

## Aggregate Resources of Ontario: Policy

### UNDER THE AGGREGATE RESOURCES ACT

# Matters to be Considered in the Issuance of a Licence

## 1.0 Purpose

Section 12 of the [Aggregate Resources Act](#) (the Act) lists several matters which the Minister of Natural Resources must consider when deciding whether to issue or refuse an aggregate licence. These matters include a range of operational, planning, environmental, economic, and social considerations relative to which the application must be evaluated, and which must be appropriately addressed before issuing a licence. This policy provides direction for how Ministry of Natural Resources (MNR) staff will evaluate licence applications, with respect to these matters, to make a recommendation to the minister.

When MNR staff consider Section 12 of the Act, sources of information include the submitted Summary Statement and Technical Reports per the [Aggregate Resources of Ontario Technical Reports and Information Standards](#) (Technical Standards), comments made on the application per the [Aggregate Resources of Ontario Circulation Standards](#) (Circulation Standards) how recommendations or mitigation measures are included on the Site Plan per the [Aggregate Resources of Ontario Site Plan Standards](#) (Site Plan Standards), conditions of the licence per 0.12 of [Ontario Regulation 244/97](#) (the regulation), operational rules per section 0.13 of the regulation, and other information as deemed appropriate.

Based on an application review relative to these matters, MNR may:

- issue the licence,
- issue the licence with such conditions as the minister considers necessary,
- refuse the licence, or
- refer the application to the Ontario Land Tribunal (OLT).

A recommendation to approve or refuse a licence is based on one or more Section 12 considerations and the purposes of the Act.

**Note:** If a licence application is referred to the OLT, it must consider Section 12 of the Act prior to directing the minister to either issue or refuse a licence.

While this policy is intended to address matters considered under Section 12 of the Act, it is important to note that before issuing a licence, the minister must be satisfied that adequate Indigenous consultation has been carried out per Section 3.1 of the Act and the Crown's constitutional Duty to Consult.

## 2.0 Considerations in Issuing a Licence

Each of the matters to be considered, (a) through (k), under subsection 12(1) of the Act, is discussed in detail below.

### 2.1 (a) Effects on the Environment

The Act defines "environment" as the air, land, and water, or any combination or part thereof, of the Province of Ontario.

The Technical Standards require aggregate licence applicants to submit technical reports and information, with the latter in the form of a Summary Statement, all of which are related to the environment on, and in the vicinity of, the proposed pit/quarry. Reports on the Natural Environment, Maximum Predicted Water Table, and Water along with identification of source protection areas under the [Clean Water Act](#), as applicable, are intended to:

- describe environmental features, including water features, associated with the proposed pit/quarry,
- identify potential impacts from the proposed aggregate operations on the environment, and
- list measures that will be taken to avoid or mitigate any negative impacts.

Any mitigation measures, monitoring programs, or avoidance areas as identified in Technical Reports or Summary Statement must be included as site plan conditions.

The MNR will review the information and proposed avoidance and/or mitigation actions provided in the Technical Reports and Summary Statement to assess the nature and extent of expected environmental impacts of the proposed aggregate operation. The MNR will also consider comments received during the application process including those received from other provincial agencies, municipalities and the public.

Applications for sites located within provincial plan areas must also consider the [Greenbelt Plan](#), [Oak Ridges Moraine Conservation Plan](#), [Niagara Escarpment Plan](#), and [Lake Simcoe Protection Plan](#), as applicable, since they list additional environment-related considerations and policies related to pits and quarries, which must be addressed.

## **2.2 (b) Effects on Nearby Communities**

The Technical Standards require that pit applications within 150 m, and quarry applications within 500 m, of a sensitive receptor (as defined in the regulation) include a Noise Assessment Report, which addresses potential noise impacts and their mitigation. The Technical Standards also require that quarry applications proposing to extract 20,000 tonnes or more annually, and which are located within 500 m of a sensitive receptor, include a Blast Design Report, which demonstrates that expected sound and vibration from the proposed blasting are within provincial limits.

Impacts related to noise and dust may be mitigated by conditions specified in a licence or through the control and operation of a pit or quarry, as outlined in sections 0.12 and 0.13 of the regulation. Additionally, avoidance and mitigation recommendations stemming from the Technical Reports and Summary Statement must be included as site plan conditions.

The Ministry of the Environment, Conservation and Parks (MECP) administers the *Clean Water Act*, [Environmental Protection Act](#), and [Ontario Water Resources Act](#), which address off-site effects such as dust, noise, vibration, and impacts to water including discharge and drainage. Applicants may also require approvals under these acts, such as an [Environmental Compliance Approval \(ECA\)](#), to operate a pit or quarry.

