities). This change would involve 'prescribed conditions' related to:

- requiring dust to be mitigated on site,
- requiring a dust suppressant to be applied to internal haul roads and processing areas,
- requiring monitoring of all blasts for ground vibration and blast overpressure, and
- requiring blast monitoring reports to be retained and made available to the ministry upon request.

For more information, please refer to the proposed changes outlined in section 3.1.

Large scale, Class A pit comprised mostly of sand.

Part 1.3 Notification and Consultation Requirements

1.3.1 Notification and Consultation Timeframes

At present, the notification and consultation process is applicant driven. This means the applicant manages the process themselves. The Provincial Standards specify timeframes for consultation that are dependent on whether the proposed site is on Crown land or private land. For example:

- The ministry has 20 days to determine that an application on private land is complete, but only 15 days on Crown land. This is a required step before notification can begin.
- Applicants are currently required to consult for 45 days on private land or for 20 days on Crown land (the "notification period").
- After beginning the notification period, applicants on private land have two years to complete the overall notification and consultation process whereas, on Crown land, applicants have six months (but have the ability to extend beyond).

Proposed Approach:

The ministry is proposing to extend the existing "notification period" to 60 days (calendar days) to allow more time for agencies and interested parties to review and comment on the application. This would apply to all applications (both private and Crown land).
To improve the consistency between application processes on private and Crown land, the ministry is also proposing to:

- Align the timeframes for the ministry to review the application package and deem it ready for notification and consultation. The ministry would have 20 days to deem an application complete on both private and Crown land.
- Provide the same flexibility to applicants on private land to request an extension past the two-year overall notification and consultation process deadline, in order to continue making attempts at resolving objections (this would be optional).

Changes would also make all ministry service times (e.g., 20-days to deem an application complete) business days, rather than calendar days.

1.3.2 Notification and Consultation Process

Applicants on private land and Crown land must circulate individual notifications to landowners within 120 metres of the proposed boundary of the pit or quarry. The 120 metre distance threshold is the same for all proposed operations regardless of the size of the proposed site or the nature of activities being proposed in association with the excavation. On private land, applicants are required to publish notification of their

application in a local newspaper and provide the public with an invitation to a public information session, which they must host. On Crown land, information sessions, signage and newspaper postings are not required, however, additional consultation may be required as part of the Class Environmental Assessment for Resource Stewardship and Facility Development Projects.

Proposed Approach:

The ministry is proposing changes that could improve the notification and consultation process for the public and provide some flexibility for the applicant; proposed changes include:

- Requiring Class A licence applicants (i.e., authorizations to remove more than 20,000 tonnes per year on private land) to notify residents (e.g., residents who may not be landowners) located within 150 metres of a proposed pit or within 500 metres of a proposed quarry. Class A licence applicants would continue to be required to notify landowners within 120 metres of the proposed pit or quarry as well.
- Providing all licence applicants with more flexible options related to the method of notification, by allowing, for example, the use of digital versions of local newspapers rather than print newspapers for posting notices. Requiring pit or quarry applicants on Crown land to notify nearby resource users. Contact information for resource users would be obtained from the ministry.
- Clarifying that applicants are to obtain landowner contact information from municipalities so that they can undertake the required notification process.

Note: The Crown has a legal duty to consult Indigenous communities when it has knowledge of a credibly asserted or established Aboriginal or treaty right and contemplates conduct that has the potential to adversely impact those rights. The ministry may delegate procedural aspects of consultation to the applicant as they are best positioned to respond to and address community concerns. This existing practice would be more clearly outlined in the Provincial Standards.

1.3.3 Objection Process on Private land

For applications on private land, any person or agency objecting to the proposed pit or quarry must submit their concerns to the applicant and ministry within the prescribed “notification period”. Applicants must then attempt to resolve objections. Submissions received outside of the “notification period” are not considered objections. If all objections are not resolved, the applicant must submit to the ministry and the remaining objectors by written notice, delivered personally or by registered mail the following:

- A list of unresolved objections,
- Documented attempts to resolve the objections,
- The applicant’s recommendations for resolving the objections, and
- Notice of a 20-day response period for upholding the objection.

Objectors then have 20 days to respond if they feel their objections have not been adequately addressed. These responses need to be delivered personally or by registered mail. If nothing is received from the objector within 20 days, it is deemed that there is no longer an objection.

The minister may refer any objections arising out of the notification and consultation process to the Local Planning and Appeal Tribunal (LPAT) for a hearing and may direct that the LPAT address only the issues specified in the referral.

Proposed Approach

In order to better reflect the nature of comments received during a licence application, the ministry is proposing to clarify when submissions are considered to be formal 'objections'. Submissions made during the "notification period" (proposed to be for 60 days) would not be considered objections.

Much of the current process would remain the same. For example, the applicant would still need to attempt to resolve concerns raised during the notification period, they would still send a letter to commenters detailing their final proposed changes to address concerns and, commenters would still have 20 days to determine whether the changes are sufficient to address their concerns or whether they want to formally object, using a standardized form. The objection form would clarify what it means to officially object (i.e. expected to attend LPAT hearing) and would clearly indicate how a formal objection must be submitted and what information must be included.

It is also proposed that the objection and any correspondence between the applicant, the ministry and commenters or objectors can be undertaken electronically upon agreement of all parties, rather than requiring written paper notices or registered mail. The applicant will need to ensure that any personal information is properly managed and protected.

1.3.4 Circulating New Applications to Agencies

Agencies and the public have the same window of opportunity to submit comments on an application. The Provincial Standards identify to which agencies (e.g., municipalities) the applicant is required to circulate the application. Many of the same agencies are circulated on both licences (private land) and permits (Crown land), however there are some differences.

Proposed Approach:

The list of agencies that are circulated new applications would be updated to reflect current government organization and responsibilities. Agencies would not be asked to review aspects of applications that are beyond their mandate. For example, applicants would be required to circulate the application to Conservation Authorities (where one exists) to determine whether the proposed site is within an area regulated by the Conservation

Authority, and if it is, whether the application has the potential to impact the control of flooding, erosion or other natural hazards.

In addition, agency circulation requirements for private land would be aligned with those on Crown land. The ministry is also proposing to require the applicant to circulate the application to Fisheries and Oceans Canada if the natural environment impact assessment (level 2) identifies negative impacts to fish habitat.
The ministry will continue to explore with other ministries and our municipal partners how applications can be reviewed to reduce duplication during the review and improve efficiency.

Section 2 – Prescribed Rules for Minor Excavations

2.1 Excavation from Private Land or Land Owned by a Farm Business

The following proposal is related only to excavations that would be exempted in regulation if a set of prescribed rules are followed. No changes are being proposed to the definition of a pit or quarry under the Act.

Proposed Approach:

The ministry is proposing that persons or farm operations on private land that meet specific criteria would not need to obtain a licence from the ministry if they follow rules set out in the regulations.
Those taking advantage of these rules in regulation would need to register their activity with the ministry by completing and submitting a form confirming that they meet the conditions set out in regulation. As part of the registration, the location of the excavation site would need to be documented (e.g., with ground-level photographs, satellite images from Google Maps, GPS coordinates). Failure to follow the rules or conditions set out in regulation would mean that the activity is not authorized under the ARA and may be subject to enforcement action.

Regardless of whether or not a person would be eligible for an exemption under the *Aggregate Resources Act*, other approvals may apply (e.g., *Planning Act*, *Municipal Act*, *Environmental Protection Act*). It would be the responsibility of those undertaking the excavation to ensure that they obtain any required approval(s) (i.e., this would not exempt a person from other requirements or approvals).

All documentation related to the excavation and/or related to ensuring that the above regulatory conditions are met would need to be obtained prior to beginning the excavation and retained by the person registering for the exemption throughout the duration of the excavation and for seven years following completion of the rehabilitation. Documentation would need to be provided to MNRF for inspection upon request.

