Development Services Staff Report

Report Number:	DS27-2023
Report Title:	Proposed changes to the Aggregate Resources Act – To expand self-filing activities and new policies
Author:	Jeremy Vink, Manager of Planning
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Consent Item:	No
Final Version:	Yes
Reviewed By:	Deanne Friess, Director of Development Services
Final Review:	Senior Management Team

Recommendation:

That the Council of the Township of Woolwich, considering Report DS27-2023 respecting Proposed changes to the Aggregate Resources Act – To expand self-filing activities and new policies, provide the following comments in response to the associated ERO posting:

1. That the increases to the maximum annual tonnage by 5%, or temporary maximum increases of annual tonnage by 10%, proposed as not significant, be considered as significant given that such changes can impact traffic and increase noise issues;
2. That an entrance/exit change may only be permitted where it will not negatively impact/alter haul route noise; and
3. That the MNRF continue to ensure all gravel extraction operations are following the approved plans and to react in a timely manner to any concerns.

Background

On May 29, 2023, the Province of Ontario posted on the Environmental Registry that "*MNRF is proposing regulatory changes to Ontario Regulation 244/97 under the Aggregate Resources Act to expand the list of changes that can be made to site plans without ministry approval (subject to conditions) and proposing a policy that would provide direction for changes to licences, permits and site plans where ministry approval is required*".

Specifically, they are proposing to expand the list of eligible site plan changes that can be made without ministry approval when certain conditions are met.

A new policy is also proposed "*to clarify requirements and the approach to public notification and consultation for amendments to authorizations that do require ministry approval. Amendment requests can include changes to site plans, conditions of a licence or permit, or any other information normally included on licences or permits (e.g., name of operator, address, etc.)… When proposed amendments would result in significant changes to operations or rehabilitation at an aggregate site, public notification and consultation may be required. The proposed policy is intended to provide direction on the requirements for applying for an amendment, guide ministry decision-making for amendment applications (including what constitutes significant and non-significant amendments) and provide direction on notification and consultation requirements for certain amendments*."

The full changes and documentation provided by the Province are attached.

Comments to the proposed changes are to be provided by July 13, 2023.

Comments

The proposed changes are to help reduce the burden on Ministry staff and provide efficiency to aggregate operations while continuing to manage the impact of lower-risk activities on aggregate sites.

The Province has provided a document to clarify what may or may not constitute an amendment to an operation that is significant and warrants review and those items that do not warrant review (Attachment 2). Generally, staff find the approach reasonable as the majority of changes could be reasonable as insignificant. What is noted is that the plans would consider allowing the applicant to increase the maximum annual tonnage by 5%, or temporary maximum increases of annual tonnage by 10%. This would then result in more truck traffic that could have negative impacts.

The proposed self-filing amendments as outlined in Attachment 3, would allow the applicant to complete the following changes without any other approvals:

- changing site entrances or exits;
- adding, removing or re-locating above-ground fuel storage;
- where processing activities have already been approved for the site, adding the importation of materials for recycling; and
- adding, removing or re-locating portable processing equipment or portable asphalt or cement processing equipment for public road authority projects.

These amendments would be permitted only where the set criteria as are met. Again, staff note that many of the criteria would be criteria that the Township would be seeking to see addressed. As such, with the criteria that has to be met, changes are reasonable. The only potential element that does not seem to be considered is that an entrance/exit change may impact haul route noise. Outside of that issue staff have reviewed the criteria and suggest that the criteria seem appropriate.

It is noted that the self-filing approach by its very nature relies on the operator to follow the regulations. It is not much different than the Township trusting any property owner to follow the regulations on their property. If the owner does not follow the regulations it would still require enforcement to be completed by MNRF. It is then necessary for MNRF to maintain the necessary staff to complete regular reviews and visits to extraction operations and to be able to react to complaints in a timely fashion.

Interdepartmental Impacts:

None

Financial Impacts:

None

Strategic Plan Impacts:

The Township aims to ensure managed and sustainable community growth and development, where as a Township we continue to advocate for amendments to the Aggregate Resources Act that address quality of life, financial and enforcement concerns.

Conclusion:

Generally, the proposed regulatory changes to Ontario Regulation 244/97 under the Aggregate Resources Act to expand the list of changes that can be made to site plans without ministry approval (subject to conditions) and proposing a policy that would provide direction for changes to licenses, permits and site plans are reasonable and practical. Comments are recommended to be forwarded to the ERO posting in response to the proposed amendments with respect to increases in tonnage, changes to entrances/exits and timely response to concerns that may arise as a result of the changes.

