



Ministry of Northern Development, Mines, Natural
Resources and Forestry

ERO Posting No. 019-4801

Township of Puslinch
7404 Wellington Road 34
Puslinch, ON N0B 2J0
www.puslinch.ca

February 22, 2022

**RE: Proposed Regulatory Changes under the Aggregate Resources ERO posting No. 019-4801:
Proposed regulatory changes for the beneficial reuse of excess soil at pits and quarries in
Ontario.**

The Township of Puslinch Council, at its meeting held on February 9, 2022, discussed in depth the proposed regulatory changes for the beneficial reuse of excess soil at pits and quarries in Ontario. Council solicited feedback from the Township's consultants including ecology, engineering, hydrogeology, planning, and source water protection. The comments prepared by the Township's consultants are included in the Township's formal submission to the ERO posting No. 019-4801.

In addition, the Township of Puslinch Council and staff respectfully submit the following comments for consideration:

1. There is concern that an aggregate site could transition to a fill site. The current proposal is that the local municipality be consulted regarding any changes to the rehabilitation plan. While amendments to a rehabilitation plan are the most likely to increase the amount of fill being imported, it could also result from amendments made to stripping or extraction plans. Since all of this relates to the potential after use of the site, the wording should be strengthened to require the approval of the local municipality for any increase of the material to be imported.
2. The Proposal is written that all aggregate sites are to keep written records that are available on request. This wording suggests that the information need only be kept on site and nowhere else. Since not all sites have a place to store such records, such as feeder pits, this wording needs to be improved to require the Licensee to maintain a copy of this information for each of their sites for inspection.



3. The current proposal states that an operator is to retain a Qualified Person (QP) if placing more than 10,000 m³ of excess soil. This should be revised to make it a requirement for an operator to retain a Qualified Person (QP) for any amount of excess soil that is imported from off site.

4. In item #2, regarding O. Reg. 244/97, it is noted that a threshold of 10 000 m³ is placed on excess soil importation that would trigger the need for a Qualified Person; however, it is unclear how this threshold would be calculated and if it would mean cumulatively for one property or per license.

5. The proposal to allow self-amendments to site plans creates concern. As stated in the proposal, this would allow an operator the ability to remove conditions relating to sampling, reporting and approval requirements that are not consistent with the new framework. Essentially allowing an operator to change any existing requirements on their site plans that relate to the quality of the fill they are approved to import. This would be acceptable if the existing requirements on their site plan are less than the new framework, but is not appropriate if the existing standards are higher. This is particularly concerning if the higher standards on the site plan were developed as part of the municipal review. The ability for self-administered amendments should be removed from the proposal and it should be clarified that the new framework is only to be utilized if it increases the quality standard for the site.

6. The proposed changes to the A.R.A Policy 6.00.03 includes references to the importation of liquid soil and that liquid soil for processing requires authorization under the *Environmental Protection Act*. It is also stated that this activity is to be conducted outside of the licensed area. Specific wording should be included surrounding local approvals that may be required, including zoning compliance, site alteration etc. when importing outside the licensed area on a property that is not entirely subject to an ARA license. There is a general concern about gravel pits and quarries being used as disposal sites for contaminated liquid soil from industrial areas.

7. The proposal should require the approval from the municipality for the importation of liquid fill. Current wording of the proposal only requires the approval of the MECP. Liquid fill should fall under the jurisdiction of the municipality's Site Alteration By-law for approval.

8. The memo prepared by Wellington Source Water Protection, describes the concerns related to a municipality's lack of jurisdiction related to importation of fill for rehabilitation at



authorized pits and quarries under the Source Protection Plans, *Clean Water Act* and associated regulations.

9. Historically, minimal pit rehabilitation has taken place at former extraction sites in the Township of Puslinch. In general, a more rigorous plan for pit rehabilitation should be considered during the consultation process for pit licence applications. Additionally, it would be beneficial to ensure that a long-term plan is in place for the site post-extraction, based on a designated future land use, as approved by the Township and the County of Wellington.

10. The proposal should consider the replacement soil of similar quality to pre-extraction, especially farmland soil, which is a critical part of most original site plan rehabilitation requirements.