The following conditions would need to be met in order for the excavation to qualify for exemption:

- Only unconsolidated material (e.g., sand and gravel) is being excavated.
- No blasting or processing of aggregate (e.g., crushing, washing, etc.) is occurring.
- The excavation remains above the water table; however, if while excavating the water table is unintentionally intercepted, the excavation area would need to be immediately backfilled with 1.5 metres of the same excavated material.
- The excavation does not occur within:
    - 30 metres of the property boundary,

- 90 metres of any part of the property boundary that abuts neighbouring land in use for residential purposes,
- 90 metres of a sensitive receptor (e.g., residences, hospitals, schools),
- 30 metres of a body of water,
- 30 metres of septic system or a water well,
- 15 metres of a plugged petroleum well or 30 metres from an active petroleum well,
- a category A or B wellhead protection area under the *Clean Water Act*,
- an area where development is prohibited by a conservation authority.

While undertaking the excavation, the individual or farm business would be required to ensure that:

- Sediment from the excavation is prevented from entering any water body.
- The working face is sloped at the angle of repose or the vertical height of the working face is not more than 1.5 metres above the maximum reach of equipment being used.
- The excavation will only occur over a period of up to three consecutive calendar years.
- Within one year of the final year of excavation, the excavation area is rehabilitated to its former land use or rehabilitated by sloping all faces to a minimum of 3:1 and vegetated to prevent erosion.
- Only one excavation is occurring on a property at any one time (a previous excavation would be considered completed once rehabilitation of the excavation site has occurred).

Note: that once rehabilitated, a site excavated under this rule could not be excavated again.

Additional conditions that would only be applied to aggregate excavation **on private land for personal use:**

- The aggregate being excavated would be for the person's private use and would not be used in relation to an aggregate-related business or commercial enterprise and is not sold by the individual.
- The excavation could only be undertaken by or on behalf of the landowner on their own private property.
- No more than 300 cubic metres would be excavated.
- The area of excavation would not exceed 0.5 hectares.
- 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.

Additional conditions that would only be applied to **aggregate excavation from land by a farm business:**

- The excavation would occur on an agricultural property owned or leased by a registered farm business.
- Excavated aggregate would not be removed from the property from which it was excavated or would only be moved to another property owned by the same registered farm business.
- No more than 1000 cubic metres would be excavated.

- A 300 cubic metre excavation site would roughly fill three in-ground pools (7x12 meter) or 24 average tri-axle dump trucks.
- A 1000 cubic metre excavation would equal about 81 average tri-axle dump truck loads.

2.2 Excavation within a Highway Right of Way for Road Construction

Currently, no approvals are required to extract within a municipal or provincial road right-of-way during initial construction or maintenance of a road within that right-of-way. It is proposed that it be made clear in regulation that municipalities or the Crown would not require a licence or permit to excavate aggregate if the following conditions are met:

- the aggregate is being excavated as part of a public road construction project, and
- the excavation is occurring within the established right of way of a highway owned by a municipality or the Crown.

Crushed aggregate in a quarry.

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

All pits and quarries, regardless of date of issue, are required to be operated in accordance with a set of requirements described in the Provincial Standards (known as "Operational Standards"), unless a variance has been approved by the ministry. Operators are required to make note of any variances from the operational standards on their site plans.

Proposed Approach:

The following proposed changes would apply to pit and quarry sites unless an approved variance has been noted on the site plan:

- Currently, a 1.2 metre tall fence is required to be erected and maintained around the boundary of pits or quarries on private land (sites on Crown land do not have this requirement). The ministry is proposing to remove this requirement on private land and instead require boundaries to be clearly demarcated and maintained. Fencing may still be required to address concerns raised through the notification and consultation process (e.g. where a proposal is in proximity to sensitive land-uses such as residential properties or recreational trails). This change would align with the proposed changes to site plan requirements (see section 1.2).

- Currently, the boundaries of an aggregate site on Crown land need to be identified, but not fenced. It is proposed that all pits and quarries on Crown land would be required to mark any accessible areas of the boundary of the site in accordance with the minimum requirements of the *Trespass to Property Act*. This would not be required on sites that have not yet begun operating (e.g., sites that have not yet been disturbed, including but not limited to stripping of land).

- A new requirement would be added to indicate that trees and stumps removed during site preparation would need to be properly disposed of (e.g. this material would not be buried on the site).

- Currently, on private and Crown land operations, gates are required at each entrance to the site. Clarification would be added to specify that chains and cables are not acceptable.

- Currently, scrap must be removed on an ongoing basis and it cannot be located within 30 metres of any body of water or 30 metres from the boundary of the site. Requirements would be added to ensure that scrap stored on the site:
    - only includes material related to approved operations on the site,
    - does not leak fluid,
    - is separated from other materials and,
    - is removed from the site throughout the calendar year.

3.1.2 Dust

There are currently no operating requirements that apply to all sites that address dust mitigation. However, certain dust mitigation measures are required to be placed on new licences and permits. Since 1997, new licence (private land) and permit (Crown land) holders have been required to ensure that dust is mitigated on site, however, this requirement only applies to permits if a sensitive receptor (e.g., residence, hospital, school) is located within 2000 metres of the site boundary. Similarly, new licence and permit holders are required to apply water or another provincially approved dust suppressant to internal haul roads and processing areas to mitigate dust (for permits, this condition only applies if a sensitive receptor is located within 500 metres of the boundary of the site).

Proposed Approach:

The ministry is proposing to require all licence and aggregate permit holders to mitigate dust to prevent it from leaving the site. Licence holders would need to mitigate dust regardless of their proximity to a sensitive receptor. Aggregate permit holders would only need to mitigate dust if a sensitive receptor is located within 1000 metres of the boundary of the site.

In addition, it is proposed that all licence and aggregate permit holders with a sensitive receptor located within 1000 metres of the boundary of the site be required to apply water or another provincially approved dust suppressant to internal haul roads and processing areas as needed to control dust.

It is also proposed that all licence and permit holders be required to prepare and follow a Best Management Practices Plan (BMPP) for fugitive dust control. This new requirement would apply to all licences and permits if a sensitive receptor was located within 1000 metres of the boundary of the site. The BMPP could be prepared by the site operator using provincial best management practices (e.g. Management approaches for industrial

fugitive dust sources). Operators that already have a BMPP as part of an Environmental Compliance Approval (ECA) may follow that plan to meet this requirement.
Note: None of the above changes would apply to wayside permits.

3.1.3 Blasting

Since 1997, new quarries on private and Crown land have been required to operate in accordance with several conditions related to blasting. Some of these include:

- A requirement to monitor blasts for ground vibration and blast overpressure (e.g., noise) and operate to ensure compliance with provincial guidelines (note: new Crown land sites are only required to monitor if there is a sensitive receptor within 500 metres of the boundary of the site).
- A requirement to retain blast monitoring reports and provide them to the ministry upon request.

Proposed Approach:

The ministry is proposing to clarify that blasting means the use of explosives to break rock for excavation.

The ministry is also proposing that all new and existing quarry sites (private and Crown land) that are approved to blast would be required to:

- Monitor all blasts for ground vibration and blast overpressure (noise) and adhere to provincial guidelines (NPC-119 - Blasting).
- Implement measures to prevent fly rock from leaving the site during blast events if a sensitive receptor is within 500 metres of the boundary of the site.
- Retain all blast monitoring reports and make them available upon request to the ministry.

3.1.4 Recycling

There are currently no operating requirements that relate specifically to aggregate recycling within pits and quarries.

Proposed Approach:

The ministry is proposing to require that, where aggregate recycling activities are already approved to occur on a site, the site would need to be operated in accordance with the following requirements:

- Recyclable asphalt may not be stored within 30 metres of a water body or within two metres of the established ground water table and may not be co-mingled with scrap material(s).
- Any rebar or other structural metal must be removed from recyclable aggregate materials during processing and placed in a separate scrap pile.

