



REPORT

REPORT TO: Mayor Bonnette and Members of Council

REPORT FROM: Chris Mills, Commissioner of Transportation and Public Works

DATE: October 11, 2019

REPORT NO.: TPW-2019-0032

RE: Proposed Amendments to the Aggregate Resources Act

RECOMMENDATION:

THAT Report No. TPW-2019-0032, dated October 11, 2019, regarding the Proposed Amendments to the Aggregate Resources Act be received;

AND FURTHER THAT staff be authorized to provide comments on the Proposed Amendments to the Aggregate Resources Act posted on the Environmental Registry of Ontario (ERO);

AND FURTHER THAT staff reports back to Council after the Amendments to the Aggregate Resources Act are finalized;

AND FURTHER THAT the Town Clerk forward a copy of Report No. TPW-2019-0032 to the Ministry of Natural Resources and Forestry, the Ministry of Municipal Affairs and Housing, the Regional Municipality of Halton, the City of Burlington, the Town of Oakville, the Town of Milton, Conservation Halton, Credit Valley Conservation, the Grand River Conservation Authority, the Niagara Escarpment Commission, the Association of Municipalities of Ontario, and Halton's MPPs for their information.

BACKGROUND:

On September 20, 2019, the Ministry of Natural Resources and Forestry (Ministry) posted proposed amendments to the Aggregate Resources Act (ARA) for a 45 day comment period (closes November 4, 2019) on the ERO (Number 019-0556). The ERO posting provided only a summary of the proposed changes and did not include details regarding the specific wording of the proposed amendments to the ARA. At the time of this Report, details associated with the proposed amendments have not been made public.

The Ministry indicated that they hosted an Aggregates Summit in March of 2019 that included industry, municipal and indigenous leaders to allow for sharing of ideas for cutting red tape, creating jobs and promoting environmental stewardship and economic growth within the aggregate industry. While Halton Hills became aware of the summit just before the event through other channels, Staff were not formally invited and did not attend. As noted in the Ministry's ERO posting, the key themes heard at the summit included:

- Reducing duplication, inefficiency, and inconsistency in application and approval processes.
- Improving access to aggregate resources.
- Protecting agricultural lands and water resources.
- Enhancing rehabilitation.
- Continue public engagement and outreach on any proposed changes to the ARA framework.

The stated intent of the proposed amendments to the ARA is "to reduce burdens for business while maintaining strong protection for the environment and managing impacts to communities".

COMMENTS:

ERO Number 019-0556 refers to six proposed amendments to the ARA and identifies six regulatory changes which are under consideration. Included with the ERO posting for the Proposed Amendments to the Aggregate Resources Act were links to the following documents:

- Aggregate Resources Act
- Ontario Regulation 244/97 (Aggregate Resources Act)

The purpose of the posting is to invite comments on the proposed amendments, although at the time of preparing this Report, details of the specific changes to the Act and its associated Regulations were not available through the ERO. This section of the Report outlines a summary of the proposed changes and comments (based on the available information) for Council's consideration.

Proposed Amendments to the ARA:

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

The current process for aggregate operators to amend existing aggregate licenses for below the water table extraction does not include for any public consultation, no mandatory municipal consultation or any form of appeal process. The proposed change would provide the opportunity for municipalities and the public to provide input into the amendment approval process and if necessary, the ability to trigger a formal hearing process (i.e., LPAT). Staff are generally supportive of the proposed change, however, further consultation on the specific details of this amendment is warranted.

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

The proposed change would have significant implications for municipalities. Although the Town's Comprehensive Zoning By-Law does not address aggregate extraction depths at this time, Staff recommend that the Province not restrict the applicability of municipal zoning by-laws for aggregate operations to ensure that municipalities can have appropriate input on projects that impact the community and environment.

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

The proposed amendment would not apply in the Town. Based on the MNRF Crown Lands Portal, there is no Crown land within the Town of Halton Hills.

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

Haul routes are critical component of any aggregate operation and have the potential to generate significant impacts on communities through increased road maintenance costs, impacts to traffic operations and road safety, noise and dust, etc. Aggregate haulage cannot be accommodated on all municipal roads which must be taken into consideration when aggregate operations are being approved.

Given the issues with aggregate haulage, Ontario municipalities have routinely secured haul route agreements with aggregate operators to simultaneously outline expectations and responsibilities for road maintenance/upgrades and to protect the safety of quarry operators, and the public. The Town currently has a haul route agreement with Dufferin Aggregates for the Acton Extension Quarry. As previously reported the number of trucks

on Maple Avenue was reduced by approximately 25 percent as result of the haul route agreement.