Attachments:

Attachment 1 – ERO Notice

Attachment 2 – Applications to amend licences, permits, and site plans under the Aggregate Resources Act

Attachment 3 – Proposed Site Plan Amendments Eligible for Self-filing

ATTACHMENT 1

Proposed changes to the Aggregate Resources Act, Ontario Regulation 244/97 to expand self-filing activities and a new policy regarding amendments to existing aggregate approvals

ERO number

019-6767

Notice type

Regulation

Act

Aggregate Resources Act, R.S.O. 1990

Posted by

Ministry of Natural Resources and Forestry

Notice stage

Proposal

Proposal posted

May 29, 2023

Comment period

May 29, 2023 - July 13, 2023 (45 days)

Last updated

May 29, 2023

This consultation closes at 11:59 p.m. on:
July 13, 2023

Proposal summary

MNRF is proposing regulatory changes to Ontario Regulation 244/97 under the *Aggregate Resources Act* to expand the list of changes that can be made to site plans without ministry approval (subject to conditions) and proposing a policy that would provide direction for changes to licences, permits and site plans where ministry approval is required.

On this page

Proposal details

Introduction

Ontario's aggregate industry plays a key role in our government's vision to Build Ontario, supporting vital development and jobs across the province. Aggregates are a key part of building critical infrastructure like homes, schools, hospitals, roads and subway tunnels, which support our growing communities. Approximately 160 million tonnes of aggregate are needed in Ontario each year with most of the aggregate produced in Ontario coming from private land in the southern region of the province where the most market demand exists.

The regulatory framework that manages aggregates must be fair, predictable and adaptive enough to be effective, while managing and minimizing the impact that extraction operations may have on the environment and communities that surround them. Since 2019, MNRF has consulted several times on the regulatory framework for aggregates and made changes to the *Aggregate Resources Act*, Ontario Regulation 244/97, and the Provincial Standards for Aggregates in Ontario, with these objectives in mind.

Proposed Changes

In order to provide meaningful consultation, MNRF is proposing both a regulation amendment and a new policy in this notice.

Proposed regulation amendment

On September 1, 2020, changes to Ontario Regulation 244/97 came into effect, which set out eligibility criteria and requirements that allow operators to self-file certain prescribed changes to existing site plans for some routine activities without requiring approval from the ministry (subject to conditions set out in the regulation).

This approach has effectively reduced burden and provided efficiency to aggregate operations, while continuing to manage the impact of lower-risk activities on aggregate sites.

We are now proposing regulatory changes to Ontario Regulation 244/97 to expand the list of eligible site plan changes that can be made without ministry approval when certain conditions are met. This proposal includes:

- changing site entrances or exits
- adding, removing or re-locating above-ground fuel storage
- where processing activities have already been approved for the site, adding the importation of materials for recycling

- adding, removing or re-locating portable processing equipment or portable asphalt or cement processing equipment for public road authority projects

All proposed site plan changes in this list would be added to Ontario Regulation 244/97 section 7.2 (1) and be subject to the eligibility conditions in 7.2 (2) and (3) of the regulation. In addition, the proposed activities would be subject to the detailed conditions outlined in the attached document entitled **Proposed site plan amendments eligible for self-filing** in the 'Supporting materials' section below.

Proposed policy changes

We are also proposing a new policy to clarify requirements and the approach to public notification and consultation for amendments to authorizations that do require ministry approval. Amendment requests can include changes to site plans, conditions of a licence or permit, or any other information normally included on licences or permits (e.g., name of operator, address, etc.). As a result, amendments vary in type and complexity and can range from small or administrative changes to significant changes to operations and rehabilitation. When proposed amendments would result in significant changes to operations or rehabilitation at an aggregate site, public notification and consultation may be required. The proposed policy is intended to provide direction on the requirements for applying for an amendment, guide ministry decision-making for amendment applications (including what constitutes significant and non-significant amendments) and provide direction on notification and consultation requirements for certain amendments.

The notification and consultation requirements described in this policy are separate and distinct from the Crown's constitutional obligation to consult with Indigenous peoples. The ministry will continue to assess whether proposed amendments have the potential to adversely impact Aboriginal or treaty rights and will consult with Indigenous communities where required. Consultation with Indigenous communities may be required in addition to any public notification or consultation that are required by this policy and may be required in circumstances where public notification or consultation are not.

Please see the full proposed policy entitled **Applications to amend licences, permits, and site plans under the *Aggregate Resources Act*** in the 'Supporting materials' section below for more details. If approved, this policy would replace the following aggregate policies and procedures:

- POL 2.02.00 Adding, Rescinding or Varying a Licence Condition
- PRO 2.02.00a Adding, Rescinding or Varying a Licence Condition: By Licensee
- POL 3.03.00 Adding, Rescinding or Varying a Wayside Permit Condition
- PRO 3.03.00a Adding, Rescinding or Varying a Wayside Permit Condition: By Permittee
- POL 4.03.01 Adding, Rescinding or Varying an Aggregate Permit Condition
- PRO 4.03.01a Adding, Rescinding or Varying an Aggregate Permit Condition: By Permittee
- POL 2.03.00 Licence Site Plan Amendments: By Licensee
- PRO 2.03.00 Licence Site Plan Amendments: By Licensee
- POL 3.04.00 Wayside Permit Site Plan Amendments

- PRO 3.04.00a Wayside Permit Site Plan Amendments: By Permittee
- POL 4.04.00 Aggregate Permit Site Plan Amendments
- PRO 4.04.00a Aggregate Permit Site Plan Amendments: By Permittee

Environmental Implications

The anticipated environmental consequences of the regulatory and policy proposals are anticipated to be neutral when compared with the current environmental impacts associated with amendments to existing aggregate authorizations.