- Recyclable asphalt and concrete materials cannot be stored on a site where processing is prohibited.
- If recycling is authorized on the site, aggregate recycling activities may not affect operational phasing or significantly delay progressive or final rehabilitation.

Note: the ministry is also proposing to update its recycling policy to ensure recycling is an accessory activity to the primary use (i.e. excavation of aggregate material from the site) of the pit or quarry and the volume of imported materials stored and processed annually for recycling does not exceed the annual tonnage of the site.

Part 3.2 Annual Compliance Reporting

3.2.1 Compliance Assessment Reports

The *Aggregate Resources Act* requires all licence and permit holders to submit an annual Compliance Assessment Report (CAR) to the ministry and local municipality(ies). Operators self-assess their compliance with the act, regulations (including the operational standards), their site plan, and any conditions listed on their licence or permit. This assessment must take place between May 1st and September 15th, and the form is to be submitted by September 30th each year. Regular assessment of compliance helps operators stay familiar with what activities are permitted on their site and helps to ensure any potential impacts are avoided or appropriately mitigated.

If a contravention is disclosed in the report, the operator must immediately stop any related activities and remedy the contravention within 90 days, unless an extension was approved by the ministry. Prosecution of the contravention cannot commence during this time period. If the operator fails to submit an annual compliance report, or the operator fails to remedy the contravention within the time frame, their approval to operate the site is deemed suspended until they submit the annual report or remedy the contravention.

Proposed Approach:

The ministry is proposing the following changes to the compliance assessment reporting form to assist the operator in completing the form and to improve the information that is received by the ministry. Changes include:

- making one combined form for reporting on both licences and permits,
- developing a “smart form” that would pre-populate sections of the form based on previously submitted information,
- streamlining the required assessment information for sites that have been inactive for more than three years to focus on assessing compliance to requirements for gates, demarcation of boundaries and monitoring,
- enhancing the rehabilitation information required (see section 3.2.2 for more information), and
- making changes needed to reflect other proposals in this document.

The ministry is also proposing to allow compliance assessments to be completed earlier in the year. The proposed assessment period would be April 1st to September 15th. The report submission deadline would remain September 30th.

Photo credit: Mark Browning, MNRF

Rehabilitation using meadow grass.

3.2.2 Rehabilitation Reporting

The rehabilitation of a site must be done in a manner that is consistent with the site plan. Through the annual compliance report, operators report on compliance with their rehabilitation requirements and provide information with regard to the size of area that has been disturbed, any areas undergoing progressive or final rehabilitation, as well as details with regard to the sloping of faces, the importation of material to support rehabilitation (if permitted), final elevation, and vegetation.

Proposed Approach:

The ministry is proposing to require pit or quarry operators to report additional information on progressive and final rehabilitation activities. Operators would be required to provide information on which phase of their planned excavation they are working in (if phases are identified on their site plan). Operators would also be asked to provide more details on what rehabilitation activities they have undertaken that year (e.g., seeding, planting of trees, rough grading, backfilling slopes).

The operator would also be asked to provide a description of final rehabilitation activities that were conducted that year and, if known, the final intended use (e.g., agricultural, recreational, natural).

Annual compliance reports are made available to the public upon request. The additional details on rehabilitation activities are intended to provide further transparency on how sites are advancing towards full rehabilitation and encourage operators to better reflect their ongoing efforts.
The ministry is also working on additional guidance for operators and municipalities, such as best management practices for rehabilitation.

Part 3.3 Site Plan Amendments

Applicants under the *Aggregate Resources Act* try to plan ahead and create site plans that will work for their operations for many years, however, there may be a need to change the site plan to reflect new operating realities. A holder of a licence or aggregate permit can apply to the ministry for an amendment to change their approved site plan. External consultation is conducted when proposed amendments involve significant changes to the operational or rehabilitation aspects of a site.

3.3.1 Site Plan Amendment Process

Currently, an existing licence or aggregate permit holder wishing to request an amendment to their site plan, needs to submit a written request to the ministry, typically with the following information: a description of the proposed amendment, rationale for requesting the amendment, a sketch of revised pages of the site plan depicting the proposed amendment and any other information required by the ministry to assess the implications of the proposed amendment.

Proposed Approach:

To improve consistency of information being submitted the ministry is proposing to clarify in regulation that the following information must be submitted using a standard form in order to request a change to a site plan:

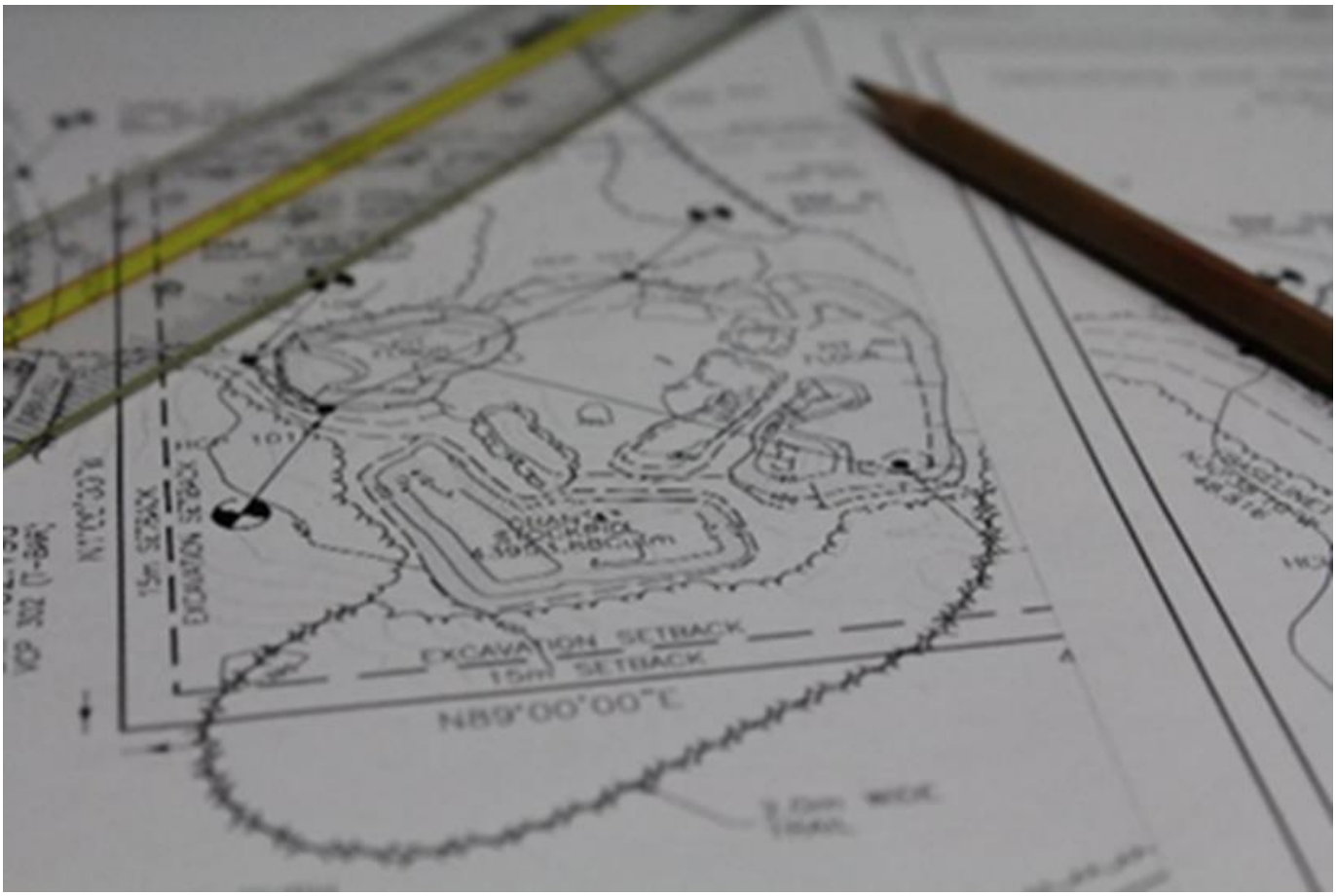
- name, address, geographic location and licence/permit number,
- a description of the proposed amendment(s),
- a description of how the proposed amendment(s) will change the operation, and
- the reason for the request(s).

