

September 25, 2025

Sheena Tower
Senior Policy Advisor
Development and Hazard Policy Branch
Ministry of Natural Resources
300 Water Street, 2nd Floor S
Peterborough, ON K9J 8M5

Dear Sheena:

**RE: Ontario Stone, Sand and Gravel Association Comments on Updating and Modernizing of Operational Policies supporting the Delivery of the Provincial Aggregate Resources Act Program
ERO# 025-0216**

The Ontario Stone, Sand and Gravel Association (OSSGA) appreciates the opportunity to provide feedback on the proposed policy updates under the Aggregate Resources Act.

Based on our review, we generally find that the policy proposals reflect previously approved changes to the ARA framework, and provide updated guidance and clarity for new licence applications.

We are pleased to provide the following comments on specific elements of the policy proposals for your consideration.

Cultural Heritage Report

As discussed extensively with MNR over the last couple of years, the approach to avoidance and protection areas for archaeology in new applications is of significant importance and concern to OSSGA and its members.

In theory, the preferred way of assessing archaeology is to have all assessments and clearances completed as part of the licence application. However, this is no longer feasible as costs to undertake Stage 3 and 4 Archaeological Assessments are exorbitant. Applicants are reluctant to make those investments with no guarantee of securing a licence once complete.

The practise endorsed by OSSGA is for extraction to commence in the licensed areas of the site – while avoiding and protecting archeological areas as identified – until they are cleared.

This approach that has been discussed with MNR and has been incorporated to a degree in the draft Cultural Heritage Policy in so far as the new policy states that remaining archaeology areas can be left within the licence and extraction areas with appropriate protections included on the site plan per acceptance from MCM. Provincial guidelines on archaeology allow for temporary avoidance of an archaeological site prior to full excavation, and generally the requirement for temporary protection is achieved with establishing a buffer and fencing.

This approach allows applicants to move forward with their licence application and complete the remaining archaeological work as extraction proceeds through the site, or in some cases, during the licence application review process.

The mechanism for which protections are removed from the site plan for cleared archaeology areas must be clearly understood and free from ambiguity. The technical studies and consultation process completed through the licence application must be taken into account such that applicants are not forced to redo duplicative and redundant processes that add costs and complexity.

The draft policy indicates that a letter from MCM confirming the archaeological assessment recommendations be included with the licence application for it to be deemed complete. MNR should be aware that the timelines for MCM issuing a clearance letter can be extensive. In a recent application, OSSGA was made aware that MCM indicated to a licence applicant that a response would be provided in one year. MNR should be discussing this requirement directly with MCM so they are aware of the importance of expedient reviews for licence applications or, preferably, MNR should remove this as a requirement in deeming the application complete, especially in the case where the archeologist report has deemed that no further action is warranted.

Enclosed we have provided our suggested revisions to the Avoidance and Protection section of the draft Cultural Heritage Policy. We would welcome further discussions with MNR on this matter.

With respect to the archaeology and cultural heritage checklists that are required for licence applications, it should be made clear that the area to be assessed are the lands proposed to be licensed to reduce any confusion.

Matters to be Considered in the Issuance of a Licence

It is our understanding from MNR that the changes made to this policy are largely administrative in nature. However, we would note that the Section 12 matters are to be considered by the Minister in issuing a licence and that these are specifically reviewed and assessed by the Tribunal where a licence is referred to a hearing.

2.2 (b) Effects on Nearby Communities

The proposed policy notes that related approvals may be required under the Clean Water Act, Environmental Protection Act and Ontario Water Resources Act to address off-site effects such as dust, noise and impacts to water. For additional clarity, applicable conditions in subsection 0.12(1) of O. Reg. 244/97 could be referenced.

2.3 (c) Comments from Municipality

The policy states that recommendations from the municipality will be carefully considered by MNR and may be included as site plan conditions.

We recommend that a clause be added to the end of this statement such as "except where it conflicts with the ARA". It is OSSGA's observation that some municipalities are attempting to regulate aggregate operations, either directly or indirectly, contrary to the ARA. This would ensure it is very clear that such recommendations may not be appropriate or permissible to add to a site plan.

2.6 (f) Effects on Agriculture

A note is added to this section that states an applicant who does not propose to restore a site back to agricultural condition must obtain clearance from the Ministry of Agriculture, Food and Agribusiness.