For the regulatory proposal to enable a broader list of amendments to site plans that can be done without ministry approval, specific eligibility criteria and conditions are proposed to be defined in regulation to minimize the changes to environmental impacts. Current prescribed operational standards continue to apply to all pits and quarries which include setbacks from environmentally significant features.

Amendment applications that require ministry approval will be considered from an impacts perspective and applicants may be required to provide additional technical information or reports to assess potential impacts and, where necessary, recommend mitigation measures. If changes are deemed by the ministry to be significant changes to operations or rehabilitation, public consultation and notification may be required to support the application and approval decision by the ministry. Where a proposed amendment has the potential to adversely impact an Indigenous community's Aboriginal or treaty rights, the ministry may delegate the procedural aspects of consultation to applicants to understand and, where required, accommodate impacts to those rights.

The anticipated social consequences of the proposals are neutral to negative. The regulatory proposal to allow more site plan amendments without ministry approval may be perceived as lessening ministry oversight for aggregate operations or reducing the opportunity for public and Indigenous community involvement in aggregate approvals. However, each specific activity would be subject to eligibility criteria and conditions to ensure that other required approvals are obtained and that impacts are minimized. The activities in this proposal would have historically been considered minor amendments to a site plan where public and Indigenous notification and consultation generally would not have been required.

The proposed policy includes modernizing and clarifying timelines, processes and requirements for public notification and consultation, and does not change the ministry's current approach to assessing whether amendments trigger the duty to consult and consulting with Indigenous communities where required. This would ensure that those who may be impacted by the changes and agencies with relevant expertise and oversight roles are notified about significant changes to aggregate operations.

Regulatory impact analysis

The proposed changes are anticipated to result in a net positive burden reduction for aggregate operators and no additional cost increases to business.

The proposed regulatory changes to allow for certain amendments to site plans without ministry approval would improve processes and reduce administrative costs to business by allowing certain prescribed changes to existing operations to be made sooner. The additional policy clarity for those amendments needing ministry approval would provide business certainty in terms of the consideration of the type of amendment, application requirements, processes, and public and Indigenous notification and consultation for their business planning when requesting an amendment from the ministry.

Supporting materials

Applications to amend licences, permits, and site plans under the Aggregate Resources Act

Proposed site plan amendments eligible for self-filing

Related links

- **Aggregate resources polices and procedures**
- **Aggregate Resources Act, 1990**
- **Ontario Regulation 244/97: General**

Full link to this page - https://ero.ontario.ca/notice/019-6767

Ontario

Applications to amend licences, permits, and site plans under the *Aggregate Resources Act*

1.0 Purpose

Amendments are changes to existing authorizations under the *Aggregate Resource Act*, and can include changes to:

- site plans;
- conditions of a licence, aggregate permit, or wayside permit; or,
- any other information normally included on licences, aggregate permits, or wayside permits (e.g., name of operator, address, etc.).

Amendments vary in type and complexity, ranging from administrative changes to significant changes to operations and rehabilitation. When proposed amendments would result in significant changes to operations or rehabilitation at an aggregate site, notification and consultation may be required.

The purpose of this policy is to:

- provide direction on applying for an amendment;
- guide Ministry of Natural Resources and Forestry (ministry) decision-making for reviewing an amendment application (including what constitutes a significant amendment); and
- provide direction on notification and consultation requirements for significant amendments.

2.0 Applying for amendments

Licensees and permittees may apply to the ministry to make an amendment to their licence or permit, to a condition of their licence or permit, or to their site plan.

2.1 Documentation and required information

Amendment applications and any additional information should be submitted online using the Natural Resources Information Portal. If web access is unavailable, the form and additional information may be submitted by mail to the ministry.

Applications for amendments must be submitted using the Amendment Form required by regulation.

The Amendment Form must include:

- a description of the proposed amendment(s); and,
- the reasons for the amendment(s).

A sketch or draft site plan showing the proposed changes must also be provided. The ministry will review the Amendment Form and accompanying documents and determine if additional information is needed to assess the application.

The information provided with an amendment application should clearly describe the proposed changes and identify any potential impacts resulting from the proposed changes. Measures to address impacts should be recommended where potential impacts are identified.

Additional information or reports may be requested by the ministry if the information provided does not clearly identify and address potential impacts. Applications will not be processed further until the requested information is received.

