

Staff Report 2019-0217

Meeting Date: October 22, 2019

Subject: Proposed Amendments to the Aggregate Resources Act, R.S.O. 1990

From: Ohi Izirein, Senior Policy Planner, Community Services Department

RECOMMENDATION

That the overview of comments on the proposed amendments to the *Aggregate Resources Act*, R.S.O. 1990, outlined in staff report 2019-0217 be endorsed;

That a copy of staff report 2019-0217 be provided to the Ministry of Natural Resources and Forestry and the Region of Peel.

REPORT HIGHLIGHTS

- The Ontario Government released proposed amendments to the *Aggregate Resources Act*, R.S.O. 1990 comments are due by November 4, 2019
- Key Changes to the Act include:
 - Reducing duplication and inefficiencies in the application approval process
 - Protection of agricultural and water resources
 - Clarification on haul route determination
 - Improve access to aggregates in municipal road allowances
 - Reduce municipal zoning duplication
 - Enhanced reporting on rehabilitation
 - Permission of low risk activities and self-filing of routine activities
- As the Town has many active aggregate resource extractions sites it is imperative that we be involved in the discussions as this is a priority for the Town and its Council.

DISCUSSION

Background

The Government of Ontario, as part of its Supporting Growing Communities plan, is proposing changes to the *Aggregate Resources Act*, R.S.O. 1990 (ARA) and associated regulations. On September 20, 2019, the government released proposed legislative changes that aim to “support our growing communities and promote economic growth within the aggregate industry while continuing our commitment to protect the environment and address community impacts”. The proposed legislative changes are posted in the Environmental Registry of Ontario (as **ERO # 019-0556**) for public input until November 4, 2019.

The proposed legislative changes are based on the Province’s belief that: “*The Greater Golden Horseshoe Region is projected to grow by approximately 4 million people by 2041. To support that growth, we will need aggregates to build our homes, schools, roads and transit systems,*” said John Yakabuski, Minister of Natural Resources and Forestry. “*That’s why we have developed a proposal that will create opportunities and support growth, while*

maintaining a steadfast commitment to protecting the environment and addressing impact”.

The Province has also emphasized that “aggregate resources play a vital role in Ontario's communities and economy”, confirming that in 2017, “Ontario's aggregate industry generated over \$1.6 billion in production revenue and supported more than 28,000 jobs in aggregate-related sectors to our communities”. Therefore, on March 29, 2019, the Province held an Aggregate Reform Summit in Caledon for invited industry representatives, local government and indigenous leaders, Academia, public and non-governmental organizations which focused on the following three areas:

- Industry: how to reduce red tape and obstacles that impact the aggregate resource industry
- Rehabilitation: how to ensure sustainability and stewardship
- Municipal & Indigenous Communities: how can we work better together

The information gathered by the Province at the summit and the online surveys (for which the Province received 378 submissions) were the basis for the proposed changes to the ARA and its regulations. Accordingly, key proposed changes would:

- strengthen protection of water resources through a more robust application process for requests to extract aggregates below the water table to ensure that groundwater resources are protected;
- improve access to aggregates within road allowances;
- clarify jurisdiction on Crown land and depth of extraction; and,
- clarify how haul routes are considered under aggregates legislation.

The above noted proposed changes will “ensure continued protection of source water and municipal drinking water while supporting a thriving aggregate sector”.

Comments

The proposed changes to the ARA and its regulations being considered by the Province (*italicized* in text boxes) are followed by Caledon's comments:

1. Protection of Water Resources

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 Town of Caledon supports changes to the ARA that will ensure the protection of water resources. Majority of aggregate operations are in the rural community that relies on wells for their drinking water. Protecting ground water from contamination is essential to the integrity of well water.

Notwithstanding, the Town is concerned about the restriction of the effort to protect water resource only to existing aggregate operations that want to expand *to extract aggregate within the water table*. It is recommended that changes to the ARA to protect water resources should apply to both new and existing applications.

2. Managing depth of extraction of pits and quarries.

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 Town supports proposed policy change to manage the depth of extraction of pits and quarries under the ARA. However, the Town recommends that information about the depth of extraction of pits and quarries should be available to the municipality during its review of the application.

3. Municipal Zoning on Crown Land

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

No comments.

4. Aggregate Haul Routes

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 licence, 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.

The designation of aggregate haul route continues to be contentious both during the review of applications and operation stages. In Caledon, the Official Plan policies are clear: haul routes are explicitly designated on Regional roads. Truck traffic are restricted on local roads except on rare occasions where aggregate materials are to be delivered for local uses. However, the Town is concern that the proposed policy only applies to applications in progress where a decision by the Local Planning Appeal Tribunal or the Minister has not yet been made. The need to clarify haul routes should apply to all applications regardless of the stage in the approval process.

5. Access to Aggregates in Municipal Road allowance

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

Caledon supports proposed policy to improve access to aggregate extraction adjacent to municipal road allowance. The proposed policy requires the support of the municipality. Municipal support should consider input from the community as well as based on studies to identify potential impacts on the community and how these impacts may be mitigated.

6. Self-filling of routine Site Plan Amendments

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

Caledon is concerned about proposed policy to permit self-filing of routine site plan application. Self-filing is not considered to be transparent. Moreover, it is difficult to agree of what constitute a routine amendment. Since the aggregate licencing process rely on municipal approvals in obtaining an official plan and zoning by-law amendments, both of which are public processes, all site plan amendments should be circulated to the municipality for input.

7. Allowing Low risk operations without permit

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.

The Town does not support the proposal to allow some low-risk activities to occur without a permit or license. This proposal is also subjective as it is unclear what type of operations may be considered “low risk” to be exempted. Since majority of all extraction operations occur in the rural areas the requirements for permit would ensure that the ministries, agencies and municipalities review and propose measures to safeguard the community against possible effects of extraction activities, including contamination of ground water. It is recommended that all aggregate operations should obtain permits to extract aggregate whether the operations are low risks or not.

8. Aggregate Fees

The proposed changes to the ARA and its regulations do not currently include changes to aggregate fees. However, the province is interested in obtaining input on the matter.

Caledon continues to advocate the need to review the current fee structure. The Town supports an increase in the fees paid by aggregate producers to compensate municipalities for cost incurred in the maintenance of roads, bridges and infrastructure because of heavy trucks.

Aggregate fees and levies have been consistent topics of discussion by TAPMO (Top Aggregate Producing Municipalities of Ontario) since the beginning of the recent review of the Aggregate Resources Act. Caledon, a member of TAMPO, is participating in these ongoing discussions within the association about potential changes to fees and levies. The Town would like to be invited to participate in all future provincial discussions on aggregate fees and levies. As the Town has many active aggregate resource extractions sites it is imperative that we be involved in the discussions as this is a priority for the Town and its Council.

FINANCIAL IMPLICATIONS

There are no immediate financial implications associated with this report.

COUNCIL WORK PLAN

Not applicable

NEXT STEPS

1. Provide Caledon's comments to the Ministry of Natural Resources and Forestry (via the ERO) on the proposed changes to the ARA and its regulations by November 4, 2019.
2. Continue to monitor changes to the ARA and regulations, including aggregate fees structure.
3. Report to Council, at an appropriate time, on the proposed legislative changes.

ATTACHMENTS

Schedule A: Proposed Amendment to the *Aggregate Resources Act*, R.S.O, 1990 (ARA) Comments Letter (ERO # 019-0556)