PPS 4.5.4.2 specifically outlines where complete agricultural rehabilitation is not required for aggregate applications. It does not require clearance from OMAFA. If this becomes a requirement, MNR must communicate this directly with land use planning staff from OMAFA so that they are aware of what they will need to provide in writing for licence applications that would be subject to this requirement.

2.7 (g) Planning and Land Use

As the section addresses planning and land use matters, Section 66 of the Aggregate Resources Act should be referenced as is the current approach in ARA Policy Manual AR 2.01.11. As previously noted, OSSGA is concerned about recent municipal attempts to override the ARA and it would be important to emphasize this foundational aspect over the Provincial management of aggregate resources within this section.

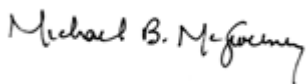
Regarding the statement that MNR must receive comments from a municipality or MMAH regarding whether the site needs to be rezoned, MNR must recognize that the legislative test is whether zoning prohibits the site from being used for the making, establishment or operation of pits and quarries. If a municipality does not provide comments under the ARA, which is not infrequent, would that then delay the issuance of a licence? It should also be noted that some municipalities pre-zone aggregate sites meaning that the zoning is already in place prior to the licence application being submitted. MNR should be able to make a determine on the zoning permitting the use based on information provided by the applicant.

2.9 (i) Quality and Quantity of Aggregate

This policy states that applicants must provide information to determine whether there is sufficient quality and quantity of material to justify licensing the site. This section should also reference PPS 4.5.2.1 that as much of the mineral aggregate resources as is realistically possible shall be made available as close to markets as possible, and that demonstration of need shall not be required. This policy should be referenced and considered by MNR in the context of the quality and quantity of aggregate.

Thank you for the opportunity to submit comments on the proposed policy changes. If you have any questions, please let us know.

Sincerely,
ONTARIO STONE, SAND & GRAVEL ASSOCIATION



Michael McSweeney
 Executive Director

...

- c. Andrew Ogilvie, MNR
Steven Strong, MNR
Josh Annett, MNR
Ayesha Prasad, MNR
Stephen Douglas, MNR

Encl: Proposed Revisions to Section 3.3 of Cultural Heritage Report

Aggregate Resources of Ontario: Policy

Cultural Heritage Report

OSSGA Recommended Revisions (Sept. 2025)

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3.3 Avoidance and Protection

In some cases, the Consultant Archaeologist may recommend avoidance and protection (AP) for archaeological sites within an aggregate operation, to ensure that these sites are protected until archaeological work can be completed for them, while allowing aggregate operations to proceed elsewhere in the licensed/permitted area.

Where MCM's letter supports the Consultant Archaeologist's AP recommendation, applicants may request approval from MNR to carry out AP within the proposed licensed/permitted area. The letter(s) from MCM confirming the Consultant Archaeologist's AP recommendation must be included with the application, for the application to be deemed complete.

MNR will consider requests to apply AP to their proposed operation if AP area(s):

- ~~are not located in early phases of operations, to avoid impacts that do not significantly impede operational phasing and/or rehabilitation.~~
- ~~Implement the direction provided in Section 3.3.1 below on the site plan.~~
- ~~do not occupy a significant proportion of the proposed licensed/permitted area.~~
- ~~do not require numerous protection conditions and do not add additional complexity to ARA and site plan approvals and implementation.~~

MNR may determine that AP is not feasible for some of, or all, the archaeological sites identified for AP. For example, where the proposed AP measures are likely to significantly impede operational phasing of excavation and/or progressive or final

Commented [ND1]: OSSGA supports this approach which has been fundamental to the archaeological discussions with MNR and is in line with provincial guidelines for archaeology.

Commented [ND2]: See our comments in the letter regarding extensive delays with MCM and issuing such letters. If this is required, please communicate this with MCM so that letters are provided in a timely manner.

Commented [ND3]: These bullet points introduce arbitrary and subjective decision-making as to what constitutes 'early phases', 'significant proportion' and 'complexity'.

The proposed changes reflect the other proposals MNR has proposed which OSSGA considers to be more objective and in line with key principles.

rehabilitation. MNR's determination will, in part, be informed by the size, location, and number of proposed AP areas.

Applicants interested in applying AP to their proposal should consider contacting MNR (ARAapprovals@ontario.ca), to discuss their AP request, prior to submitting their application.