Depending on the nature and significance of the change being requested, additional information may also be required (e.g. new or updated studies to assess potential impacts). Circulation of the proposed amendment(s) to municipalities, other agencies and interested parties for comment may also be required.

An existing licence or permit holder who is required or approved to make an amendment to the site plan would prepare the site plan as follows:

- For amendments that do not require new technical drawings to be created, changes to the site plan can be made without redrafting the site plan. If changes are made in this manner, high resolution copies and/or scans of the updated site plan pages, clearly showing the changes, must be submitted to the ministry.
- For more significant amendments that require new technical drawings or extensive changes to the site plan notes, new amended pages would be required. Any substituted page must be signed and dated. For changes to technical drawings in a site plan for a Class A licence, the new page may need to be prepared by a qualified person.
- A schedule would be added to the site plan clearly describing the amendment(s) made and the date they were approved by the ministry.

The ministry would continue to forward copies of the revised site plans to local municipalities where the pit or quarry is located.



Excerpt from a site plan showing the required setback from the site boundary.

3.3.2 Amendment to Expand into a Road Allowance

Road allowances are generally 20 metres (66 feet) wide, narrow strips of land that are set aside for potential public roads and highway needs. A road allowance not currently being used for a public road or highway is called an unopened road allowance. Unopened road allowances are generally owned by the municipality that has jurisdiction over them.

As a result of changes made to the *Aggregate Resources Act* in 2019, when a road allowance is adjacent to an existing pit or quarry, existing licence holders (private land) can apply to the ministry for an amendment to expand their pit or quarry into the adjacent road allowance (note, prior to recent 2019 changes to the Aggregate Resources Act, this had to be done as a new application).

Proposed Approach:

The ministry is proposing to require the following information and notification as part of an amendment application to expand into a road allowance that is directly adjacent to an existing pit or quarry on private land. The applicant would be required to submit:

a) Documentation to confirm that the municipality with jurisdiction over the road allowance supports the application or that the landowner does (i.e., if the road allowance had been closed and sold).

b) Where a road allowance is bordered on either side by a pit or quarry and the intent is that the sites will eventually be connected by extracting through the road allowance: documentation that both licence holders have a plan to harmonize final rehabilitation aspects of the sites and that there is a common boundary agreement between both licence holders.

c) A description of all proposed amendment(s) to the existing licence and site plan, with rationale.

d) An updated site plan showing the revised licence boundary, excavation boundary and setbacks, as well as phasing and updated rehabilitation plan. For expansions of Class A licences, a qualified person would be required to prepare the revised site plan.

e) Technical information to ensure impacts to the environment are addressed and rehabilitation planning has been done. The required technical report requirements may differ from what is required for a new application. The applicant would be required to submit information describing potential impacts that could be anticipated to the natural environment, cultural heritage, surrounding land uses or surface and ground water resources (e.g., hydrogeological information prepared by a qualified professional) as a result of excavation operations in the adjacent road allowance. Information would focus on determining the

potential for any new or incremental impacts that might result from excavation into the road allowance area, and on providing mitigation measures.

Applicants would be required to circulate the amendment application to landowners within 120 metres of the boundary of the road allowance area proposed to be added to the existing pit or quarry. The application would also need to be circulated to any agencies identified by the ministry. A notice would be required to be posted to make the public aware of the proposed expansion (e.g., a print or electronic newspaper notice) and a sign would be required to be posted. Landowners, the public, and agencies would be given 60 days to comment on the proposed expansion and the applicant would work to resolve any comments before submitting a final application to the ministry for approval.

Road allowance adjacent to existing pit operation.

3.3.3 Amendment to Expand an Existing Site Below the Water Table

Existing pits and quarries on private land can apply to the ministry for a site plan amendment to extract below the water table. Applicants are required to notify landowners within 120 metres of the pit or quarry and various agencies (including the local municipality and the county or region where the site is located) of the proposed amendment. The applicant works with commenters to try to resolve any concerns that are brought forward. As a result of recent 2019 changes to the *Aggregate Resources Act*, if concerns cannot be resolved, the ministry can refer the application to the Local Planning Appeal Tribunal (LPAT) for a hearing. Until application requirements are set in regulation, requirements default to what is required for a new application.

Proposed Approach:

The ministry is proposing to require the following information and notification as part of an amendment application to expand an existing pit or quarry on private land below the water table.

a) Applicants would be required to prepare and submit a hydrogeological ("water") report, prepared by a qualified person, requiring all of the same information that an application for a new pit or quarry to extract below the water table would need to prepare (see section 1.1.1 for proposed changes to what is currently required).
    - Note: it is recognized that some existing pits and quarries, which are already approved to extract below the water table in specified areas of their site, may need to apply for approval to widen their existing below water extraction area. If such sites had previously prepared a hydrogeological report, only a supplemental report would be required to determine if the proposed amendment would result in the potential for any new impacts and necessary mitigation measures.

b) If no new surface area would be disturbed as a result of the amendment, the applicant would usually not need to prepare a new natural environment report, a new cultural heritage report, a new noise assessment or a new blast design report. However, the ministry may ask for additional information from the applicant to help assess potential impacts of the proposal (this would be determined on a case-by-case basis).

c) An updated site plan showing any proposed changes to extraction phases and to operational and rehabilitation plans would be required. For Class A licences, a qualified person would be required to prepare the revised site plan.

d) Information would be required describing how the proposed amendment aligns with any relevant Provincial Policy Statement or Provincial Plan policies (e.g. some policies may prohibit extraction below the water table or may require site rehabilitation back to an agricultural condition). Note: This would not be required from pits and quarries that are already approved to extract below water but who wish to widen their existing below water extraction area.

e) A notice would be required to be posted to make the public aware of the proposal (e.g. a newspaper notice), a sign would be required to be erected, and a public information session would need to be held. Note: Pits and quarries that are already approved to extract below water but who wish to widen their existing below water extraction area would not be required to post notices or host public meetings.

f) Applicants would be required to circulate the amendment application to the following:
    - landowners within 120 metres of the boundary of the existing pit or quarry,
    - the Ministry of Natural Resources and Forestry,

- the Ministry of the Environment, Conservation and Parks,
- the local municipality in which the site is located,
- the county or region in which the site is located, if applicable,
- the conservation authority in whose jurisdiction the site is located (subject to the proposal in section 1.3.4), and
- the Niagara Escarpment Commission, if applicable.

g) Landowners and agencies would be given 60 days to comment on the proposal. The applicant would be required to attempt to resolve any concerns received and then provide commenters with 20 days to submit formal objections.

h) The applicant would need to submit documentation of the notification and consultation process to the ministry within two years of notifying landowners and agencies of the proposal. Documentation would include a summary of all notification and consultation activities, comments received, attempts at resolving concerns and details about any outstanding objections. Note: The ministry may refer outstanding objections to the Local Planning and Appeal Tribunal for a hearing and decision on the application.

An aggregate pit where excavation has extended into the water table and one side of the pond has been rehabilitated.

3.3.4 Self-Filing of Site Plan Amendments

Any changes to an approved site plan currently requires ministry approval, regardless of whether the change is significant or routine. The ministry processes hundreds of site plan amendments each year. Approvals can take months to process, depending on the complexity of the change.

Proposed Approach:

The ministry is proposing to allow existing operators to make changes to site plans for certain small and routine amendments without the need for ministry review and approval (e.g. self-filing). In order to be eligible for self-filing, the operator will need to comply with all requirements set out in regulation.