The types of information that may be requested by the ministry will fall into the same general categories as for new licence and permit applications but will be tailored to the proposed amendments and the specific areas where potential impacts are of concern. The scope of information requested will ultimately depend on the size and complexity of the proposed amendments. Complex applications may require technical reports or information similar to what is required for new licences and permits.

If an operator is unsure of what additional information may be needed, they can enquire with the ministry prior to submitting their application.

2.2 Amendments under section 13.1 and section 13.2

The *Aggregate Resources Act* and its regulation and standards include specific application requirements for two types of amendments:

i. going from above water table extraction to below water table extraction in a part of a site not approved to do so (s.13.1 and s.37.2); and

ii. expanding the boundary of a licence into an adjacent road allowance (s.13.2).

Applications for these amendments must include certain information and technical reports specified in the Aggregate Resources of Ontario Amendment Standards and must complete the notification and consultations requirements in Ontario Regulation 244/97 and the Aggregate Resources of Ontario Circulation Standards.

2.3 Amendments that do not require approval

Many amendments require ministry approval, however there are some small or routine types of site plan changes that can be made without ministry approval, provided specific conditions are met. These are called self-filed amendments.

Amendments that are eligible for self-filing and the requirements for self-filing are set out in sections 7.2 through 7.6 of Ontario Regulation 244/97.

As part of self-filing, the amended site plan must be provided to the ministry.

2.4 Amendments that require a new licence/permit application

Some changes cannot be processed by amending an existing licence, permit, or site plan. Instead, they require a new licence or permit application.

A new licence or permit application is required to:

- change a Class B licence to a Class A licence;
- expand a licence or permit boundary (except a licence expansion into a road allowance under s.13.2 of the Act); and
- change from a pit to a pit and quarry.

3.0 Ministry review of applications

Once the ministry receives an Amendment Form and supporting documents, it will review the application to determine if additional information or reports are required to assess the application.

3.1 Significant changes to operations or rehabilitation

Significant changes to operations or rehabilitation are changes that fundamentally alter operations at an aggregate site or how the aggregate site is to be rehabilitated. When proposed

amendments would result in significant changes to operations or rehabilitation at an aggregate site, notification and consultation may be required.

The ministry will determine if an amendment application proposes significant changes to operations or rehabilitation and will advise the applicant of any parties that must be notified of the application.

A key consideration for significance will be the magnitude of change to potential impacts that could result from the proposed amendments. Amendments that substantially increase impacts or potential impacts will in most cases be considered significant changes.

If the proposed amendments are related to activities that are already approved and will not substantially change the impacts that are already occurring or the risk of potential impacts that could occur, it is unlikely to be a significant change.

3.2 Examples of significant changes

Examples below are of changes to operations or rehabilitation that could be significant. Whether changes are significant will ultimately depend on the scale and magnitude of the changes, in particular changes to impacts.

In general, significant changes to the operations and rehabilitation will include those that substantially:

- increase the amount of material coming to or leaving the site
- increase the limits of extraction, including depth of extraction
- change or delay progressive or final rehabilitation, including final land use
- reduce protective setbacks or buffers (e.g., excavation within the distances specified in section 10.3(2) of O. Reg. 681/94 (Environmental Bill of Rights Act)
- change phasing of extraction or increase the amount of disturbed area at a site
- increase hours of operation
- increase the impacts or potential impacts to:
    - ground or surface water resources
    - natural heritage features
    - agricultural resources
    - cultural heritage resources

- increase amounts of noise or vibration generated
- increase the amount of dust generated
- increase impacts to nearby communities

3.3 Examples: changes that are not significant

The following examples would normally be considered as non-significant changes to operations or rehabilitation under the circumstances specified, provided no other concerns have been identified. There may be circumstances in which amendments in this list are determined by the ministry to be a significant change to operations or rehabilitation. This list of examples is provided as a guide and is not intended to be exhaustive or determinative.

Table: Rehabilitation changes

Amendment	Circumstances
Surrender of rehabilitated areas	Areas to be surrendered satisfy requirements of the rehabilitation plan.
Surrender of unextracted and undisturbed areas	Areas to be surrendered have not been extracted or disturbed.
Changes to final slopes or grading	Changes will use material that originated onsite (e.g., overburden/ unmarketable material)
Changes to a final rehabilitation plan to align with a final land use that is approved or will be approved by a planning authority (e.g., municipality, Niagara Escarpment Commission)	The applicant can demonstrate that the new final land use has or will be approved by the relevant land use planning authority. An example of this type of amendment is where the municipality has approved a plan of subdivision for an area that includes the pit/quarry.
Changes to vegetation cover or tree species	Provided that: • Vegetation/tree species is compatible with proposed final land use • Vegetation/tree species were not originally chosen to address concerns raised during a prior application process