11. There are a number of gravel pits in Puslinch that permit below the water table extraction operations. The proposal should consider the prohibition of disposal of excess soils into below the water table pits and quarry extraction ponds due to groundwater quality and quantity considerations.

12. The proposal should consider that importing fine-textured excess soils into porous headwater areas of pits and quarries may alter groundwater conditions and affect ecological goals and outcomes originally envisioned in the rehabilitation plan when it comes to natural habitat creation (i.e. wetlands).

13. Fine silty material will block the flow of groundwater affecting groundwater upstream and downstream. Therefore, the proposal should require that the material deposited be suitable for the application.

14. A fee for each truckload of fill that is in excess of fill already approved in the site plan should be established for existing pits and quarries and a fee should be established for all new pits and quarries for all truckloads in and out of the operation. This would help account for the wear and tare on municipal infrastructure.

15. The creation of a landfill site requires public input and Council approval. The municipality must be considered a willing host. The proposal should consider the same approach for pits and quarries that are proposed as a receiving site for excess soil.



16. The proposal should better contemplate why crown lands are provided the mandatory extra protection of meeting Table 1 requirements when filling below the water table. Very little water supply is generated from crown land and so this should be reconsidered in the proposal.

17. The proposal should be written to provide the same consideration and protection to all lands where groundwater is sourced for both private and municipal wells.

18. The proposal is written in such a way that excess soil importation is being considered as a new revenue source for operators. This will double the amount of truck traffic and extend the operations at a site for considerably longer. This creates concerns as pits and quarries will be treated as landfill sites geared at generating a profit rather than being rehabilitated for future land uses in accordance with approved site plans. The proposal should clarify that these sites are not being operated as landfill sites, and if that is the intent, the municipality should be required to approve the use and be a willing host.

19. The proposal does not adequately consider monitoring requirements. Wording should be included to ensure a qualified person is being held accountable for the quality of fill being imported and that stricter monitoring requirements be established. All operations should be required to submit, at a minimum, annual monitoring reports to the municipality that includes reporting on the quality and quantity of fill that has been imported. The proposal should also include compliance assessment reports on a frequent basis and should detail who is responsible for the assessments and that this information is required to be shared with the municipality.

20. The proposal should include the requirement for financial security deposits for risk assessments similar to the requirements for landfill sites.

21. The property assessment and taxation should be contemplated to better align with the new use. The more appropriate tax class is industrial.

22. The proposal needs to adequately consider self-amendments to the site plan when altering final site grading plans to accommodate more fill importation. How is the need for this change determined and what information is it based on.

23. How does the proposal address previously ARA licensed sites that may want to import excess soil into a site that could be further rehabilitated? This is a concern in Puslinch.



Puslinch Council, in collaboration with its consultants, respectfully submit its comments on the Proposed Regulatory Changes under the Aggregate Resources Act for review and consideration in the development of this important regulation.

Sincerely,
Glenn Schwendinger, CAO
Township of Puslinch

Attachments:

Schedule "A" Review prepared by Dougan & Associates

Schedule "B" Review prepared by GM BluePlan

Schedule "C" Review prepared by Harden Environmental Inc.

Schedule "D" Review prepared by the County of Wellington Planning Department

Schedule "E" Review prepared by Wellington Source Water Protection

February 8th, 2022

Courtenay Hoytfox
Municipal Clerk
Township of Puslinch
7404 Wellington Rd 34, Puslinch ON N0B 2J0
(519) 763-1226
choyfox@puslinch.ca

Re: Review of Proposed Regulatory Changes under the Aggregate Resources Act (ARA)

Dear Courtenay,

Thank you for retaining Dougan & Associates (D&A) to undertake an ecology review of the proposed regulatory changes under the ARA. Our comments are summarized below:

1. Additional truck traffic may result in expanded impacts to natural heritage attributes through road widenings, increased truck loads, and increased right-of-way maintenance. Implementation of the new regulations should encourage that Excess Soil be transported efficiently e.g. by aggregate extraction carriers on return trips if possible. A percentage of returns from fill should be paid to the municipality as compensation for the extended truck traffic and inconvenience of 'temporary' land use in and around communities for stockpiling and handling of Excess Soil.
2. The proposed changes exacerbate the lack of a sunset clause in the ARA. Importation and use of Excess Soil may extend licensing durations, which will equate to fewer implemented rehabilitation plans and/or delay in restoration and ecological succession and functions of rehabilitated areas. There should be impetus to minimize and integrate the duration of importation.
3. Importing fine-textured Excess Soils into porous headwater areas of pits and quarries may alter groundwater conditions and affect ecological goals and outcomes originally envisioned in rehabilitation plan when it comes to natural habitat creation (i.e. wetlands).
4. A percentage of returns from Excess Soils should be mandated toward enhanced rehabilitation plans. Rehabilitation plans routinely entail minimal soil stabilization plantings, and often with introduced plant species. Plantings should be of higher ecological diversity and with solely native species. Excess Soils may introduce non-native species and pathogens that may impact the surrounding natural heritage system. Restoration should ensure thorough testing and monitoring to ensure that imported Excess Soil conforms to rehabilitation goals for natural heritage enhancement and will not jeopardize success by introducing non-native plant species.
5. If adequately integrated, the proposed changes to the ARA could technically align well with the Cornerstone Standards Council Responsible Aggregate Standards *Principle 1: Compliance with Laws*, *Principal 5: Site stewardship and impacts to environment, water, agriculture and human health*) and *Principle 6: Resource efficiency and conservation*. The Cornerstone standards contain specifications related to responsible soil management as

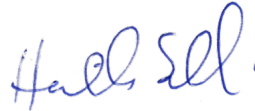
it pertains to recreating natural areas (e.g. wetlands, woodlands and grassland). The proposed ARA regulatory changes provide enhanced mandates for implementation of responsible soil testing handling, consistent with the objectives of these standards. However, the potential liabilities of Excess Soils should be clearly recognized in rehabilitation plans.

Please contact us if you have any questions or concerns regarding this review.

Regards,



Jim Dougan, BSc, MSc, OALA (Hon)
Senior Ecologist, Director



Heather Schibli, MLA, OALA, CSLA, ISA
Landscape Architect, Ecologist, Arborist



February 3, 2022
Our File: 120006-018

Via email: choyfox@puslinch.ca

Township of Puslinch
7040 Wellington Road 34
Puslinch, ON N0B 2J0

Attention: Courtenay Hoytfox
Municipal Clerk

Re: Review of Proposed Regulatory Changes Under the
Aggregate Resources Act

Dear Ms. Hoytfox:

The Township of Puslinch (Township) requested that GM BluePlan Engineering Limited (GMBP) complete a review of the Proposed Regulatory Changes for the Beneficial Reuse of Excess Soils at Pits and Quarries in Ontario, as posted by the Ministry of Northern Development, Mines, Natural Resources and Forestry on January 10, 2022. This request was received from the Township on January 25, 2022 via email.

GMBP was copied on ecology and hydrogeology comments related to the proposed regulatory changes, provided by Dougan and Associates (letter dated February 1, 2022), Hunter and Associates (letter dated January 31, 2022), and Harden Environmental (letter dated January 31, 2022).

We agree with the conclusions provided by Harden Environmental. Generally, the proposed changes require adherence to the stricter compliance rules of O. Reg 406/19, ensuring that only the highest quality soil is placed below the water table. As per Harden Environmental, the Township should have no reason to object to these proposed changes. It is the opinion of GMBP that the proposed changes should clarify and streamline soil import protocols for pit rehabilitation, bringing requirements in line with the excess soil regulations for other types of sites.

As addressed by Hunter and Associates, historically minimal pit rehabilitation has taken place at former extraction sites in the Township. In the future the Township may want to take the opportunity to insist on a more rigorous plan for pit rehabilitation during the consultation process for pit licence applications, addressing some of the issues raised by Dougan and Associates and Hunter and Associates. It may be beneficial to ensure that a long-term plan is in place for the site post-extraction, based on a designated future land use, as approved by the Township and the County of Wellington.