The proposed ARA amendment appears to be designed to take this critical instrument away from the Minister and the LPAT. Without this, the ability for the municipality to address public safety, and road access, function, and maintenance will be severely restricted. This change has the potential to impact ongoing applications such as the Hidden Quarry proposal in the Township of Guelph-Eramosa, wherein the proponent proposes to use haul routes on Main Street and Mill Street in Acton. The impact of heavy truck traffic is a primary concern with the Hidden Quarry application. The Hidden Quarry LPAT hearing concluded in July 2019 and no decision has been released at the time this Report was prepared. It is staff's opinion that this change would apply to Hidden Quarry if the LPAT decision is not made prior to the amendments being enacted.

In addition, the Mayor recently received the Minister of Transportation's response on the Town's request to partner with the Town on the next phase of the Acton By-pass study and implement a truck inspection station along the Highway 7 corridor between Trafalgar Road and Acton. Notwithstanding the identified concerns with traffic operations at the Mill Street and Main Street intersection and constrained geometrics through the village, the Ministry has stated that the traffic volumes and operations do not warrant their participation. In addition, Highway 7 is not being considered for a truck inspection area.

With the inability to require haul routes from aggregate producers, the possible approval of the Hidden Quarry and the lack of support by the Ministry of Transportation, the ability of the Town to mitigate the impacts of additional truck traffic through Acton will be severely limited.

It is unreasonable to preclude the Minister and LPAT from imposing conditions on haul routes through agreements where road conditions, safety and financial issues are at risk. Such costs and risks should not be borne by citizens and taxpayers of the municipalities. Staff recommend that the ability for the Minister and the LPAT to impose conditions on haul routes should be maintained.

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

Staff generally support a simplified application process. It is recommended that the Ministry engage municipalities on the specific nature of the change proposed to ensure that the municipal interests are addressed.

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

Currently, the MNRF has sole discretion as to whether or not to circulate site plan amendments to the Town for comment. In some cases, the MNRF reviews and makes decisions without municipal input and the revised final site plan is provided to the municipality for information. It is essential that municipalities be consulted on this proposed change which must include the provision of a clear definition of “routine site plan amendments”.

Regulatory Changes Under Consideration:

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

Staff support enhanced reporting on rehabilitation. Without the details of the revised regulations, further comments cannot be provided.

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

It is essential that municipalities have the opportunity to review the details of the revised regulations that include a clear definition of “routine activities” in order to provide meaningful comments.

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

It is essential that municipalities be provided with the details of the revised regulations that include clear definitions of the terms “low-risk activities” and “personal use” in order to provide meaningful comments.

- 4) Clarifying requirements for site plan amendment applications.**

It is essential that municipalities be provided with the details of the revised regulations and until such time, meaningful comments cannot be provided.

- 5) Streamlining compliance reporting requirements, while maintaining the annual requirement.**

Staff may support “streamlining” if it provides up-to-date and accurate information that is verified by the MNRF and if the proposed change does not involve a reduction in the level of detail than what is currently provided. Until details of the revised regulations are provided, meaningful comments cannot be provided.

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

Notification and consultation requirements should not be reduced from that which is currently prescribed. It is essential that municipalities be provided with the details of the revised regulations and until such time, meaningful comments cannot be provided.

Staff recommends the Town request that prior to implementation of the proposed amendments to the Aggregate Resource Act, the Ministry conducts additional consultations with stakeholders to ensure that the details associated with the proposed amendments are clearly understood and that stakeholders can provide meaningful comments.

RELATIONSHIP TO STRATEGIC PLAN:

This Report does not have a direct relationship to the Strategic Plan, as its purpose is to seek approval to provide the above noted comments on the EOR posting for the Proposed Amendments to the Aggregate Resources Act.

FINANCIAL IMPACT:

There is no financial impact associated with this Report.

CONSULTATION:

The Ministry indicated that they hosted an Aggregates Summit in March of 2019 as part of their consultation process. Staff were not formally invited and did not attend the Summit.

Staff will report back to Council after the amendments to the Aggregate Resources Act are finalized or if additional consultation opportunities are provided by the Ministry.

The Manager of Policy Planning was consulted in the preparation of this Report.

PUBLIC ENGAGEMENT:

N/A

SUSTAINABILITY IMPLICATIONS:

The Town is committed to implementing our Community Sustainability Strategy, Imagine Halton Hills. Doing so will lead to a higher quality of life.

The recommendation outlined in this Report advances the Strategy's implementation.

This report supports the Environmental Health and Social Well-being pillars of Sustainability and in summary the alignment of this report with the Community Sustainability Strategy is Good, Excellent.

COMMUNICATIONS:

Comments on the proposed amendments must be submitted to the ERO posting by November 4, 2019.

CONCLUSION:

Staff recommends Council approves this Report to authorize Staff to provide the above noted comments to the ERO posting. Staff will report back to Council after the amendments to the Aggregate Resources Act are finalized or if additional consultation opportunities are provided by the Ministry.

Reviewed and Approved by,

A handwritten signature in black ink, reading "Brent Marshall". The signature is written in a cursive, flowing style with a large initial 'B'.

Brent Marshall, Chief Administrative Officer