Table: Operational changes

Amendment	Circumstances
Administrative changes to information on licences or permits	Administrative changes described in policy A.R. 2.02.02.
Removing common setbacks between existing operations	Operators (and landowners, if different) have consented in writing.
Excavation within setbacks/buffers	Excavation will not be within the distances to certain features/hazards specified in 10.3(2) of O.Reg. 681/94 (*Environmental Bill of Rights*)
Excavation within 30 m of a road or highway	Provided the applicant can demonstrate that the relevant road authority supports the change.
Increase to maximum annual tonnage of up to 5% of the original tonnage	Provided the maximum annual tonnage has not increased in the last 5 years. Note that for Class B licences the maximum tonnage cannot exceed 20,000 tonnes annually under any circumstance.
Temporary increase to maximum annual tonnage	The increase is not more than 10% of maximum annual tonnage for the site, or 100,000 tonnes, whichever is less. Duration - Where the increased tonnage will supply a contract for a municipal or provincial road project, the increase will be effective for the duration of the contract. Otherwise, the increase will be effective for a period of one year. Applicants making repeated requests for temporary increases may be directed by the ministry to apply for a permanent tonnage increase. Note - for Class B licences, the maximum tonnage cannot exceed 20,000 tonnes annually under any circumstance.
Importation of aggregate for blending or resale	Amount of imported material is not more than 20,000 tonnes or 20% of maximum annual tonnage for the site, whichever is less.
Importation of excess soil for required slope or grading	Provided it can be demonstrated that there is insufficient material available onsite. Where final slopes/grades

	requirements specified on the site plan are not specific (e.g., "minimum of"), sloping of 3:1 for pits and 2:1 for quarries will be assumed.
Lowering or removing berms	If the berm(s) are no longer needed for their intended purpose (e.g., noise attenuation or other impacts)
Raising or creating new berms	If required to attenuate noise or other impacts and does not require importation of material for their construction.
Removal of excess topsoil	Provided the applicant can demonstrate the topsoil is not required for site rehabilitation.
Changes to gates/fencing	Changes conform with minimum fencing/gate requirements in O.Reg. 244/97 (Aggregate Resources Act)
Shrinking or reducing limits of extraction, including raising final extraction elevation	Provided the total extraction area decreases, no new extraction areas are added to the extraction limits and the rehabilitation plan is not substantially changed.
Reducing hours of operation	Provided the new operating hours do not start earlier or end later in the day than the current operating hours.
Increasing hours of operation, within limits established by municipal noise bylaw	The applicant demonstrates that the changes comply with the local municipal noise bylaws.
Installing portable asphalt or concrete plants or portable processing equipment	Provided that: • Equipment is for the beneficiation of onsite material • Environmental Compliance Approvals, if required, have been obtained • Permitted by municipal zoning for site (e.g., as an accessory use) • Use of portable equipment will cease if substantial amount of material has not been extracted in the last 5 years

3.4 Changes to licence, permit, or site plan conditions

Conditions on licences and permits and notes or conditions on site plans can reflect the culmination of considerable review and discussion between applicants and other parties during the licensing and permitting process. Certain conditions may have been included on the licence or permit to address:

i. Concerns raised by the public, Indigenous communities, municipalities, or provincial or federal agencies;

ii. Recommendations from technical reports that supported an earlier application.

All implications of making changes to such conditions will need to be carefully considered and appropriate consultation with the original parties involved may be required.

3.4.1 Tribunal and Joint Board conditions

Conditions of a licence or site plan may have been added by a decision of the Ontario Land Tribunal or its predecessors, or by a decision of a Joint Board, to address issues heard by Tribunal or Joint Board as part of the hearings process. Requests to change any of these types of conditions will be considered only in exceptional cases and where other means of addressing an issue are not feasible.

Other conditions on the licence or site plan may relate to issues heard at the Tribunal or Joint Board, but the conditions were not specifically required by the Tribunal or Joint Board. All implications of making changes to such conditions will need to be carefully considered and appropriate consultation with the original parties involved may be required.

3.4.2 “Prescribed Conditions”

Between June 1997 and April 2021, all new licences and permits were subject to a mandatory set of conditions, known as “Prescribed Conditions”. These conditions were set out in the Aggregate Resources of Ontario: Provincial Standards, Version 1.0, and were attached as a schedule to the licence or permit when the licence or permit was issued. Subsequently, they were included in the Regulation and apply to all licence and permits issued after April 1, 2021. In general, the ministry will not consider changes to these mandatory conditions. Licensees or permittees facing extraordinary situations related to these conditions should contact the ministry to discuss possible solutions.

3.5 Site inspection

The ministry may, at its discretion, conduct a site inspection at any time during the amendment application process.

4.0 Notification and Consultation Process

When proposed amendments would result in significant changes to operations or rehabilitation at an aggregate site, notification and consultation may be required. Notification and consultation provide an opportunity for the notified parties to explain how their interests may be impacted by the proposal, and to suggest ways to mitigate the impacts from the proposed changes.

