



COUNTY OF WELLINGTON

COMMITTEE REPORT

To: Chair and Members of the Planning Committee
From: Aldo Salis, Manager of Development Planning
Date: Thursday, November 10, 2016
Subject: Bill 39 – The Aggregate Resources and Mining Modernization Act, 2016

Introduction

This report is a continuation of our previous Committee Report (November 2015) regarding the Government's commitment to "modernize and strengthen the Aggregate Resources Act policy framework".

Background:

In October 2013, the Standing Committee on General Government provided the Legislature with their detailed submission *Report on the Review of the Aggregate Resources Act*. In February 2014, the Province released its *Comprehensive Government Response to Standing Committee on General Government's Report on the Review of the Aggregate Resources Act*. That submission was the combined effort of the Ministry of Natural Resources and other provincial ministries. In October 2015, the Ministry of Natural Resources and Forestry released *A Blueprint for Change*. Having completed that review, the Government then moved to a "phased approach" to policy changes – with the first phase being legislative changes.

Bill 39

On October 6, 2016 the Government introduced a bill to amend the Aggregate Resources Act and the Mining Act referred to as: *The Aggregate Resources and Mining Modernization Act, 2016*. Schedule 1 of Bill 39 is to improve the Aggregate Resources Act (ARA) to: allow for stronger oversight, enhance environmental accountability, improve information and participation in the process, and increase and equalize fees and royalties.

The changes to the ARA under Bill 39 would allow the Minister of Natural Resources and Forestry (MNRF) to enforce new rules and requirements within the amended Act and provide new and revised regulations and procedures. Some of those new rules and requirements would include: create flexibility to waive application requirements; create the ability to require peer review of studies in future; strengthening enforcement and offences provisions (including ability to issue tickets for minor offences); allow the Minister to request studies of existing licences sites; and, clarify that potential impacts to municipal water sources are to be considered when assessing new aggregate applications. A more complete list of the changes proposed under Bill 39 is provided in the attached pages from the EBR posting.

Comments

Many of the proposed changes under Bill 39 are administrative and procedural in nature and generally would not benefit municipalities with the planning approval process of mineral aggregate applications. As raised in our November 2015 Committee Report regarding *A Blueprint for Change*, the Government is not proposing meaningful changes to the ARA that would assist municipalities in this regard.

The Government does intend to increase fees and royalties associated with private property applications and Crown land (to be addressed within the regulations). Our understanding is that this would include possible increases in the aggregate levy paid to upper and lower tier municipalities. There are no details regarding changes to the levy at this time, but we expect to see some progress on this matter in early 2017 together with specific changes to the regulations.

Also, it should be noted that through Bill 39 it is the Government's intent to shift many of the current statutory requirements from the Aggregate Resources Act into aggregate resources related regulations and the Provincial Standards (for Aggregate Resources of Ontario). This shift from legislation to policy and procedures should provide the MNRF the ability to make swifter changes regarding the processing and management of aggregate resources in the Province. Based on information posted on the Environmental Registry, it would appear that the Government is providing an opportunity for public engagement and input for the next phase of updates. We are hopeful that such public engagement will be provided for any subsequent changes to those regulatory and policy documents.


Next Steps

Bill 39 is currently in Second Reading with the Legislature. Many of the proposed legislative changes under the proposed bill are enabling in nature and will require amendments to regulations under the Aggregate Resources Act or the Provincial Standards in order to implement the revised Act. Staff will continue to monitor the Government's updating of the Aggregate Resources Act and related regulations and procedures.

Recommendation:

That this report be received for information.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'A. Salis', with a long horizontal line extending to the right.