Commented [ND4]: Please ensure this is communicated to Aggregates Section so they are aware that these requests can be made.

3.3.1 Implementing AP on the Aggregate Site Plan

For AP requests, site plans (including operations, rehabilitation plans and notes) must:

- clearly show AP areas (i.e., the protected archaeological sites together with any required buffers) and label them as areas not to be extracted or disturbed in any way, until receiving written approval from MNR ~~to amend the site plan~~, to remove protections from the operations plan and to revise the rehabilitation plan.
- show distances from AP areas to the nearest landmarks, and sizes of the AP areas in hectares.
- include all protections prescribed by MCM, as recommended by the Consultant Archaeologist (including fencing), as clear and unambiguous conditions.
- include a condition that AP area(s) will be physically demarcated on the ground, using fencing, if required by MCM, or posts or other markers.

Commented [ND5]: As discussed previously with MNR, there are other options available beyond a site plan amendment e.g. written approval from District, self-filing amendment, etc. The issue with site plan amendment is potentially triggering consultation and study requirements.

Because AP areas may be eventually extracted/disturbed, all applicable technical studies and corresponding reports (i.e., Maximum Predicted Water Table, Water, Natural Environment, Blast Design, Noise, Agricultural Impact Assessment) should include AP areas, and address all other potential impacts from possible full extraction of the site. This would scope and simplify a future site plan amendment, **if required**, for removing AP protections because all other potential impacts will have already been considered and addressed at the time of application.

~~Depending on comments received or interest expressed in response to the application, MNR may require that the operator engage interested/impacted Indigenous communities during archaeological studies undertaken in AP areas.~~

Commented [ND6]: MCM has specific Indigenous consultation requirements that archaeologists must meet during archaeological studies. This would be duplicative and unnecessary.

3.3.2 Removing AP Areas from the Site Plan

Site plans which allow AP will require an amendment or written approval from MNR to (i) remove protections from, and operate within, AP areas, and (ii) revise rehabilitation plans, accordingly.

This ~~process~~ ~~site plan amendment process~~ would consider only any new information generated by archaeological studies within the AP area(s), as all other technical reports will have been submitted at the time of application. ~~Depending on the outcome of the studies, MNR may require additional scoped consultation with relevant agencies, as well as Indigenous communities.~~

~~If a site plan amendment application is submitted which removes AP area(s), the requirements in Section 13.1 of the Aggregate Resources Act for amendments regarding depth of extraction shall not be triggered.~~

AP areas must not be disturbed in any way until MNR (i) receives the Consultant Archaeologist's report recommending removal of AP measures, (ii) receives MCM's letter declaring the sites free of any further archaeological concern, **and** (iii) approves a site plan amendment or provides written approval to operate within AP areas.

Note: Until MNR approves the lifting of AP measures through a site plan amendment or provides written approval: (i) AP areas must remain clearly demarcated on the site, and (ii) both operational and rehabilitation plans must depict the areas as undisturbed.

AP area(s) that do not receive MCM clearance to be disturbed will remain undisturbed along with all required protections, including buffers/fencing, as permanently protected areas.

3.3.3 Ongoing Avoidance and Protection of Archaeological Sites

In AP areas the Consultant Archaeologist may, based on archaeological investigations, recommend ongoing protections for some or all the archaeological sites. If MCM confirms this recommendation, then the site plan must continue to show the archaeological site(s) as being protected from all disturbance, and must continue to be protected onsite, using any measures stipulated by MCM, including fencing.

Further, at the time of application, if there are specific archaeological sites which the applicant does not intend to eventually excavate, then those sites must be (i) shown on the site plan as 'no disturbance areas' outside the extraction area, and (ii) be protected

Commented [ND7]: Conflicts with last sentence of 2nd last paragraph in Section 3.3.1. Additional consultation should not be required where impacts were already fully addressed through licence application.

Commented [ND8]: This needs to be explicitly clear so that these provisions which are onerous and unnecessary for this type of amendment are not triggered. This would ensure MNR does not have to use the Section 68 relief from compliance provisions in each applicable situation.

DRAFT POLICY FOR CONSULTATION – SUBJECT TO CHANGE

onsite using any protections recommended by the Consultant Archaeologist and prescribed by MCM.