It should be noted that the proposed regulatory changes are only intended to address soil quality. There are many other factors to be taken into consideration when considering importing soils for pit rehabilitation, including:

- Soil type and properties post-rehabilitation compared to post-extraction and historical (pre-extraction) conditions and the impact this could have on hydrogeology, including infiltration potential, water balance and groundwater flows. A hydrogeological assessment addressing the potential impact of the placed soils may be necessary.
- Structural integrity of the soils based on how they are placed and compacted and the possibility for differential settlement. Depending on proposed future land use, a geotechnical study and testing/inspection during placement by a qualified professional may be necessary.
- Grading, drainage, and the impact to stormwater management on the site. A stormwater management report and grading plans may be required.

The proposed rehabilitations of aggregate pits are reviewed at the time of pit license application, and during applications for license amendments if required. The Township may want to consider including a more in-depth review of pit



rehabilitation when consulted as part of the licensing process, to confirm if the importation of fill material is required to rehabilitate the aggregate pit.

Updates to the Site Alteration Permit Bylaw could be considered to reflect the specific circumstances surrounding pit rehabilitation once a pit licence has expired. This could enable the Township to collect fees to support any required Township oversight and other potential municipal expenses during pit rehabilitation, including those associated with increased road traffic, as described by Dougan and Associates. There may also be opportunity for the Township to enter into an agreement with the landowner, or to specify conditions for the site, as part of a zoning bylaw amendment or site plan approval, if future development is proposed for the site.

If there are any questions or concerns, please do not hesitate to contact us.

Regards,

GM BLUEPLAN ENGINEERING LIMITED

Per:

A handwritten signature in black ink that reads 'A Reed'.

Andrea Reed, P.Eng.



Harden Environmental Services Ltd.
4622 Nassagaweya-Puslinch Townline
Moffat, Ontario, L0P 1J0
Phone: (519) 826-0099 Fax: (519) 826-9099

Groundwater Studies
Geochemistry
Phase I / II
Regional Flow Studies
Contaminant Investigations
OMB Hearings
Water Quality Sampling
Monitoring
Groundwater Protection
Studies
Groundwater Modelling
Groundwater Mapping
Permits to Take Water
Environmental Compliance
Approvals

Our File: 0216

January 31, 2022

Township of Puslinch
7404 Wellington Road 34
Guelph, ON, N1H 6H9

Attention: Mr. Glenn Schwendinger
CAO

Dear Mr. Schwendinger:

On behalf of the Township of Puslinch we have reviewed the proposed changes to the Aggregate Resources Act(ARA) (Ontario Regulation 244/97). These changes are proposed in order to ensure that the Aggregate Resources Act is aligned better with the On-Site and Excess Soil Management Regulation (O. Reg. 406/19). O. Reg. 406/19 creates greater control on the generation, use, transportation and importation of excess soils.

There are some circumstances whereby excess soils are imported into aggregate sites and the proposed changes are designed to modernize the ARA with respect to this new regulation under the Environmental Protection Act. I have repeated the proposed changes below followed by our recommendations in bold font to the Township of Puslinch.

1. *All approval holders (existing and future), that are authorized to import material that meets the definition of excess soil for rehabilitation purposes, at a minimum, follow the applicable standards and rules in Rules for Soil Management and Excess Soil Quality Standards under O.Reg. 406/19 under the EPA based on future property use and site conditions with three exceptions:*
 - a. *Excess soil placed below the water table must follow the soil management rules for environmentally sensitive areas under O.Reg. 406/19, which means these areas would be limited to the most stringent (table 1 under the EPA) quality standards.*

-
- b. *On Crown land, in areas above the water table, the acceptable soil quality is limited to the applicable quality for agricultural and other property use as defined under O.Reg. 406/19, so that future land use is not limited.*
 - c. *Except in circumstances described in a. and b., and when no other alternative is available, a site- specific standard developed through the use of the Beneficial Reuse Assessment tool (BRAT) in accordance with O.Reg. 406/19 may be used, subject to authorization from the ministry of Northern Development, Mines, Natural Resources and Forestry (NDMNR).*

This proposed change ensures that only the highest quality soil is placed below the water table. There is no reason for the Township to object to this change. Significant importation of soil for placement in a pond has not occurred in the Township of Puslinch and would require a major amendment to a site plan to occur. Presently, there are approved site plans in the Township that allow for on-site excess materials to be placed under water without testing or adherence to O. Reg 406/19. This is because these materials are generated from sites licensed under the Aggregate Resources Act. This takes place at the Aberfoyle North Pit (CBM), McNally Pit (CBM) and the Mill Creek Aggregates Pit (Dufferin) where fine grained material from the aggregate processing plant is discharged into surface water ponds. The proposed changes to the ARA do not affect this activity.