Notification and consultation under the *Aggregate Resources Act* is a proponent-led process. The applicant (i.e., proponent) is responsible for notifying parties to be consulted and responding to concerns or issues that they may have. The ministry will identify the agencies to be notified and, if applicable, will inform the applicant that landowners must also be notified. It will be the applicant's responsibility to determine the names and addresses to send the notices.

Posting applications for significant amendments on the Environmental Registry for public comment may also be required. Regulations under the *Environmental Bill of Rights*, 1993 determine when applications must be posted to the registry.

4.1 Notification package

If notification and consultation are required, the ministry will advise applicants in writing of the parties to be notified. Regulations require that the applicant serve notice to the parties identified by the ministry using registered mail, courier, or personal service.

The applicant will provide notified parties with the final version of the Amendment Form. Any other documents supporting the application, such as the sketch or draft site plan or reports, do not need to be circulated with the Amendment Form, however notified parties must be made aware that these additional documents are available at their request.

4.2 Notified parties

Parties to be notified may include government ministries, agencies or municipalities that have a direct interest in the proposal on account of their mandate or subject matter expertise (see Table below).

Notified parties may also include neighboring landowners (within 120 m of a site) or prior commentors or objectors, depending on the proposed changes. Consideration for whether notice

will be given to landowners will be based primarily on the potential for the landowners to experience significant change in impacts. In general, only landowners that may be directly impacted by the proposed changes will need to be notified.

If an applicant proposes significant changes to any aspect of a licence, permit or site plan that was originally established to satisfy the comments or objections of a person or agency, the ministry will consider and, where appropriate, require that the applicant attempt to notify and consult with the same parties.

When it is not practical or possible to give notice to a prior commenter or objector, alternatives may be considered. For example, where a neighboring landowner was originally notified but has since moved, the ministry may require that notice be sent to the current landowner.

Table: Examples of Ministry/Agency/Municipality Notification

Agency/Ministry	When notification may be required
Local and upper tier municipality where the site is located	Significant amendments that relate to municipal interests or jurisdiction, including but not limited to: • planning and land use • traffic and haul routes • natural heritage • source water protection • community impacts
Ministry of the Environment, Conservation and Parks	Significant amendments with potential impacts related to: • noise, dust, or vibration • surface or groundwater resources • endangered or threatened species Significant amendments at an aggregate site within 120m of a provincial park or conservation reserve.
Ministry of Transportation	Significant amendments that may have potential to impact provincial roads or highways.
Ministry of Tourism, Culture & Sport	Significant amendments that may have potential to impacts archaeological heritage, cultural heritage landscapes, or built heritage.

Ministry of Agriculture, Food & Rural Affairs	Significant amendments to a rehabilitation plan that currently requires the site to be rehabilitated to an agricultural land use, if: i. the proposed amendments would change the final agricultural land use to a non-agricultural land use; or ii. the proposed amendments would result in the site not being restored to the same average soil quality or agricultural capability.
Ministry of Mines	Significant amendments to aggregate permits that may have potential to impact rights holders under the *Mining Act*.
Conservation Authority with jurisdiction over the area	Significant amendments that may have potential to create negative impacts related to flooding, erosion, or other natural hazards.
Niagara Escarpment Commission	All amendments for sites within the Niagara Escarpment Planning Area, unless the Niagara Escarpment Commission has already approved the amendments.
Fisheries and Oceans Canada	Significant amendments with that may have potential to impact fish habitat.
Utility owners	Significant amendments that may have potential to impact a utility corridor on or within 120m of the site.
Other Crown land users or occupiers (aggregate permits only)	Significant amendments that may have potential to impact other uses/users or occupations/occupiers of Crown land.

4.4 Impacts considered under other regulatory processes

Amendments may require approvals under other legislation, in addition to their approval under the *Aggregate Resources Act*. To avoid duplication of processes under different regulatory frameworks, the ministry will consider the extent to which impacts or concerns with the changes have been considered and addressed through other approvals. Where other approvals processes provided opportunity for public input and have substantially addressed any impacts or concerns, additional notification and consultation under the *Aggregate Resources Act* may not be required.

4.5 30-day comment period

Under Ontario Regulation 244/97, notified parties are required to send comments to the applicant and the ministry within 30 days of receiving notice. Notice sent by registered mail or courier is deemed to be received 5 days after it is mailed or received by the courier for delivery. Comments are deemed to be sent once mailed or received by a courier for delivery. Comments that are not sent within the 30-day comment period may not be considered.

4.6 Addressing comments

Applicants are expected to make reasonable efforts to consider and, where feasible, address comments received from notified parties during the 30-day comment period. Following the comment period, the applicant will provide the ministry with a description of the steps taken to address the comments received. An explanation should be provided for comments that could not be addressed.