## **2.3 (c) Comments from Municipality**

The Circulation Standards require applicants to circulate their applications for comment directly to local and upper-tier municipalities where the proposed pit/quarry is located. Municipal comments may address a variety of municipal matters relevant to the aggregate proposal, including land-use compatibility. They may also pertain to official plans, zoning by-laws, truck traffic, and final rehabilitation, as they relate to a proposed aggregate operation.

Recommendations from the municipality will be carefully considered by MNR and may be included as site plan conditions.

## **2.4 (d) Rehabilitation Plans**

Progressive and final rehabilitation plans are site-specific, varying according to the unique characteristics of the pit/quarry, original and/or surrounding land use, and any municipal land use planning controls.

The Site Plan Standards require inclusion of progressive and final rehabilitation details on the site plan. Section 0.13 identifies minimum requirements for rehabilitation and the Technical Standards require rehabilitation-related information, particularly within the context of adjacent lands, to be included in the Summary Statement.

Applications for sites located within provincial plan areas must also address the additional considerations and policies related to progressive and final pit and quarry rehabilitation in the Greenbelt Plan, Oak Ridges Moraine Conservation Plan, Niagara Escarpment Plan, and Lake Simcoe Protection Plan, as applicable.

Before issuing a licence, MNR must be satisfied that the pit/quarry site can be:

- restored to its former use or condition, or
- changed to another use or condition that is compatible with adjacent land uses, and
- rehabilitated as required by applicable provincial plans.

## **2.5 (e) Effects on Ground and Surface Water**

To assess possible effects from proposed aggregate operations on ground water sources, all applications must include a Maximum Predicted Water Table Report documenting the

highest level of the ground water table relative to the lowest anticipated depth of extraction.

Excavation at a pit proposed to be above the water table may not occur within 1.5 metres above the maximum predicted water table. Excavation at a quarry proposed to be above the water table may not occur within 2 meters above the maximum predicted water table.

A Water Report is required if the application proposes to extract below the water table (defined in Ontario Regulation 244/97) and must:

- identify any potential impacts to ground and surface water resources, and
- describe how any potential negative impacts on ground water and surface water resources will be avoided or mitigated during operations.

Recommendations from the Water Report (e.g., setbacks from sensitive features/wells, ongoing monitoring, and contingency plans) must be reflected as site plan conditions.

Regardless of whether a Water Report is needed, any proposed surface water drainage, drainage facilities, water diversion, and points of discharge to surface water must be included on the site plan, per the Site Plan Standards.

If the proposed site is within a source protection area (under the *Clean Water Act*), then the:

- Summary Statement (under the Technical Standards) must identify potential threats from the proposed operations to drinking water, as described in source protection plans, and describe how relevant source water protection policies will be followed, to mitigate any effects on drinking water, and
- Site plan must identify whether the proposed pit/quarry is within a source protection area and whether source water protection policies apply to the site, as well as include any applicable source protection policies as conditions.

The MECP is a primary commenting agency regarding ground and surface water resources and may require further information about ground water and well monitoring, potential water contamination, and ECAs for proposed water taking or discharge. Local

source protection authorities may also provide comments in accordance with the *Clean Water Act* to ensure sources of drinking water are not negatively affected.

MNR must be satisfied that proposed operations will not adversely affect groundwater or surface water resources and that any identified or potential impacts can be effectively mitigated.

## 2.6 (f) Effects on Agriculture

As per the Technical Standards, a Summary Statement must include information on the agricultural classification of proposed sites using the Canada Land Inventory classes. For any lands being returned to an agricultural use as part of rehabilitation, the proposed rehabilitation techniques must also be identified in the Summary Statement. In addition, the suitability of the proposed rehabilitation efforts (including back to an agricultural use) must have regard to adjacent lands.

An [Agricultural Impact Assessment \(AIA\)](#), completed in accordance with provincial guidance, is required where a provincial plan requires such an assessment for applications proposed in a 'prime agricultural area' (defined under the [Provincial Planning Statement](#), 2024; PPS), and must document:

- any potential impacts to agriculture,
- steps that may be taken to avoid such impacts,
- measures that will be implemented to minimise or mitigate unavoidable impacts, and
- how the site will be rehabilitated back to agriculture, where applicable

Any recommendations from an AIA received as part of a licence application, relating to mitigative measures and rehabilitation techniques, are to be included as site plan conditions.

**Note:** The MNR acknowledges that, under the PPS, completion of an AIA or an equivalent analysis based on provincial guidance is required to evaluate impacts on the agricultural system from new or expanding non-agricultural uses in prime agricultural areas. However, the Technical Standards do not currently explicitly require AIAs for all aggregate

applications outside the coverage areas of the applicable provincial plans. AIAs may still be required under the Planning Act. Where completed, they may be considered by MNR for aggregate applications, with recommendations from the assessment potentially added as site plan conditions.