Aldo L. Salis, BES, M.Sc. MCIP, RPP
Manager of Development Planning
Planning & Development Department

Key Highlights of Bill 39 include:

General

- Authorizing the Minister to develop regulations to require licensees and permittees to submit information related to their operation, and to conduct and submit reports on inventories, tests, surveys and studies related to the operation;
- Standardizing annual tonnage limits for all existing licences and permits, and including all aggregate and recycled aggregate leaving the site in those limits;
- Standardizing and enhancing the provisions for amending site plans and licence or permit conditions across licences, wayside permits and aggregate permits, and enabling regulations to be made allowing licensees and permittees to self-file minor site plan amendments in circumstances that would be set in regulation;
- Recognizing that the Minister must consider whether adequate consultation with Aboriginal communities has been carried out before exercising powers under the Act with respect to licenses or permits;
- Allowing the Minister to add conditions to existing sites, without tribunal hearings, to implement a source protection plan under the Clean Water Act;
- Enhancing powers related to the transfer and revocation of permits and licences;
- Enhancing authority with respect to the management of the Aggregate Resources Trust;
- Creating the authority to make regulations requiring peer review of technical studies and to require the applicant, licensee or permittee to cover the cost of those reviews;
- Clarifying and enhancing the provisions that allow regulations to be made requiring record keeping and reporting on aggregate operations; and
- Allowing self-compliance reporting to be required more or less frequently than once per year as prescribed by regulation.

New operations

- Allowing custom plans to be developed that outline study and consultation requirements in some site specific situations;
- Clarifying that impacts to municipal drinking water sources be considered when making decisions for new licences and wayside permits;
- Allowing the Minister to designate areas of Crown land, Crown aggregate or Crown topsoil where an aggregate permit will not be issued or where it will only be available for a specific purpose or person;
- Expanding the ability to require permits for the removal of stockpiled Crown aggregate or topsoil by describing specific criteria in regulation;

- Creating flexibility for the Minister to waive application requirements in order to address unique situations;
- Authorizing the creation of regulations to exempt specific activities from licencing or permitting requirements if specific conditions are met; and
- Establishing the application documentation requirements for grandfathering applications that are currently described in policy within the legislation.

Enforcement

- Increasing the maximum penalties to \$1,000,000 plus an additional \$100,000 for each day the offence continues, and eliminating the minimum \$500 fine to support the ability to enforce the Act by way of Part I tickets under the Provincial Offences Act;
- Establishing clear offense provisions for submitting false or misleading information in a report or in information that is required under the Act, the regulations, a site plan or a licence or permit;
- Protecting the inspectors, public servants, and the Minister from liability for any acts that they have done in good faith under the Act; and
- Recognizing the inspection report that is currently used to document the findings of an inspection.

Fees and royalties

- Increasing flexibility with respect to the collection and distribution of fees and royalties;
- Requiring existing fees for applications, amendments, transfers, etc. to be established in regulation;
- Enabling setting of new fees in regulation for a broader array of requests (e.g., requests for amendments, acceptance of surrender);
- Clarifying that aggregate permits with a mining lease are subject to royalty charges (unless they have been exempted); and
- Creating flexibility for the Minister to waive certain fees.

Other changes have been proposed to improve the administration of the legislation and address housekeeping edits. For example:

- Clarifying that licensees and permittees are only protected from prosecution on self-reported violations if they are reported before they are discovered by an Inspector;

- Allowing the Minister to substitute a licence for a permit issued to the same person where a different approval type is required because there has been a change in land ownership or designation under s. 5;
- Allowing the Minister to specify when the ministry will require official party status at an Ontario Municipal Board hearing, and allowing the Board to send referrals back to the ministry where objections have been resolved before a hearing starts;
- Clarifying that the name and address of individuals who participate in the prescribed notification and consultation procedures are a part of the public record unless the individual requests that the information remain confidential; and
- Repealing sections and definitions that are no longer required.

In addition several specific definitions and requirements for applications, amendments and reporting are proposed to be moved to the regulations.

EBR Registry Number: 012-8443

Ministry:

Ministry of Natural Resources and Forestry

Date Proposal loaded to the Registry:

October 06, 2016