Eligibility:

In general, site plan amendments proposed for self-filing have been selected because they are typically routine changes that reflect normal operation of pits and quarries. The proposed list of amendments are either small and routine or are subject to an approval by another agency.

To ensure that self-filing will only occur for routine site plan amendments, the holder of a licence or aggregate permit will need to confirm (e.g., self-attest) that the amendment will not:

- change an existing condition that explicitly prohibits the activity (e.g., cannot self-file to add a scrap storage area to the site if the existing site plan already specifies that no scrap will be stored on site);
- alter the approved rehabilitation plan for the site (e.g., phasing, methods, slopes, vegetation, elevation, drainage, etc.);
- change or impact a condition put in place to resolve objections or concerns at the time of application (e.g., conditions put in place to address public or agency concerns);
- be used to correct a non-compliance action or activity; or
- alter a change to the site plan that was required by the Ministry (e.g., a 'forced amendment').

In addition, holders of a licence or aggregate permit will only be eligible for self-filing a site plan amendment if they are up to date on payments of annual fees and royalties and have filed all required annual compliance and production reports.

Holders of a licence or aggregate permit who cannot confirm or are uncertain about the above would need to apply for a site plan amendment through the regular application process.
Proposed site plan amendments that would be eligible for self-filing are described in Table 2 below.

Process for self-filing a site plan amendment:

The holder of a licence or aggregate permit must submit a form that includes the following information:

- the licence or permit number,
- a description of the change to the site plan, including reasons for the change, and
- confirmation that the amendment meets all eligibility criteria.

At the time of submitting the form, the revised site plan must also be submitted. This may include a submission of the entire site plan with replacement pages reflecting the self-filed amendment or a high-resolution scan of the site plan clearly showing the amendment. The revised site plan must include a record of the date of the self-filing with a description of the amendments made to the site plan at that time.

In addition to submitting the revised site plan to the ministry, the licence or permit holder must also provide a copy to the local municipality and the county/region in which the site is located.

Ministry staff may audit the self-filled amendment to ensure compliance with the regulation. A copy of the MNRF confirmation of receipt of the self-filed amendment and any information documenting any required external approvals that may be necessary in order to be eligible for self-filing must be kept and provided to the ministry for inspection upon request. Any operator who provides incomplete, false or misleading information on a form or self-filed site plan or, who does not meet the eligibility requirements set in regulation, will be considered to be out of compliance and may be subject to enforcement actions.

It will be the operator's responsibility to ensure that they have obtained and are in compliance with any other approvals or policies that may be applicable.

Table 1: Proposed Site Plan Amendments Eligible for Self-filing

Topic	Proposed Site Plan Amendments Eligible for Self-filing
Administrative Name Changes	Allow a change of name or address on the site plan if a transfer of a licence or permit has been approved by the Ministry.
Buildings & Structures	For private land only: Allow the addition, removal or re-location of a storage shed, scale house, weigh scale or office building on the site that is necessary for the operation of the pit or quarry, providing the following criteria are met: • municipal approvals have been obtained (where required); and • the structure is not located within 30 metres of the boundary of the site or within 90 metres of any part of the boundary of the site that abuts land in use for residential purposes.

Topic	Proposed Site Plan Amendments Eligible for Self-filing
Portable Processing Equipment	Allow the addition, removal or re-location of portable processing equipment necessary for crushing, screening and processing aggregates, providing the following criteria are met: • a mobile or site-specific Environmental Compliance Approval (ECA) has been obtained from the Ministry of Environment, Conservation and Parks (note: if re-locating the equipment on the site, the ECA must allow for equipment to be moved); • any noise and dust mitigation of the processing equipment can continue to be implemented; • use of the equipment is described as an accessory use in the municipal zoning for the property; and • the equipment will not be located within 30 metres of the boundary of the site or within 90 metres of any part of the boundary of the site that abuts land in use for residential purposes.
Scrap Storage Areas	Allow the addition, removal or re-location of a scrap storage area on the site, providing the following criteria are met: • the 'scrap' meets the definition of scrap as specified in the Operational Standards (i.e., refuse, debris, scrap metal or lumber, discarded machinery, equipment and motor vehicles); • scrap only includes material related to approved operations on the site (i.e., scrap from elsewhere cannot be stored on the site); • fluids are properly drained and disposed of before moving to the scrap area; • the operator will ensure that scrap will be removed throughout the calendar year; and • the scrap storage area will not be located within 30 metres of a body of water, within 30 metres from the boundary of the site, or within 90 metres of any part of the boundary of the site that abuts land in use for residential purposes.
Portable Concrete or Asphalt Plants	Allow the addition, removal or re-location of portable concrete or portable asphalt plants for public authority projects (e.g., road work) and will only remain on site for the duration of the project, providing the following criteria are met: • "portable asphalt plant" and "portable concrete plant" have the same meaning as defined under the Provincial Policy Statement (PPS); • a mobile or site-specific Environmental Compliance Approval (ECA) has been obtained from the Ministry of Environment, Conservation and Parks (note: if re-locating the plant on the site, the ECA must allow for plant to be moved); • municipal zoning, where applicable, permits operation of a portable plant; • the plant will not be located within 30 metres of the boundary of the site or within 90 metres of any part of the boundary of the site that abuts land in use for residential purposes; and • any recommendation identified in the technical reports related to noise and dust mitigation continue to be implemented.

Topic	Proposed Site Plan Amendments Eligible for Self-filing
Stockpiles	Allow the addition or re-location of a pile of aggregate, topsoil or overburden, providing the following criteria are met: • the stockpile being re-located is in a specific location as a mitigation strategy for noise or dust; and • the stockpile will not be located within 30 metres of the boundary of the site or within 90 metres of any part of the boundary of the site that abuts land in use for residential purposes. "Stockpile" in this case does not apply to berms. Movement of stockpiles necessary to comply with other external approvals (e.g., an Environmental Compliance Approval) may also be eligible.
Internal Haul Road	Allow the addition, removal or re-location of an internal haul road, providing the following criteria are met: • the internal haul road will not be located within 30 metres of the boundary of the site or within 90 metres of any part of the boundary of the site that abuts land in use for residential purposes (except for situations where internal haul roads connect to entrance/exits).
Entrances and Exits	Allow the addition or re-location of an entrance or exit to or from the site providing the road authority has approved the work and all prescribed operational standards related to entrances or exits are followed. A copy of the approval from the road authority must be attached to the submission form.
Gates	Allow the addition or re-location of a gate at an entrance or exit to or from the site providing a gate continues to be erected and maintained at each entrance to, and exit from, the site.
Fencing	For private land only: Allow a change in the type of fencing used to demarcate the boundary of the site and a change to remove or provide relief from fencing the boundary of the site providing all prescribed operational standards related to demarcating the boundary of the site are followed.

Topic	Proposed Site Plan Amendments Eligible for Self-filing

Importation of Aggregates for Blending	Allow the importation of aggregates onto the site for blending or re-sale, providing the following requirements would be met:
	• the amount of imported aggregate material removed from the site is recorded and reported separately on the annual production report; and
	• requirements are added to the site plan to specify 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 (excavated during the current or previous years) 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
	  ○ once aggregate on the site has been depleted, there would be no further importation of aggregate for re-sale.

Recycling	For private land only: Allow the importation of concrete, asphalt or other materials (e.g., brick, glass, ceramic) for recycling, providing the following criteria are met:
	• municipal zoning for the site specifically allows the recycling of aggregate materials (asphalt, concrete, etc) or the zoning by-law allows for accessory uses such as recycling to occur on the site;
	• the amount of recycled aggregate removed is recorded and reported separately on the annual production report;
	• processing activities are approved (on the site plan) to occur at the site;
	• the location of stockpiled material for recycling is identified on the site plan;
	• recycled asphalt will not be stored within 30 m of a water body or within 2 metres of the established ground water table and is not co-mingled with scrap material; and
	• requirements are added to the site plan to specify that:
	  ○ rebar or other structural material would be separated from the recycled aggregate during processing and placed in a separate scrap pile,
	  ○ once aggregate on the site has been depleted there would be no further importation of recycled materials,
	  ○ once final rehabilitation has been completed and approved in accordance with the site plan, all recycling operations would cease,
	  ○ when removing imported recycled aggregate from the site, the amount of recycled aggregate removed, when combined with the amount of aggregate (excavated during the current and previous years) and 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, and
	  ○ no more than 5000 tonnes of recycled material would be stored at any one time.