- 2. *In addition, to support oversight of the importation of excess soil under the ARA, NDMNR proposes that all aggregate sites:*
 - a. *keep written records that are available on request that identify the source site, quality, quantity and placement location of excess soil received for reuse at the site*
 - b. *retain a Qualified Person (QP) (as defined by O.Reg.153/04, EPA), if placing large quantities (> 10,000 m³) of excess soil and/or if placing excess soil below the water table, to provide written confirmation that:*
 - i. *suitable soil quality is received for reuse based on conditions at the site and the approved future land use in the rehabilitation plan*
 - ii. *the final placement of excess soil on the site is overseen by a QP*

This proposed change requires ARA licensees to practice better management and reporting of any soils imported to their site for rehabilitation purposes. There is no reason for the Township to object to this change.

3. For existing licence holders authorized to import fill to facilitate rehabilitation, add rules in regulation, that when followed, would enable approval holders to make specified changes to their site plan without the need for ministry review (i.e., self-filed amendment).

Changes include:

- to a different soil quality that is consistent with the rules described in 1. above, and the rehabilitation plan for the site, and
- remove conditions relating to sampling, reporting and approval requirements that are not consistent with the new framework under the EPA.

Where an ARA approval authorizes the importation of inert fill and no specific quality standard is identified, aggregate approval holders are to, at a minimum, follow the applicable Excess Soil Quality Standards under *O.Reg. 406/19* under the EPA based on the future property use and site conditions. This means that if the site plan authorizes importation of, for example, “clean soil”, “clean fill”, or “inert fill”, but does not identify that it meets specific criteria for quality, then the suitable soil quality will be determined in accordance with the regulation under the ARA and considering the conditions at the site, the future land use identified in the approved rehabilitation plan.

This change requires adherence to the stricter compliance rules of O. Reg. 406/19, there is no reason for the Township to object to this change.

NDMNRF proposes to rescind policy, A.R. 6.00.03, Importation of Inert Fill for the Purpose of Rehabilitation, and replace with the following:

Applicants proposing a future aggregate site:

- *Will demonstrate that the quantity of excess soil estimated to be received is consistent with that quantity necessary to achieve the site conditions specified in the rehabilitation plan to support the proposed future use. This*

is consistent with the Excess Soil Regulation requirements for other reuse sites, i.e., that the quantity of excess soil deposited or to be deposited at the reuse site must not exceed the quantity necessary for the beneficial purpose and the primary use of the site must not be the deposit of excess soil.

- *Will provide detail on the site plan that makes the applicable excess soil quality obvious in accordance with the Aggregate Resources of Ontario Site Plan Standards.*

Applicants on existing approved sites will:

- *Follow soil quality standards for agricultural and other property use under the EPA on private land when the future use is not identified in the approved rehabilitation plan, so that future uses of the property are not limited.*
- *Complete consultation as directed by the ministry if requesting to make a significant change such as, to the rehabilitation plan and/or change the amount of fill (i.e. quantity) approved for importation on the site plan.*


Future and existing sites will:

- *Follow the Best Management Practices for Aggregate Pit and Quarry Rehabilitation, available on the Ontario Society of Professional Engineers website when importing and placing excess soil.*
- *For applications proposing to fill-to-grade, potential impacts to the community from the fill operation and prolonged life of the site will be considered.*
- *Liquid soil will not be authorized for importing under the Aggregate Resources Act.*

If an aggregate site approval holder wishes to import liquid soil to be processed for use, they should continue to seek authorization under the EPA for this activity, which is to be conducted outside of the licenced area. Operators should be aware that other restrictions may apply (zoning, site alteration bylaws, partial site surrender).