4.7 Environmental Registry

Regulations under the *Environmental Bill of Rights, 1993* require that the ministry post certain amendments to licences and licence site plans to the Environmental Registry for comment. Amendments to licences or licence site plans will typically be posted for 30 days. Ideally, the 30-day posting on the Environmental Registry will be same 30-day period given to notified parties. However, where this is not possible, the ministry will align the two 30-day periods as closely as possible. Comments submitted through the Environmental Registry process will be considered by the applicant.

5.0 Considerations

When deciding to approve or to refuse an amendment application related to a licence or licence site plan, the ministry will use matters outlined in section 12 of the *Aggregate Resources Act* as a guide, recognizing that not all considerations will be relevant in all circumstances. Other relevant considerations may also be identified by the ministry based on the specific details of an amendment application.

A similar approach (using section 12) will be taken when deciding to approve or to refuse to approve an amendment application for an aggregate permit or aggregate permit site plan. In addition, the ministry may refuse to approve changes to an aggregate permit or aggregate permit site plan if doing so would be considered by the ministry to be contrary to the public interest.

When deciding to approve or refuse an amendment to a wayside permit or a wayside permit site plan, the matters in section 26 of the *Aggregate Resources Act* will serve a guide.

5.1 Planning and land use

Ministry decisions to amend existing approvals under the *Aggregate Resources Act* are not prescribed under PPS and provincial plans. However, when processing amendments under the Act, MNRF will have regard to the PPS and/or policies contained in the relevant provincial plans.

5.2 Sites in the Niagara Escarpment Planning Area

If a site is located in the Niagara Escarpment Planning Area, the applicant should inquire with the Niagara Escarpment Commission (NEC) to determine whether a development permit is required. The ministry will not approve an amendment in the Niagara Escarpment Planning Area without either a permit from the NEC or confirmation that a permit is not required.

5.3 Source water protection

If the proposed site is in a Source Protection Area under the *Clean Water Act*, *2006*, and the applicant is proposing changes that are subject to mandatory policies in the applicable source protection plans, the applicant must provide details on how relevant source water protection policies will be followed and how associated mitigation measures will be implemented.

5.4 Comments received

The ministry will consider the nature and scope of the comments received by the applicant and whether they are reasonable and/or constructive. The ministry will also consider if the applicant was reasonable in their efforts to consider and, where feasible, address the comments. Comments that are unrelated to the proposed amendments or that do not specifically address the proposed amendments may be excluded from consideration. Similarly, comments that appear not to be made in good faith, are frivolous or vexatious, or are for the purpose of delaying the application process, may not be considered.

5.5 Duty to consult

Under section 3.1 of the *Aggregate Resources Act*, the ministry is required to consider whether adequate consultation with Indigenous communities has been carried out before exercising any power under the Act that has the potential to adversely affect Aboriginal or treaty rights. The ministry may delegate aspects of consultation with Indigenous communities to applicants to understand any potential adverse impacts on asserted or established Aboriginal and treaty rights.

The ministry will assess the adequacy of consultation efforts and determine whether additional consultation is required or whether any accommodation measures should be implemented to avoid, minimize or mitigate potential adverse impacts.

The notification and consultation requirements described in this policy are separate and distinct from the Crown's constitutional obligation to consult with Indigenous peoples. The ministry will continue to assess whether proposed amendments have the potential to adversely impact Aboriginal or treaty rights and will consult with Indigenous communities where required. Consultation with Indigenous communities may be required in addition to any public notification or consultation that are required by this policy and may be required in circumstances where public notification or consultation are not.

5.6 Refusing an amendment application

If the ministry refuses an amendment application, reasons for the refusal will be provided to the applicant. The resubmission of an application that was previously refused by the ministry will be treated as a new application unless stated otherwise by the ministry.

Decisions of the ministry are final. However, if the ministry refers an application under section 13.1 of the Act (lowering depth of extraction below the water table) to the Ontario Land Tribunal, the applicant is entitled to a hearing. The Tribunal will then determine the issues specified in the referral.

6.0 Submission of the final site plan

If the ministry approves an amendment application that requires only simple changes to a site plan, the changes may be made by hand on the site plan and signed by the ministry approver.

If the changes are not simple, the applicant must reproduce the site plan reflecting the approved changes and submit the final version to the ministry. The applicant cannot implement the approved changes until the final site plan has been accepted by the ministry.

Parts of the site plan that must be redrawn are required to be redrawn to the applicable site plan standards. If the site plan is for a Class A licence or an aggregate permit that would authorize more than 20,000 tonnes annually, the final site plan must be certified by a professional that meets the criteria set out in 0.2(3) of O.Reg. 244/97.

7.0 Future changes to this policy

Changes or clarifications to this policy may be approved as an addendum to this document or be issued as a separate 'policy bulletin', the content of which may be incorporated into this policy document at a later date. Changes may undergo public consultation, depending on their nature and extent.

Ontario

Proposed Site Plan Amendments Eligible for Self-filing

Overview

On September 1, 2020, changes to Ontario Regulation 244/97 (the Regulation) under the *Aggregate Resources Act* (the Act) came into effect, which set out eligibility criteria and requirements that allow operators of pits and quarries 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).

