



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Planning Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	October 15, 2019
<b>SUBJECT/REPORT NO:</b>	Proposed Amendments to the Aggregate Resources Act – Request for Comments (PED19207) (Wards 9, 11 to 13, 15)
<b>WARD(S) AFFECTED:</b>	Wards 9, 11 to 13, 15
<b>PREPARED BY:</b>	Joanne Hickey Evans (905) 546-2424 x1282
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATIONS**

- (a) The City is concerned about the process the Province is following for the proposed amendments to the Aggregate Resources Act (ARA) and associated regulations for the following reasons:
- (i) there are no specific details that allow municipalities to understand and comment on changes to the ARA that may impact both the City and its residents;
  - (ii) the time frame for comments on this ERO posting is short; and,
  - (iii) there are no details as to when municipalities will be given another opportunity to comment or the length of time that will be provided to respond to specific changes to the ARA or the associated regulations.
- (b) The City requests:
- (i) the wording “within the water table” be clarified (e.g. below the water table, above the water table); and,

**SUBJECT: Proposed Amendments to the Aggregate Resources Act – Request for Comments (PED19207) (Wards 9, 11 to 13, 15) - Page 2 of 6**

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- (ii) that when the Province proposes specific amendments to both the ARA and the associated regulations the comment period be a minimum of 90 days to determine the impacts on the City and its residents.
- (c) The City supports changes to the Act and regulations related to:
  - (i) strengthening the protection of water resources for extraction within the water table as part of a more robust application process for existing operations;
  - (ii) increasing public engagement for applications that may impact water resources;
  - (iii) enhancing reporting on rehabilitation; and,
  - (iv) reviewing the notification and consultation requirements for new applications.
- (d) That the City Clerk's Office be directed to forward Report PED19207 to the Ministry of Municipal Affairs and Housing, and this Report is considered the City of Hamilton's formal comments on the Proposed Amendments to the Aggregate Resources Act

## **EXECUTIVE SUMMARY**

On September 20, 2019, the Province posted a proposal to amend the *Aggregate Resources Act* (ARA) and associated regulations through ERO 019-0556. Comments are due by November 4, 2019 (45 day posting).

There are no specific changes to the Act or associated regulations proposed in this ERO posting. It is difficult for staff to comment without details; however, there is a commitment by the Province to provide details at a later date. No time frames have been identified.

Staff are concerned with the Province's approach to consultation given the short time frame for comments and the lack of detail on proposed changes at this stage.

There are some positive directions for future changes, including:

- strengthening the protection of water resources for extraction within the water table as part of a more robust application process for existing operations;
- increasing public engagement for applications that may impact water resources;
- enhancing reporting on rehabilitation; and,
- reviewing the notification and consultation requirements, among other requirements, for new applications.

**SUBJECT: Proposed Amendments to the Aggregate Resources Act – Request for Comments (PED19207) (Wards 9, 11 to 13, 15) - Page 3 of 6**

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Given the vagueness of the other proposed Act and regulation changes, staff are unable to determine if such changes can be supported or if there are any impacts on the City or its residents.

**Alternatives for Consideration – See Page 6**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: N/A

Staffing: N/A

Legal: N/A

**HISTORICAL BACKGROUND**

On September 20, 2019, the Province posted a proposal to amend the *Aggregate Resources Act* (ARA) and associated regulations through ERO 019-0556. Comments on the proposed changes to the Act and the potential regulatory changes are due by November 4, 2019 (45 day posting).

These proposed changes are the result of an Aggregates summit (March 2019) and a follow-up survey with the industry, municipalities and indigenous leaders. To staff's knowledge, no one for the City was invited or attended this summit. Based on the ERO posting, the themes heard as a result of this consultation included:

- Reducing duplication for applications and processes;
- Improving access to aggregates;
- Protecting agricultural lands and water resources;
- Enhancing rehabilitation; and
- Continuing public engagement on any proposed changes to the ARA framework.

Amendments to the ARA are proposed to “reduce burdens for business while also ensuring the environment is protected and Ontarians continue to have an opportunity to participate in processes that may impact them.”