It is recognized that complete rehabilitation back to an agricultural condition may not always be feasible, especially if the depth of extraction is to go below the water table. The Ontario Ministry of Agriculture, Food and Agribusiness (OMAFRA) is to be circulated any application that calls for prime agricultural area(s) not being restored to the same average soil quality of the existing conditions of the proposed site or when an AIA has been completed as part of the licence application.

## **2.7 (g) Planning and Land Use**

The *PPS* establishes several provincial interests related to land use planning (e.g., protection of natural and cultural heritage features and resources, water resources, mineral and mineral aggregate resources) which must be considered and addressed during any development application. *The Planning Act* empowers municipalities to control land use through zoning by-laws. However, the Aggregate Resources Act does not allow a licence to be issued for a site which zoning by-laws prohibit from being used as a pit or quarry. Therefore, a licence will be issued only if all land-use and zoning-related issues are addressed, and the required zoning is in place.

If MNR is in doubt about any zoning-related prohibition of pits/quarries for the site, especially related to legal non-conforming use/status, it may notify the applicant of the same. The applicant may take the matter to the Superior Court of Justice for a declaratory judgement that there is no zoning prohibition on the development of a pit/quarry at the proposed site. However, it is the applicant's responsibility to obtain the required zoning for the site, and the zoning designation of the site, and of areas within 120 m of the site, must be clearly identified on the site plan.

During their review of the application, the municipality (local, county, or regional), or the Ministry of Municipal Affairs and Housing (MMAH), and other public agencies as appropriate, may identify local planning and land-use concerns, including zoning-related

issues. To evaluate whether the proposed pit/quarry site is compliant with applicable zoning by-laws, MNR must receive comments from the municipality or MMAH regarding whether the site needs to be zoned or be re-zoned to allow aggregate extraction.

Provincial plans (i.e., Greenbelt Plan, Oak Ridges Moraine Conservation Plan, Niagara Escarpment Plan, and Lake Simcoe Protection Plan) include additional land use planning considerations that relate to the establishment, operation, and rehabilitation of pits and quarries, which must be addressed and be included on the site plan or licence, where applicable.

## **2.8 (h) Haulage Routes and Truck Traffic**

Haulage routes and truck traffic influence the transportation of aggregates to market and need to be considered when deciding whether to issue a licence. The Technical Standards require that Class A licence applications (i.e., proposing to extract over 20,000 metric tonnes annually) describe the main haulage routes and anticipated truck traffic to and from the proposed site, as well as list applicable entrance permits, as part of the Summary Statement. Entrances to the site must be clearly identified on the site plan.

MNR will consider comments, including those from municipalities and/or the Ministry of Transportation (MTO), regarding a variety of considerations including existing traffic patterns, road conditions, additional truck traffic, initial road improvements to support additional traffic from the operation, dust, noise, safety, alternative routes, and other potential traffic implications associated with the proposed operation.

**Note:** Per subsection 12(1.1) of the Act, MNR will not consider ongoing maintenance and repairs required to address haulage-related wear and tear on roads when making a decision.

If the commenting authority approves a proposed entrance in principle and will only issue the entrance permit after the aggregate licence has been issued, then the site plan must specify that no material will leave the pit/quarry without a valid entrance permit.

## **2.9 (i) Quality and Quantity of Aggregate**

The Technical Standards require Class A licence applications to include information regarding the quality and quantity of aggregate at the proposed site in the Summary Statement. This information may include site-testing data available to the applicant but must be adequate to determine whether there is sufficient quality and quantity of material to justify licensing the site, with the understanding that demand for aggregate will vary based on site location.

MNR's review of this information may be supplemented with review of Aggregate Resource Inventory Paper Reports, geological reports, field data from other government agencies (e.g., MTO), and other available resources.

## **2.10 (j) History of Compliance**

When reviewing an application, MNR will check whether the applicant has a history of violations with respect to other aggregate licences or permits that the applicant holds, and whether the violations were corrected or are still outstanding.

**Note:** For the purposes of this consideration, MNR will not consider any contravention disclosed by the applicant in an annual compliance report for an existing aggregate authorization to be a history of non-compliance if the applicant immediately ceased the contravention and remedied it within 90 days of the contravention or within the time required by MNR.

## **2.11 (k) Other Appropriate Considerations**

In addition to the above-described matters (a) through (j), MNR will consider any other matters of relevance to the proposed aggregate operation. Thus, the minister may also consider unforeseen or special issues that arise during the application process.