

The Corporation of the City of Kawartha Lakes

Planning Advisory Committee Report

Report Number PLAN2019-052

Date: October 9, 2019
Place: Council Chambers
Public Meeting

Ward Community Identifier: All

Title: Aggregate Policy Review – Official Plan Amendment No. 11

Description: Official Plan Amendment No. 11 is intended to identify, protect and manage mineral aggregate resources, and to mitigate social, environmental and human health impacts of existing and future mineral aggregate operations and associated haul routes.

Author and Title: Leah Barrie, Policy Planning Supervisor

Recommendations:

That Report PLAN2019-052, **Aggregate Policy Review – Official Plan Amendment No. 11**, be received; and

That Draft OPA 11 be referred back to staff pending the outcome of the public consultation component, and that any revisions to draft OPA 11 be brought back to a subsequent Planning Advisory Committee meeting.

Department Head:

Legal/Other:

Chief Administrative Officer:

Background:

Previous resolutions of Council and Committees of Council are documented in Appendix A. Most recently, at the Council Meeting of November 24, 2015 Council adopted the following resolution:

CR2015-1231

That Report PLAN2015-094, Aggregate Policy Review - Official Plan Amendment No. 11, be received;

That Council endorse Official Plan Amendment No. 11 substantially in the form attached as Appendix C to Report PLAN2015-094, dated November 24, 2015;

That staff be directed to forward to the Ontario Municipal Board, other parties and participants to the appeal, this resolution and a copy of Report PLAN2015-094 with Appendix B; and

That the City Solicitor and appropriate City staff be authorized to attend future Ontario Municipal Board Hearing(s) to defend the policies contained in the Council endorsed Official Plan Amendment No. 11.

Carried

This report addresses that direction.

Rationale:

I. Aggregates – Background and Legislation

Aggregates are a non-renewable resource, extracted from either a gravel pit (in the case of sand and gravel) or a quarry (in the case of bedrock, such as granite and limestone). They have many uses, including the construction of buildings, roads and other infrastructure. Most of the aggregate produced in Ontario comes from private land in the southern region of the province – these lands are also the most densely populated.

The City of Kawartha Lakes is a member of TAPMO (Top Aggregate Producing Municipalities of Ontario), and has ranked second for licenced production since 2015 (only behind Ottawa). In 2018, the City produced approximately 7.2 million tonnes. There are currently 137 licenced operations across the City.

The legislative and policy framework for managing aggregate resources in Ontario is complex. The principal vehicle for managing aggregate resources and operations is the Aggregate Resources Act (ARA). The Ministry of Natural Resources and Forestry (MNRF) administers the ARA, manages the aggregate

licence approvals and permits process, and ensures aggregate resources are protected and made available.

Additionally, there are relevant aspects of the Endangered Species Act, the Clean Water Act and the Planning Act governing policies and approvals. Aggregates are a matter of Provincial interest, and as such are integrated into provincial and municipal planning decisions by requiring that all decisions are consistent with the Provincial Policy Statement (PPS, 2014) and conform or do not conflict with Provincial Plans. Provincial policies provide direction for municipal Official Plans, and as they relate to the City of Kawartha Lakes, applicable Provincial Plans include A Place to Grow, The Growth Plan for the Greater Golden Horseshoe (2019); the Oak Ridges Moraine Conservation Plan (ORMCP, 2017); and, the Greenbelt Plan (2017).

The Oak Ridges Moraine Conservation Plan was approved by the Province in 2002. City of Kawartha Lakes Official Plan Amendment (OPA) No. 104, being the City's ORMCP conformity exercise, was approved, with modifications by the Province, in 2005. Aggregate policies must conform to and recognize the sensitive environmental features located within the ORMCP area. The ORMCP was updated by the Province in 2017. The policies and designations within the ORMCP and OPA No. 104 are separate and distinct from, and do not apply to, the lands that are the subject of OPA 11. The City will be updating OPA 104 as part of a future exercise.

The Greenbelt Plan covers a broad area in and around the Greater Golden Horseshoe. The Plan aims to protect against the loss and fragmentation of the agricultural land base, supporting agriculture as the predominant land use, providing protection to the natural heritage and water resource systems and ultimately providing a framework around which major urbanization in south-central Ontario can be organized. All lands within the Greenbelt are covered under the ORMCP. As such, a conformity exercise for the Greenbelt Plan will be undertaken as part of the future exercise to update OPA 104.