This change requires adherence to the stricter compliance rules of O. Reg. 406/19 or as stipulated in the Best Management Practices for Aggregate Pit and Quarry Rehabilitation (2021). There is no reason for the Township to object to these improvements.

Sincerely,
Harden Environmental Services Ltd.



Stan Denhoed, P.Eng., M.Sc.
Senior Hydrogeologist





COUNTY OF WELLINGTON

PLANNING AND DEVELOPMENT DEPARTMENT
MEAGAN FERRIS, RPP MCIP
TEL: (519) 837-2600 EXT. 2120
FAX: (519) 823-1694
1-800-663-0750

ADMINISTRATION CENTRE
74 WOOLWICH STREET
GUELPH, ONTARIO
N1H 3T9

February 4th, 2022

Township of Puslinch
c/o Glenn Schwendinger

Dear Mr. Schwendinger :

**Re: Proposed Regulatory Changes for Pits and Quarries in Ontario (Excess Soil)
ERO Posting # 019-4801**

At the request of the Township, we have reviewed the above noted ERO Posting and offer the following summary and comments for consideration:

Summary of Posting & Proposed Changes:

The intent of the proposed regulatory changes to Ontario Regulation 244/97, under the *Aggregate Resource Act*, is to align the regulations applicable to rehabilitation of pits and quarries in Ontario with the *Environmental Protection Act*, specifically Ontario Regulation 406/19 (On-site and Excess Soil Management).

Included below is a summary of our understanding of the changes proposed for Ontario Regulation 244/97 and A.R. Policy 6.00.03 - Importation of Inert Fill for the Purpose of Rehabilitation:

Ontario Regulation 244/97

- That existing and future operators that are authorized to import material that meets the definition of excess soil for rehabilitation purposes are to follow the “applicable standards and rules” in the [*Rules for Soil Management and Excess Soil Quality Standards*](#).
- There are three exceptions to the above:
 - (i) *Below the water table* - must utilize management rules for environmentally sensitive area and utilize the most stringent soil quality standards (Table 1, Environmental Protection Act)
 - (ii) *Above the water table (Crown Lands)* - soil quality permitted for agricultural and other property use under O. Reg 406/19
 - (iii) Allows the use of a Beneficial Reuse Assessment tool for the two above exceptions, provided there is no alternative, and if authorized by the Ministry of Northern Development, Mines, Natural Resources and Forestry.
- To support oversight of excess soil importation, all aggregate sites shall:
 - Keep written records about excess soil received for reuse
 - If placing 10 000 m³ or greater of excess soil (below or above the water table), a Qualified Person is to be retained to confirm soil suitability and oversee the placement on-site.
- If permitted to use fill for rehabilitation, allow existing license holders to add rules that would allow them to make specific changes to their site plan.

A.R. Policy 6.00.03:

- The intent of the proposed changes is to rescinded this entire policy which was last revised April, 2008 (and specific to inert material) and add specific policies for: (i) future proposed aggregate sites; (ii) existing approved sites; and (iii) general requirements applicable to future and existing sites.

Future Proposed Site:

- Demonstrate quantity of excess soil to be received is consistent with the quantity necessary for rehabilitation and the future use;
- Provide a detail on the site plan that clearly states the applicable excess soil quality

Existing Approved Sites:

- Private land - when the future use is not identified on an approved rehabilitation plan, the soil quality standard to follow is for agricultural and other property use under the EPA.
- Consultation is required if making significant changes, such as the amount of fill approved on the site plan.

Future and Existing Sites:

- When importing and placing fill, follow [Best Management Practices for Aggregate Pit & Quarry Rehabilitation](#) (prepared by Ontario Society of Professional Engineers)
- Fill-to-grade proposals will need to consider community impacts and prolonged life of the site
- Liquid soil is not authorized for importing under the ARA. However, if seeking to import liquid soil and process: (i) need EPA approval and (ii) this would only be outside the licensed area. They also make reference to local level approvals.
- If ARA approval allowed the importation of inert fill/clean soil/clean fill, but a quality standard was not identified, at a minimum the applicable Excess Soil Quality Standards (under O. Reg 406/19) are to be followed based on the future use and site conditions.