Section 4 – When Changes are Proposed to Come into Effect

It's important to note that not all changes proposed in this paper would come into effect at the same time. Some changes are proposed to come into effect immediately if the regulation is approved, while others would come into effect later, to allow for some lead time for operators to come into compliance with the new requirements. The ministry is interested in receiving feedback on when proposed changes should come into effect. This is what is currently proposed:

It is proposed that the following changes would come into effect once the regulation would be approved:

- notification and consultation requirements for new applications (section 1.3),
- exemptions from requiring a licence if rules in regulation are followed (section 2),
- site plan amendments eligible for self-filing (section 3.3.4),
- application requirements to expand an existing site into a road allowance (section 3.3.2),
- application requirements to expand an existing site below the water table (section 3.3.3).

It is proposed that the following changes would come into effect 6 months after the regulation would be approved:

- new requirements relating to the information, studies and site plans required for new applications (sections 1.1 and 1.2),
- annual compliance reports (section 3.2).

It is proposed that the following changes would come into effect 1.5 years after the regulation would be approved:

- licence and permit conditions for new sites (section 1.2.4),
- operating requirements that apply to all sites (section 3.1).

Section 5 – Regulatory Impact Assessment

The regulatory impacts of these proposals do not contain capital costs but do contain consideration of ongoing operational costs and administrative costs (incurred at time of application). These costs are not direct costs under the *Aggregate Resources Act,* regulations or the Provincial Standards (i.e. no fees) but are costs that an applicant for a new aggregate resources extraction site or an existing operator may or may not incur based on individual circumstances regarding their application or status of current sites and the degree to which existing operations already conform to the new requirements.

The estimates include consideration of existing trends data from the last five years of applications and average associated costs of completing requirements including technical reports and completion of notification and consultation requirements, and potentially attending a Local Planning Appeal Tribunal hearing.

For existing sites, a combination of pit and quarry numbers and applicable standards at time of approval/issuance was used to determine additional costs that may or may not be incurred to bring older sites into compliance with new operational standards and prescribed conditions.

The degree of cost changes (either increases or reductions) will be unique to each applicant, operator and scenario of what proposals apply to their situation and only account for costs associated with these proposals. They do not reflect other aspects of applications or standards that are not associated with the proposed changes. Where costs with changes were neutral or minimal (i.e. less than $100), full calculations were not performed. Total cost impact results were calculated applying all increases and reductions across the suite of proposals equally. We recognize that in reality, all proposed changes are unlikely to apply simultaneously to an applicant or existing operator.

In summary, the proposals result in a net positive cost savings for aggregate resource applicants and operators, illustrating a potential cost savings of approximately $850,000 annually, with the largest savings coming from the proposal to enable applicants to request an extension on the two-year overall consultation timeframe for applications. The largest increased costs are associated with enhanced technical report requirements and application of new operational standards to existing sites. Many of the proposals articulated as increasing costs are to bring existing application requirements and standards into alignment with other legislation, regulations and standards that apply to aggregate extraction activities and are necessary to achieve better environmental protection and consideration of community impacts. These are estimated costs or savings, comments are welcome from those incurring the costs to better help the ministry understand the true costs or savings associated with these proposals.

Table 2: Regulatory Impact of Proposed Changes: ( ) indicate cost savings

Section a) Application Standards – Technical Reports

Proposal	Est. Annual Cost or (Savings)	Est. Amortized (OVER 10 YRS)	Assumptions	Benefit/Impact
Water report: Changes to establishing the water table: Maximum Predictable Water table (licences and permits)	$117,000	$1,169,000	Includes 1year monitoring requirement (i.e. labour costs), extra data tracking and reporting Will apply to both new licences and permits about 55 per year	Provides more reliable assessment of water table which sets the baseline for impacts assessment to water.
Clarifying below water application requirements (re: impact assessments and how local source water protection plan policies are being met	$1,600	$15,800	Assumes low additional costs for the requirement to identify impacts to water as applicants already consider these impacts in other approvals. Assumes some small increase in time to populate information and include it in application package. Assumes about 10% of new applications will go below water.	Provides assessment of impacts needed to ensure ARA instrument aligns with source water protection plans.
Cultural heritage report: Adding built heritage and cultural heritage landscapes components	$7,100	$71,000	Applies to proposals where no *Planning Act* approval is needed as the inclusion of consideration for built heritage and cultural heritage landscapes is already a requirement for receiving planning approval Reporting on built heritage and cultural heritage and landscapes is already referenced in current policy but not in the Provincial Standards	Aligns with the Provincial cultural heritage policy framework Will provide consistency in requirements for permits and licences
Natural Environment Report	No new costs	No new costs	Already required under Provincial Policy Statement and under the four Provincial Plans	Alignment with PPS and four Provincial Plans

Proposal	Est. Annual Cost or (Savings)	Est. Amortized (OVER 10 YRS)	Assumptions	Benefit/Impact
Blast design report	$11,000	$111,000	Applies to large permits (above 20,000 tonnes) on Crown with a sensitive receptor within 500 metres. Estimated it will affect about 10 new permits a year. Includes time to visit site, consult on blast design and develop report	Provides consistency in applications for licences and permits

Section b) Site Plan Standards (new and existing sites)

Most proposed changes provide flexibility for an applicant and/or delete/modernize requirements that result in negligible cost savings **OR** clarify existing requirements only. (Exceptions noted below).

Proposal	Est. Total Annual Cost or (Savings)	Est. Amortized (OVER 10 YRS)	Assumptions	Benefit/Impact
Identifying Max. Disturbed Area for protected countryside within Greenbelt Plan applications	$1,400	$13,600	Constrained area of applicability to new applications within the Greenbelt which would be about 2% of new applications	Aligns with Greenbelt Plan policies
Modernizing how site plans are submitted Electronic Submission	($1,300)	($13,500)	Still requires preparation of a plan but will reduced costs due to new ability to electronically scan the plan instead of printing it in hard copy for submission	Modernizing submission requirements for site plans

Section c) Notification and Consultation

Proposals include options and flexibility on methods for notification and clarity on timelines for consistency for licences and permits. Where cost savings or increases were considered minimal—they are not included below.

Proposal	Est. Total Annual Cost or (Savings)	Est. Amortized (OVER 10 YRS)	Assumptions	Benefit/Impact
Extending notification area to require that residents within 150m(pits) and 500m(quarries) be notified	$0.700	$6,600	Assumes change would apply to ~ 41 new Class As and/or permits with tonnage conditions above 20,000 tonnes/year. Estimated costs are based delivering more notifications Assumes that about 19% of applications are quarries which will be required to potentially notify even more residents than pits given the notification area increase.	Aligns with blasting/noise study set backs with notification of affected properties
Notification of Resource Users as per list provided by ministry for permits	$0.200	$2,400	Presumes minimal additional time and resources to implement.	
Option to request extension of time beyond 2 year overall notification and consultation process	($1,112, 000)	($11,123,000)	Assumes about 1/3 of new licence applications go to a hearing each year if not resolved by 2 year time limit which is currently about 10 per licences per year. Average cost savings of avoiding a hearing is $111,225 per application. Note: would welcome industry feedback on these assumptions	Enabling extension to 2-year process saves applicant having to restart the application process and consultation or not having applications referred to a LPAT hearing. Allows more time to work through objections