In order to support the implementation of More Homes, More Choice: Ontario's Housing Supply Action Plan (Bill 108), the Province has recently announced two (2) additional legislative, regulatory and policy reviews, including proposed amendments to the ARA and to the PPS.

Aggregate Reform

The Province has proposed amendments to the ARA that would 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 Province is also proposing to strengthen the protection of water resources through a more robust application process for requests to extract aggregates below the water table, and will continue to review the required

technical studies to ensure groundwater resources are protected. The consultation period is open from September 20, 2019 to November 4, 2019.

Provincial Policy Statement (PPS) Review

The Province has proposed an amendment whereby extraction could be considered within natural heritage features, provided that the long-term rehabilitation can demonstrate no negative impacts on the natural features or their ecological functions. Proposed changes to the ARA noted above are reflected in the PPS as well. The consultation period is open from July 22, 2019 to October 21, 2019.

II. Official Plan Amendment No. 11

Background

Policy development relating to the management of mineral aggregate resources dates back over 40 years in the City of Kawartha Lakes, and beforehand in the County of Victoria. Policies were first established by County Council with adoption of the County of Victoria Official Plan in 1978. County Council adopted a major amendment to the OP in 1998 that included updated aggregate and transportation policies, and Schedules. County Council subsequently repealed adoption of the amendment, reverting to the 1978 policy regime. The policies remained in place until City of Kawartha Lakes Council adopted the new OP in 2010. The Province approved the City's OP in 2012, with modifications that directed the development of an "Aggregate Secondary Plan". The Province received fifteen (15) appeals to its approval of the OP, four (4) of which were related to aggregate policies; of these four (4) appeals, two (2) remain unresolved.

From 2012-2014 a Council-appointed Aggregate Steering Committee comprised of representatives from the aggregate industry, concerned citizens and members of Council held numerous meetings to review aggregate matters and participate in the development of an "Aggregate Secondary Plan" to resolve the outstanding appeals. The "Aggregate Secondary Plan" became Official Plan Amendment No. 11 in 2015, and was subject to public consultation and agency review. The process culminated with the Council Resolution noted above.

OPA 11 was held back to allow discussion with relevant parties, to further refine the policies, and for Council to make a final decision thereby affording prescribed bodies an opportunity to appeal the decision, in accordance with the Planning Act.

The City retained Dillon Consulting Limited in November 2016 to review comments, and to provide policy support for finalizing OPA 11. Dillon's policy analysis was prepared to understand how the City's earlier draft of OPA 11 compared against the latest Provincial policy documents which had been

updated since the preparation of the earlier draft of OPA 11, and to help identify any policy conformity gaps (see Appendix B).

Present

Staff initiated the 2019 City-wide Aggregate Policy Review by gathering and analyzing the information used to develop the earlier draft of OPA 11, Dillon's policy analysis, and best practices and policies from the top aggregate producing municipalities across Ontario. It was determined that the earlier draft was representative of consultation, but needed to be updated in light of a more thorough understanding of the matters under appeal as well as current Provincial policy. A number of options to advance and complete the Review were assessed, and staff concluded appropriate internal resources were available to bring the 2015 draft to 2019 standards in alignment with the City's goals and objectives, the Province's policy direction.

Through the revised draft OPA 11 (see Appendix B) staff endeavored to address the policy conformity gaps, as well as the outstanding issues that had been raised by the appellants and other members of the community. The revised draft has been circulated to stakeholders for review. Staff continues to be available for further discussion.

In accordance with the requirements of the Planning Act, notice of the October 9, 2019 Public Meeting was issued in a variety of newspapers; notice was also posted across all City Libraries and Service Centres, on the City's website, and via e-mail to stakeholders.

Proposed Changes (see Appendix C)

Policy Changes: Sections and policies have been reordered; minor revisions to policy have been made for clarification; designation process for operations has been updated; and, new policies have been added to communicate the City's objectives, for example: early consultation with the City; coordination with adjacent municipalities on cross-jurisdictional matters; and, notice requirements in accordance with Council Resolution 2004-594 (see Appendix A).