General Comments for Consideration:

1. At the outset of the proposed changes for O. Reg. 244/97, it is stated that all existing and future users are to following “applicable” standard and rules as set out within the *Rules for Soil Management and Excess Soil Quality Standards*. Would discretion be applied in determining what is applicable? What level of oversight would be provided by the Ministry in determining applicability?
2. In item #2, regarding O. Reg. 244/97, it is noted that a threshold of 10 000 m³ is placed on excess soil importation that would trigger the need for a Qualified Person; however, it is unclear how this threshold would be calculated and if it would mean cumulatively for one property or per license.
3. Item #3, O. Reg. 244/97 – Additional information should be provided to identify what types of rules and regulations and what type of site plan changes could be established to existing license holders.
4. Updates to A.R. 6.00.03 also notes that future and existing site will follow the [Best Management Practices for Aggregate Pit and Quarry Rehabilitation](#) when importing and

placing excess soil. The policy updates could also reference the need for future and existing sites to follow the [Rules for Soil Management and Excess Soil Quality Standards](#).

5. The proposed changes to the A.R. Policy 6.00.03 includes references to the importation of liquid soil and that liquid soil for processing requires authorization under the *Environmental Protection Act*. It is also stated that this activity is to be conducted *outside* of the licensed area. Some additional comments:
 - The Township may wish to suggest specific wording to be included surrounding local approvals that may be required, including zoning compliance, site alteration etc.).
 - In some cases, the entirety of a property is not subject to an ARA license. There could be a potential that these properties could become ideal sites for “processing” liquid soil, which then could be distributed elsewhere or used on their own aggregate rehabilitation site.
6. The Province has established Standards for Site Plans, Technical Reports and Information and Circulation which are applicable to pit applications submitted on or after April 1st 2021. The Township may wish to bring forward a comment/recommendation that requests a review by the Ministry of the Site Plan & Technical Reports and Information Standards to determine if the proposed changes in regulations for site rehabilitation need to be incorporated.
7. In the context of Puslinch, the aggregate operations are on lands that are within the Rural System and there are a larger number of below the water table operations within the community. Due to this, the intended end use would consist of water bodies/lakes and potentially a buildable area would be retained for a single, future dwelling. It is not common practice to return a below the water table pit back to agriculture (i.e. fill to at grade). The intent of the proposed changes to O. Reg. 244/97 would require the most stringent soil type to be used if uses excess fill within a below the water table pit and this is a positive change.
8. If more soil would be coming back for rehabilitation, what impact does that have for the life of the pit? Where would these trucks be coming from and in what frequency? How would this impact municipal road infrastructure and/or align with existing and proposed aggregate haul routes?
9. The importation of excess fill could result in adverse effects (i.e. dust, noise etc.). Although these types studies may have been required to support an existing or proposed pit, these types of studies should also be completed for and/or support the proposed excess fill importation and the rehabilitation process.
10. The *Aggregate Resource Act* requires that annual reports be prepared and submitted with respects to rehabilitation (progressive and final) and also requires annual compliance reports. It is assumed, but is unclear, if these reporting requirement would be obliged to speak to excess soil on-site, depending on the stage of rehabilitation at the time of reporting. Further, would a summary of the records related to excess soil be required to be provided as part of final rehabilitation?

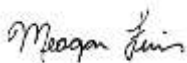
11. The County Official Plan includes policies in Section 6.6.8 regarding rehabilitation and Section 6.6.9 regarding below the water table pits. With respects to rehabilitation, the County Official Plan includes policies that on prime agricultural lands or secondary agricultural lands "...restores substantially the same areas and average soil quality for agriculture as before extraction occurred".
12. In reviewing other Provincial policy with respects to aggregate operations we note a couple of policy items (below):
 - With respects to human-made hazards, the Provincial Policy Statement (2020) states that "Planning authorities should support, where feasible, on-site and local re-use of excess soil through planning and development approvals while protecting human health and the environment"
 - Within the Provincial Growth Plan and Greenbelt Plan, for new aggregate operations, "...the disturbed area of a site will be rehabilitated to a state of equal or greater *ecological value* and, for the entire site, long-term *ecological integrity* will be maintained or enhanced"

It is also noted that the Growth Plan and Greenbelt plan include wording regarding excess soil/fill which states "fill quality received and fill placement at a site will not cause an adverse effect with regard to the current or proposed use of the property or the natural environment and is compatible with adjacent land uses" when describing items to considerations for best practices. This type of wording could also be suggested within the proposed adjustments to A.R. 600.03, including for the proposed items to be considered for fill-to-grade proposals.