Section d) Operational Standards and Prescribed Conditions

Proposal	Est. Total Annual Cost or (Savings)	Est. Amortized (OVER 10 YRS)	Assumptions	Benefit/Impact
Requiring dust mitigation plan on all sites	$184,000	$1,842,000	Dust mitigation plan changes would apply to approximately 1/3 of permits as most would not be within trigger distances Class A licenses would already have a MECP ECA approval with requirement to mitigate dust. Assumes about ½ of Class B permits aren't already mitigating dust Assumes costs with implementing requirement in dry months of June, July, August at 1 day per week and May and September@2x per month	Provides consistency and updates operational standards across all sites
Noise Mitigation	Presumed to be minimal	Presumed to be minimal	Assumes current sites already have noise mitigation measures in place for the existing trigger distances. Cost savings would be dependent upon unique site-specific conditions and equipment used (e.g. noise attenuators, topography, whether berms or screening is used, direction to the sensitive receptors, etc.)	Provides consistency across private and Crown land sites
Blast monitoring	$24,000	$244,000	Assumes changes applies to pre-1997 quarries only. Assumes about 45% permits have a sensitive receptor within 500m Assumes large sites blast 3 times per month for 7 months active season and have 1 hour of labour to monitor and report.	Provides consistency across all sites in Ontario

Proposal	Est. Total Annual Cost or (Savings)	Est. Amortized (OVER 10 YRS)	Assumptions	Benefit/Impact
			Assumes small sites blast about 1x per year and it takes 1 hour to monitor and report	
Trespass to Property Signage (Crown)	$1,400	$14,500	Cost of posting No Trespassing signs on Crown land will affect about 1900 permits. Each sign costs about $15.00. Assume 10 or less signs for small sites and 20 or less signs for large sites around parameter. Costs include checking and maintaining signs through active season which is about 7 months.	Alignment with Trespass to Property Act and supports inadvertent public access to sites
Recycling Reporting	$8,900	$89,000	Only applies to half of new applications for licences and assumed 4% of permit applications.	Incorporation into tonnage limit ensures impacts from haulage of recycled materials is accounted for.

Section e) Compliance Reporting

Proposal	Est. Total Annual Cost or (Savings)	Est. Amortized (OVER 10 YRS)	Assumptions	Benefit/Impact
Rehabilitation	Presumed to be minimal change	Presumed to be minimal change	An operator already provides this information in a variety of ways but changes will clarify information requirements.	More consistency and efficiency in using checkboxes to describe details of rehabilitation
Dormant Sites Short Form	($1,800)	($18,000)	Provides a short form to report on compliance for sites that are dormant instead of a full compliance form.	Time savings for operators with dormant sites. Truncated reporting requirements.

Proposal	Est. Total Annual Cost or (Savings)	Est. Amortized (OVER 10 YRS)	Assumptions	Benefit/Impact
			Assumes about 28% of current sites are dormant and may avail of shorter compliance reporting. Savings is from less need for site inspections and time reductions in filling in shorter compliance form. Assumes no consultant time needed for shorter compliance form and some minimal time for consultant in completing a regular length compliance report (i.e. 5 hours savings in time and labour for consultant and 3.5 hours' time savings for project manager per compliance form)	Provides a less burdensome compliance report for dormant sites

Section f) Amendments

Proposal	Est. Total Annual Cost or (Savings)	Est. Amortized (OVER 10 YRS)	Assumptions	Benefit/Impact
Site Plans	Neutral	Neutral	Assumes minimal operator effort changes as result of the proposals which simply modernize and clarify site plan requirements	
Expansion Below Water	($10,300)	($103,000)	Assumes change will affect about 2 a year. Cost of potential hearings not included as this cost was considered in previous legislative changes. Assumes some minimal cost savings due to being able to update existing studies for Natural	Provides opportunities to applicants for more streamlined approvals due to the ability to build on existing studies

Proposal	Est. Total Annual Cost or (Savings)	Est. Amortized (OVER 10 YRS)	Assumptions	Benefit/Impact
			Environment and Cultural Heritage. Assumes cost savings as there is no public meeting requirement.	
Road allowance	($10,300)	($103,000)	Assumes will affect about 2 a year Minimal cost savings due to being able to update existing studies to apply to new disturbed area only. Assumes cost savings as there is no public meeting requirement.	Provides streamlined process for gaining access to aggregates within an adjacent road allowance when municipalities support it

Section g) Self-Filing

Proposal	Est. Total Annual Cost or (Savings)	Est. Amortized (OVER 10 YRS)	Assumptions	Benefit/Impact
Cost saving from having all 12 activity types eligible for self-filing instead of having to pursue minor amendments	($31,000)	($331,000)	Assumes some time savings for operators as a result of filling in template to register for self-filing and reduced time delays for MNRF approval to proceed with the changes (i.e. about 3 days wait time for project manager and about 2 days extra wait time on consultant hired to complete necessary paperwork). Assumes continued trend of about 50% of the current amounts of these types of amendments which is about 233 per year.	Provides streamlined approvals for routine site plan amendments. Allows MNRF to focus resourcing on the other key approvals which can reduce time delays

Section h) Permit by Rule

Proposal	Est. Total Annual Cost or (Savings)	Est. Amortized (OVER 10 YRS)	Assumptions	Benefit/Impact
Both eligible activities	($69,500)	($695,000)	Assumes about 20 of these a year will occur and save time and costs associated with not having to undertake cultural heritage or natural environment studies or notify within 120 metres of sites Will apply 90 metres set backs from boundary lines instead. *note: this number may increase through time as more members of the public become aware of its existence and begin using it	Provides a streamlined process for approvals for smaller aggregate extraction activities that are not intended for commercial use

Results Summary

Savings resulting from these proposals is estimated to be approximately $850,000. The largest estimated savings are related to the proposal that would provide ability to the applicant to request an extension to the 2-year overall notification and consultation process as is would potentially allow an applicant more time to work through concerns rather than have an application 'withdrawn' or an application be referred to a LPAT hearing when there is still a chance for the applicant to resolve concerns.

The largest estimate that would result in additional costs to businesses is related to proposals that would require operations approved prior to the 1997 Provincial Standards to mitigate dust if they don't already do so and to proposals that would require new applicants to meet higher technical report standards (e.g., establishing water table, blast studies).

Final rehabilitation of an aggregate site to a functioning wetland.

Ministry of Natural Resources and Forestry

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Report: PDL-CPL-20-06

Region of Waterloo

Planning, Development and Legislative Services

Community Planning

To: Chair Tom Galloway and Members of the Planning and Works Committee

Date: March 24, 2020 **File Code:** D05-02

Subject: Proposed Regulatory Changes Under the Aggregate Resources Act

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Recommendation:

That the Regional Municipality of Waterloo forward Report PDL-CPL-20-06, dated March 24, 2020 to the Ministry of Natural Resources and Forestry as the Region's response to the Province's proposed regulatory changes under the Aggregate Resources Act, Environmental Registry of Ontario Posting No. 019-1303.

Summary:

The Provincial government is consulting on several proposed regulatory changes under the Aggregate Resources Act. The intent is to streamline the way aggregate resources are regulated in Ontario, while also protecting the environment and addressing community impacts.

This report outlines staff's comments and recommendations on the proposed changes with respect to four areas of Regional interest: source water protection; public notification and consultation; compliance assessment reporting; and aggregate rehabilitation. To meet the Province's March 30, 2020 commenting deadline, an advanced copy of this report has been submitted to the Province as a placeholder pending Council's consideration.

Report:

On February 12, 2020, the Provincial government released a series of proposed regulatory changes governing the extraction of mineral aggregates in Ontario. The proposed changes stem from the government's recent amendments to the Aggregate Resources Act (ARA), which were enacted in December 2019 as part of Bill 132, "the

Better for People, Smarter for Business Act". The details of the current regulatory proposals can be viewed on the Environmental Registry of Ontario's website at https://ero.ontario.ca/notice/019-1303.