This approach has effectively reduced burden and provided efficiency to aggregate operations, while continuing to manage the impact of lower-risk activities on aggregate sites. This proposal is seeking your feedback on the following additional site plan amendments that a licensee or permittee may self-file without ministry approval when certain conditions are met as outlined in regulation.

In accordance with current regulatory requirements for other self-filed amendments, it is important to note that unless otherwise provided on an approved site plan, in addition to the proposed conditions identified below for each new activity, the amendments described in this document would continue to be subject to all applicable operating conditions prescribed in the Regulation under the Act. For example, “recycling activities on the site shall not interfere with the operational phases of the site or with the rehabilitation of the site”, (O. Reg. 244/97, s. 0.13 (1) 32), would apply to any licence or permit where a site plan amendment is self-filed to import recyclable material.

Furthermore, proposed site plan amendments for the activities described below would only be eligible for self-filing, provided they do not conflict with the Act, the Regulation, any other Act or regulation or any licence, permit or approval issued under the Act, the Regulation or any other Act or regulation.

Any licencees or permittees proposing changes that to do not meet all the eligibility criteria and conditions for self-filing must seek authorization from the ministry through a formal amendment process prior to implementing the change.

Proposals

Importation of Recyclable Material

For licences (private land only): Allow the importation of concrete, asphalt, brick, glass, or ceramics for recycling, provided the following criteria are met:

- municipal zoning for the site specifically allows the recycling of aggregate materials (asphalt, concrete, brick, glass, or ceramics) or the zoning by-law allows for accessory uses such as recycling to occur on the site;
- general processing activities (e.g., crushing, screening of aggregate) are already approved (on the site plan) to occur at the site;
- where a processing area is identified on the approved site plan, the location of stockpiled material for recycling is limited to this area;
- 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:
    - once excavation of aggregate on the site has been completed there will be no further importation of recycled materials and rehabilitation will be completed,
    - the quantity of recycled aggregate removed from the site each year shall count toward the total amount of aggregate that the licensee or permittee is entitled to remove from the site under the licence or permit, and
    - no more than 20,000 tonnes, or 10% of the annual production limit (whichever is less), of recycled material may be stored on the site at any time.

Entrances/Exits

Allow the addition or re-location of an entrance or exit to or from the site, provided:

- the road authority has approved the work and all prescribed operational standards related to entrances and exits are followed;
- the work will conform to all conditions of the approval from the road authority;
- the work will not harm or negatively impact existing features (e.g., natural/cultural heritage features, existing berms, etc.); and
- a copy of the approval from the road authority is provided with the submission form.

Portable Processing Equipment

Allow the addition, removal or re-location of portable processing equipment necessary for crushing, screening and processing aggregates, provided the following criteria are met:

- a mobile or site-specific Environmental Compliance Approval (ECA) has been obtained from the Ministry of the Environment, Conservation and Parks (note: if re-locating the equipment on the site, the ECA must allow for equipment to be moved);
- a copy of the mobile or site-specific ECA is provided with the submission form;
- use of the equipment is permitted as an accessory use in the municipal zoning for the property;
- there are no sensitive receptors situated:

  - within 500 metres of the boundary of the site for a quarry, or
  - within 150 metres of the boundary of the site for a pit;
- 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;
- noise and dust mitigations currently required by the approved site plan, licence, or permit, continue to be implemented; and
- where a processing area is identified on the approved site plan, the operation of portable processing equipment is limited to this area.

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), provided they will only remain on site for the duration of the project, and:

- "portable asphalt plant" and "portable concrete plant" have the same meanings as defined under the Provincial Policy Statement (PPS);
- a mobile or site-specific ECA has been obtained from the Ministry of the Environment, Conservation and Parks (note: if re-locating the plant on the site, the ECA must allow for plant to be moved);
- a copy of the mobile or site-specific ECA is provided with the submission form;
- 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;
- noise and dust mitigations currently required by the approved site plan, licence, or permit, continue to be implemented; and
- where a processing area is identified on the approved site plan, the operation of portable concrete/asphalt plants is limited to this area.

Above-ground Fuel Storage

Add, remove, or relocate an above ground fuel storage tank on the site, provided:

- fuel storage tanks are installed and maintained in accordance with the Liquid Fuel Handling Code as adopted under the *Technical Standards and Safety Act, 2000*;
- proposed fuel storage capacity does not exceed 5,000 litres;
- the location of fuel storage tanks is identified on the site plan;
- fuel storage tanks are not within a vulnerable area for the protection of drinking water sources where the handling and storage of fuel would be a significant drinking water threat, as defined in the Technical Rules under the *Clean Water Act, 2006*;
- fuel storage tanks are not within 30 metres of a waterbody and not within 2 metres of the established ground water table; and
- all other required approvals have been obtained (e.g., municipal, Niagara Escarpment Plan).