13. These proposed changes should be reviewed in relation to the Township's existing site alteration By-law.
14. It should be investigated if the local conservation authorities have reviewed and commented on this ERO posting.

Generally speaking, these policy changes seek to align with the *Environmental Protection Act* and provides clearer direction for utilizing excess soil as part of the rehabilitation process, including soil generated from other development projects throughout the Province. Overall, these appear to be positive changes proposed. We trust that these comments are of assistances.

Regards,



Meagan Ferris, RPP MCIP
Manager of Planning and Environment

February 4, 2022

Memorandum

To: Courtenay Hoytfox, Municipal Clerk
Township of Puslinch
7404 Wellington Rd 34,
Puslinch ON N0B 2J0

From: Kyle Davis, Risk Management Official, Wellington Source Water Protection

RE: Environmental Registry Number 019-4801 – Proposed regulatory changes for the beneficial reuse of excess soil at pits and quarries in Ontario

On January 10, 2022, the Ministry of Northern Development, Mines, Natural Resources and Forestry posted a regulatory proposal on the Environmental Registry of Ontario (ERO) related to the *Aggregates Resources Act*. The proposal is:

- [019-4801: Proposed regulatory changes for the beneficial reuse of excess soil at pits and quarries in Ontario](#)

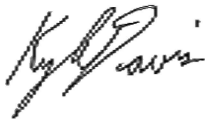
The public consultation period is for 45 days from January 10, 2022 until February 24, 2022. This proposal sets out to ensure consistency with provincial requirements under the *Environmental Protection Act* (EPA), specifically the Excess Soil Management Regulation, Ontario Regulation 406/19 by suggesting regulatory changes and policy direction for importing soil (fill) to facilitate rehabilitation at authorized pits and quarries under the *Aggregate Resources Act* (ARA).

The importation of fill is not a prescribed threat activity pursuant to the *Clean Water Act* and associated regulations. Additionally, although the Lake Erie Source Protection Committee did request that importation of fill be considered a local drinking water threat activity in approximately 2011, the Province responded that the importation of fill would be managed under the ARA and / or EPA. This current regulatory proposal along with previous updates including the Excess Soil Management Regulation appear to be the Province's implementation of that response. This indicates that the management and regulation of importation of fill into authorized pits and quarries under the ARA will remain Provincial jurisdiction to enforce and ensure compliance. Therefore, although some pits and quarries within the Township of Puslinch are within wellhead protection areas and / or other vulnerable areas pursuant to the *Clean Water Act*, it is our opinion that the municipality will not have jurisdiction related to importation of fill for rehabilitation at authorized pits and quarries under the Source Protection Plans, *Clean Water Act* and associated regulations.

From a regulatory perspective, it is our opinion that it is important that the requirements under the EPA and ARA are consistent, and the proposed changes achieve this and should assist to bring requirements for pits and quarries in line with excess soil requirements for other types of sites. Overall, these proposed changes should ensure stronger compliance and best management practices at pits and quarries including ensuring adherence to provincial soil quality standards, improved record keeping and retention of Qualified Persons in certain circumstances including when placing excess soil below the water table.

In closing, thank you for this opportunity to provide comments on the above posting, we welcome and appreciate the opportunity. If you have any questions or wish to discuss these comments further, please do not hesitate to contact the undersigned.

Sincerely,



Kyle Davis
Risk Management Official
Wellington Source Water Protection

Wellington Source Water Protection is a municipal partnership between the Townships of Centre Wellington, Guelph / Eramosa, Mapleton, Puslinch, Wellington North, the Towns of Erin and Minto and the County of Wellington created to protect existing and future sources of drinking water.