Regional Council submitted its comments on Bill 132 to the Province last fall through reports PDL-CPL-19-41 (November 5, 2019) and PDL-CPL-19-41.1 (November 13, 2019). In general, Council's comments focused on four main themes: ensuring source water protection; improving public notification and consultation; strengthening compliance assessment reporting; and enhancing aggregate rehabilitation. An update on these themes and how they have been addressed in the Province's proposed regulatory changes is provided below.

Source Water Protection

The Region is one of the largest municipalities in Canada that relies on groundwater for most of its drinking water. A large share of the Region's drinking water sources overlaps with significant deposits of sand, gravel and other mineral aggregate resources. Extracting aggregates close to, or below the water table in these source water areas has the potential to impact the quantity and quality of water in a Regional supply well. Such impacts could potentially occur through contamination caused during the extraction process (e.g., fuel spills), or through land use activities following the rehabilitation of the site (e.g., road salt, agricultural pesticides, or nutrients).

When the Province enacted Bill 132, it amended the ARA to prohibit the use of municipal zoning to restrict the depth of extraction of an aggregate operation. This change came into effect on December 10, 2019. During the consultation period for Bill 132, Council had asked the Province not to make this specific change to give municipalities a stronger role in protecting groundwater resources. While the Province did not act on Council's request, it is proposing several other regulatory changes to help protect groundwater resources, including:

- establishing new rules for how the water table is established;
- improving the content of water reports to better assess potential impacts to water;
- requiring water reports to be prepared by a registered Professional Geologist or exempted Professional Engineer;
- requiring applicants to identify whether the proposed operation is in a wellhead protection area, or have the potential to cause a significant threat to a local water source; and
- improving how aggregate recycling activities are carried out to better protect water resources.

While staff are generally supportive of these changes, it is our view that some of the technical requirements being proposed represent minimum standards and may not be adequate in all situations. For example, the proposed rules for establishing the water table would require applicants to monitor groundwater levels for a one-year period. By contrast, the Region's hydrogeological study guidelines currently require a minimum of two years of monitoring data where there is a potential risk to drinking water sources. This standard provides a better picture of water level trends, which will become increasingly variable in the future because of the impacts of climate change (e.g., higher annual precipitation rates will result in increasing groundwater levels and higher water table). **Accordingly, staff recommend that the Ministry of Natural Resources and Forestry (MNRF) require applicants to submit a minimum of two years of groundwater monitoring data to establish the water table where there is a potential risk to drinking water sources (e.g., extraction below the water table, aggregate washing, etc.).**

The proposed regulations would also require new and exiting aggregate operations to have a dust mitigation strategy. Other than water, the only Provincially approved dust suppressants are both chloride-based chemicals. Applying these chemicals on an open sand and gravel pit would result in the chloride recharging water supply aquifers, thereby increasing chloride levels in public and private wells. If a pit is being proposed in a source water protection area, the Region would request that chloride-based dust suppressants not be used. **Given that dust suppression would now be required at all pits, staff recommend that the Province view aggregate extraction activities as a threat under the Clean Water Act, which would be subject to the same risk mitigation measures required for winter road and parking lot maintenance.**

In addition, the Province is proposing new rules that would exempt certain low-risk activities from the requirement to get a license to extract aggregates (e.g., extracting aggregates for personal use on a farm). One of the conditions to qualify for exemption is that excavation does not occur within a Category A or B Wellhead Protection Area (WHPA) under the Clean Water Act. **While staff support the intent of this proposal, we recommend that the Province strengthen it by prohibiting outright all aggregate extraction activities within a Category A or B WHPA under the Clean Water Act, to further prevent or minimize the risk to municipal drinking water.**

Public Notification and Consultation

The current zoning and licensing process for new mineral aggregate operations follows a dual process under the ARA and the Planning Act. The process can be fairly complex and difficult for community members to navigate. A common complaint is that more time and clearer information is needed for the public to participate effectively in the process. The Province is proposing to alleviate this problem by:

- extending the current notification period under the ARA from 45 to 60 days to allow more time for agencies and interested parties to review and comment on mineral aggregate applications;
- allowing applicants to request an extension past the current two-year overall consultation process deadline, thereby giving applicants more time to resolve any objections from the community;
- requiring applicants to notify residents (who may not be landowners) located within 150 metres of a proposed aggregate operation. Applicants would continue to be required to notify landowners (who may not be residents) within 120 metres of a proposed pit; and
- establishing new requirements for applications to expand an existing mineral aggregate operation into the water table.

In general, staff support these changes and feel they are an improvement over the current notification requirements. **Despite these improvements, however, we reiterate our previous recommendation to the Province that municipalities be given the ability to appeal the MNRF's decision (to expand an existing aggregate operation into the water table) to the Local Planning Appeal Tribunal, if the municipality's concerns regarding source water protection are not fully addressed through the application process.** In the absence of any appeal rights, any outstanding concerns could only be referred to the Tribunal for a hearing at the discretion of the MNRF.

Compliance Assessment Reports

Currently, the ARA requires operators to conduct an annual self-assessment of their operation and to submit a Compliance Assessment Report to the MNRF. In practice, these reports are simply collected by the MNRF and are not systematically reviewed for errors or omissions. The Province is proposing to improve this process by:

- developing a "smart form" that would pre-populate sections of the form based on previously submitted information;
- streamlining the required assessment information for sites that have been inactive for more than three years, to focus on assessing compliance to requirements for gates, demarcation of boundaries and monitoring; and
- enhancing the rehabilitation information required (see section below).

Staff generally support these changes and feel they should help operators stay familiar with what activities are permitted on their site. It should also help them ensure that any

potential impacts are avoided or appropriately mitigated. Despite our broad support, however, staff note that the effectiveness of the self-assessment process will ultimately depend on the accuracy of the information submitted by the operators. **Consequently, staff recommend that the MNRF review its current site inspection and enforcement rates to ensure that the self-reported data is accurate.**

Aggregate Rehabilitation

As part of the Compliance Assessment Reports noted above, aggregate operators are currently required to provide information on the progress of their rehabilitation efforts. Currently, the required information is fairly limited and does not detail the type or nature of the rehabilitation activities currently underway. This lack of information makes it difficult for municipalities to monitor rehabilitation rates in their communities and assess how operators are advancing towards full rehabilitation. To help address this problem, the Province is proposing to require operators to report additional information on:

- progressive and final rehabilitation activities;
- which phase of the planned excavation they are working in, if phases are identified on their site plan;
- details on what rehabilitation activities have been undertaken that year (e.g., seeding, planning of trees, rough grading, backfilling slopes); and
- a description of final rehabilitation activities that were conducted that year and, if known, the final intended use (e.g., agricultural, natural, recreational).

Staff generally support these changes and feel the additional information will provide more context and detail on where, when and how rehabilitation is or has been undertaken. The changes will also provide more transparency on how sites are advancing towards full rehabilitation, and encourage operators to better demonstrate their ongoing efforts. The MNRF has indicated that it also working on additional guidance for operators and municipalities, such as best management practices for rehabilitation. **Staff support this initiative and recommend that the Province collaborate with municipalities and other stakeholders in the development of rehabilitation best management practices.**

Next Steps:

While the Province has not indicated when the proposed regulatory changes might come into effect, staff anticipate it will likely occur later this spring or early summer. Staff will continue to monitor any changes and report back to Council as required.

Corporate Strategic Plan:

This report supports three objectives in the Region's Strategic Plan 2019 – 2023, including protecting water resources, supporting a thriving economy, and recognizing the unique needs of our rural communities.

Financial Implications:

Nil.

Other Department Consultations/Concurrence:

This report has been prepared in collaboration with Water Services staff.

Attachments

Nil.

Prepared By: **John Lubczynski**, Principal Planner

Approved By: **Rod Regier**, Commissioner, Planning, Development and Legislative Services