Mapping Changes: Schedule H identifies the Ontario Geological Survey's Aggregate Resources Inventory Paper (ARIP) 168 for Victoria County, produced by the Ministry of Northern Development and Mines, that maps sand and gravel resources and bedrock resources; all aggregate resources are mapped as an overlay, as opposed to a designation; buffers to environmental and human features have been removed; and, licensed operations are mapped as a designation with tonnage identified. Schedule I identifies haul routes as part of the City's transportation network.

The City of Kawartha Lakes Official Plan is proposed to be amended as follows:

TO BE DELETED	TO BE ADDED	TO BE REVISED
Section 23 Aggregate Designation	Section 23 Mineral Aggregate Resource Areas	Definitions
Section 24 Sand and Gravel Resource Designation	Section 24 Mineral Aggregate Operations	Appendix “J” Environmental Impact Study
Section 25 Bedrock Resource Designation	Schedule “H” Bedrock, Sand and Gravel Resource Areas, Licenced Mineral Aggregate Operations	
Schedule “H” Bedrock Resource Constraint Overlay	Schedule “I” Haul Routes	
Schedule “A” Aggregate and Sand and Gravel Resource designation	Definitions	

A Track Changes document (see Appendix C) provides highlighted text to identify additions that clarify or expand on policy direction and requirements; and, strikethrough text to identify deletions that reduce duplication, redundancy, or reorganize content.

III. Community Consultation

The consultation period is on-going. To date, staff has received verbal and written comments from stakeholders and the general public (see Appendix D); members of staff, Committees and Council; and, held a round-table discussion with members of the Ontario Stone, Sand and Gravel Association (OSSGA).

Comments fall within the following general categories:

- Provincial Policy Compliance
- Governance with respect to administration of the ARA
- Haul Routes and Haul Route Agreements with respect to identification, cross-jurisdictional matters, and allocation of fees
- Mapping corrections and improvements
- Process and administrative improvements with respect to major and minor adjustments to operations, public notice and other requirements
- Environment and Social Health
- Matters of clarification
- Typographic and Language improvements

All comments are being carefully considered, and will be incorporated into a subsequent revised draft OPA 11, as appropriate.

IV. Process Going Forward

Staff will return to the Planning Advisory Committee to report on any changes to the revised draft OPA 11. Staff will prepare a recommendation for PAC's consideration that will result in a final decision by Council, followed by a statutory 20-day appeal period.

The decision of Council regarding OPA 11 will join the on-going CKL OP/OPA Appeals before LPAT¹, regardless of whether it is appealed or not. If appealed, LPAT will respond to appellant, party and participant requests. If not appealed, OPA 11 will reflect the City's position regarding aggregate matters in relation to the two (2) remaining appeals. If OPA 11 resolves the remaining appeals, the City will work with the appellants to advance settlements through the LPAT process.

Other Alternatives Considered:

No other alternatives have been considered for the purposes of this report.

Financial/Operation Impacts:

There are no financial/operation impacts as a result of this report.

Relationship of Recommendations To The 2016-2019 Strategic Plan:

The Aggregate Policy Review and recommendations within the Report contribute to the Council Adopted Strategic Plan and the City's corporate values by aligning with goals to promote a vibrant and growing economy, and a healthy environment.

Review of Accessibility Implications of Any Development or Policy:

The Accessibility Co-ordinator has been involved in the consultation process.

Servicing Comments:

Staff in the Engineering & Corporate Assets and Public Works Departments has been involved in the consultation process.

¹ City of Kawartha Lakes LPAT Case Nos. PL120217, PL171408, PL151086, PL171409, PL151087, PL171515, PL160076, PL180303, PL171407.

Consultations:

Senior Management Team
Ministry of Municipal Affairs and Housing

Attachments:

Appendix A – City of Kawartha Lakes Council and Committee Resolutions regarding Aggregate Matters



PLAN2019-052
Appendix A Resolutio

Appendix B – Dillon Consulting Limited Policy Audit Report



Dillon Policy Audit
Report.pdf

Appendix C – Draft Official Plan Amendment No. 11 and Track Changes



OPA 11 - Aggregate
Policy Review - Draft.



OPA 11 - Aggregate
Policy Review - Track

Appendix D – Public Submissions



PLAN2019-052
Appendix D Public Sul

Department Head: Chris Marshall

Department File: D00-99-007 (Special Project) / D01-01-011 (OPA 11)