The proposed Act and regulatory changes are vague and no specific changes to with the ARA Act or the regulations has been identified.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

N/A

## **RELEVANT CONSULTATION**

N/A

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)**

A pattern of provincial engagement (e.g. limited or targeted public consultation, short commenting periods, vague Act regulation or Plan changes, uncertainty as to the number of opportunities to comment, and posting changes on ERO followed by a short effective date between posting and coming into effect) continues.

There is a commitment to consult further on any regulatory changes but there are no details as to when or how this consultation will take place or the length of time municipalities will be given to make comments on any proposed changes.

### **1.0 Proposed Changes to the ARA and Associated Regulations**

As noted above, there are no specific changes to the ARA or the regulations that the City can review. However, there are some initial comments that can be provided. It should be noted that under the key themes from the Province's spring engagement which have been identified in this ERO posting, there does not appear to be any proposed changes related to the treatment of agricultural lands.

#### **1.1 Strengthening Protection for Water resources**

The proposed changes would affect existing operators that want to expand within the water table by creating a more robust application and public engagement process in cases where water resources maybe impacted.

Additional protection of water resources is a positive step. However, staff are unclear what "within the water table" means since the description for aggregates is above or below the water table. As a result, it is difficult to determine what applications would be affected. Further, there is no description of what enhanced public engagement or increased application requirements would be.

#### **1.2 Haul Routes**

The ERO posting indicates that the revisions will clarify how haul routes are considered under the ARA so that the Local Planning Appeal Tribunal and the Minister, when making a decision on a license, cannot impose conditions requiring agreements between municipalities and aggregate producers regarding aggregate haulage. Agreements can still be entered into between municipalities and aggregate producers on a voluntary basis.

**SUBJECT: Proposed Amendments to the Aggregate Resources Act – Request for Comments (PED19207) (Wards 9, 11 to 13, 15) - Page 5 of 6**

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When evaluating a proposal for a new aggregate operation, the issue of the preferred haul route is a consideration due to the volume of truck traffic associated with aggregate operations as well as the potential for road damage due to the heavy usage. Based on previous applications in the City, implementation of a preferred haul route may require road network improvements (e.g. enhanced intersection control, turning lanes, etc.), road improvements (e.g. reconstruction of a road segment) and land acquisitions. (road widenings). It appears based on the wording in the notice that the revisions will clarify that conditions cannot be imposed on an aggregate producer which would require them to enter into a haul route agreement with the municipality, and that agreements can be voluntary only. More information on this proposed revision is required in order for staff to fully assess any potential impacts.

### 1.3 Administrative Issues (Act and Regulation changes)

As part of the ARA process, operators are required to submit 3 plans (existing conditions, site plan and rehabilitation plan) and notes/conditions, among other requirements, as part of their licence applications. When the City receives a licence application under the ARA, staff can comment on the submission materials.

The administrative issues identified in the proposed changes to the regulations are:

- Permitting self-filing for:
  - routine site plans that comply with regulation requirements; and,
  - changes to existing site plans (e.g. relocation of structures, fences, etc.) provided setbacks are maintained and the rules for related to self filing area maintained;
- Enhancing requirements for reporting on rehabilitation (e.g. more context and detail, how and when rehabilitation is undertaken;
- Eliminating licence requirements for low risk activities (e.g. using aggregate for operational use on-site);
- Clarifying site plan requirements and streamlining compliance reporting. Maintain the annual reporting requirement; and,
- Reviewing application requirements, including consultation and notice requirements, for new sites.

Staff support the additional reporting for rehabilitation. Given the vagueness of the other proposed Act and regulation changes, staff are unable to determine if such changes can be supported or if there are any impacts on the City.

## **2.0 Aggregate Fees**

The Province establishes a fee structure (price per tonne) paid annually to the Province based on the size and type of pit or quarry and then distributed to municipalities, the

**SUBJECT: Proposed Amendments to the Aggregate Resources Act – Request for Comments (PED19207) (Wards 9, 11 to 13, 15) - Page 6 of 6**

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Crown and Aggregate Resources Trust. No changes are proposed at this time, but the Province has indicated that if changes are introduced future consultation will occur.

**ALTERNATIVES FOR CONSIDERATION**

The City could choose not to comment on ERO Posting 19-0556.

**ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

**Community Engagement and Participation**

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

**Economic Prosperity and Growth**

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

**Clean and Green**

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

**Built Environment and Infrastructure**

Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” - ERO Posting for Proposed Amendments to the Aggregate Resources Act