

City of Kawartha Lakes Mineral Aggregate Resources Policy Audit

Prepared by Dillon Consulting Limited

Introduction

The City of Kawartha Lakes is in the process of updating its Official Plan policies for mineral aggregate resources. Aggregates are raw materials, such as stone, sand and gravel which are used in wide variety of manners for our roads, sidewalks, sewers, airports, as well as our homes, offices, hospitals, schools and for a variety of other activities¹. Aggregates are non-renewable resources and are a matter of Provincial interest. The Ministry of Natural Resources and Forestry (MNR) manages the licence approvals process, administers the Aggregate Resources Act (primary legislation governing aggregates) and ensures aggregate resources are protected and made available. In addition to the Aggregate Resources Act, aggregate operations may also require approvals under other legislation, such as the Endangered Species Act, the Clean Water Act and the Planning Act. From a land use planning perspective, most municipalities in Ontario are required to include policies in their Official Plans for mineral aggregate resources to ensure alignment with the Provincial Policy Statement (2014) and other applicable provincial plans.

In 2014, the City launched a process to update its aggregate resource policies which was advanced in 2015 with the preparation of a draft Official Plan Amendment (Official Plan Amendment 11). The City received comments from the aggregate industry, members of the public and the Province of Ontario on the first draft of OPA 11. In 2016, Dillon Consulting Limited was retained by the City to provide policy support for finalizing OPA 11. The following brief document summarizes the results of the background policy analysis which was undertaken to support revisions to OPA 11.

Purpose

The purpose of the following document is to present the high-level policy analysis which underpins the revisions to the City’s draft Official Plan Amendment 11 (OPA 11). This policy analysis was prepared to better

¹ The Provincial Policy Statement (2014) defines mineral aggregates as “gravel, sand, clay, earth, shale, stone, limestone, dolostone, sandstone, marble, granite, rock or other material prescribed under the Aggregate Resources Act suitable for construction, industrial, manufacturing and maintenance purposes but does not include metallic ores, asbestos, graphite, kyanite, mica, nepheline syenite, salt, talc, wollastonite, mine tailings or other material prescribed under the Mining Act”.



understand how the City’s earlier draft of OPA 11 compared against the latest Provincial policy documents which had been updated since the drafting of the original OPA 11, and to help identify any policy conformity gaps. The following policy audit tables show the results of the comparison between the original draft OPA 11 and:

- A Place to Grow, the Growth Plan for the Greater Golden Horseshoe (2019), Table 1

- The Oak Ridges Moraine Conservation Plan (2017), Table 2
- The Greenbelt Plan (2017), Table 3

The Ministry of Municipal Affairs and Housing provided comments on the City’s draft of OPA 11. Table 4 presents a gap analysis of the Ministry of Municipal Affairs and Housing comments on draft OPA 11.

Policy Context

The policy framework for managing aggregate resources is complex, as it is governed by a number of policies at the provincial and local levels. While the principal vehicle for managing aggregate resources in the Province is the Aggregate Resources Act, there are also aspects of the Planning Act which are relevant. The Provincial Policy Statement provides policy direction for addressing aggregate in Official Plans. Furthermore, in specific geographies, such as those lands within the Growth Plan, Greenbelt Plan area or within the Oak Ridges Moraine area, area specific policies also apply.

The Provincial Policy Statement, 2014

The 2014 Provincial Policy Statement (PPS) provides direction on matters of provincial interest related to land use planning and development. As a key part of Ontario’s policy-led planning system, the PPS sets the policy foundation for regulating the development and use of land. It also supports the provincial goal to enhance the quality of life for all Ontarians. The Province’s natural heritage resources, water resources, agricultural resources and mineral resources provide important environmental, economic and social benefits. These resources are to be managed in a sustainable way to conserve biodiversity, protect essential ecological processes and public health and safety, minimize environmental and social impacts, and meet its long-term needs. The PPS provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural environment in the following manner:

- “Mineral aggregate resources shall be protected for long-term use and, where provincial information is available, deposits of mineral aggregate resources shall be identified.”
- “As much of the mineral aggregate resources as is realistically possible shall be made available as close to markets as possible.”
- “Demonstration of need for mineral aggregate resources, including any type of supply/demand analysis, shall not be required, notwithstanding the availability, designation or licensing for extraction of mineral aggregate resources locally or elsewhere.”

In addition to the above, the PPS also provides policy directions for extraction on prime agricultural lands, aggregate recycling and conservation, rehabilitation of aggregate operations and the need to minimize social, economic and environmental impacts of extraction.

Growth Plan for Greater Golden Horseshoe, 2019

The 2019 Growth Plan for the Greater Golden Horseshoe (GP) builds on the directions in the PPS and includes several policies intended to guide the development of municipal official plan policies for mineral aggregate resources and operations, including:

- The promotion of policies and strategies in local official plans which help to conserve mineral aggregate resources.
- Guidance for how to plan for new mineral aggregate operations in the context of the Natural Heritage Systems.
- Guidance for rehabilitation of mineral aggregate resource operations.

The Growth Plan also identifies several policy requirements for the transportation system to be planned and managed to be sustainable by encouraging the most financially and environmentally appropriate mode. Municipalities will provide for the establishment of priority routes for goods movement, where feasible, to facilitate the movement of goods into and out of areas of significant employment and to provide alternate routes connecting to the provincial network. These routes are to connect to existing major highways (i.e. Hwy. 35/115 and existing rail lines).

Oak Ridges Moraine Conservation Plan, 2017

The Oak Ridges Moraine Conservation Plan (ORMCP) was approved by the Province in 2002. Official Plan Amendment No. 104, the City’s ORMCP conformity exercise, was approved, with modifications, by the Province, in 2005. Mineral aggregate policies must conform to and recognize the sensitive environmental features located within the ORMCP area. In 2017, the Province updated the ORMCP. 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 subject of this amendment. The City will be updating Amendment 104 as part of a future exercise.

Greenbelt Plan, 2017

The Greenbelt Plan covers a broad area in and around the Greater Golden Horseshoe and 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 Oak Ridges Moraine Conservation Plan.

TABLE 1: GROWTH PLAN FOR GREATER GOLDEN HORSESHOE (2019)

4.2.8 Mineral Aggregate Resources	Growth Plan Policy	Alignment with Draft Official Plan Amendment 11 (2016)
4.2.8.1	<p>Municipalities will develop and implement official plan policies and other strategies to conserve mineral aggregate resources, including:</p> <ul style="list-style-type: none"> a) the recovery and recycling of manufactured materials derived from mineral aggregate resources for reuse in construction, manufacturing, industrial, or maintenance projects as a substitute for new mineral aggregate resources; and b) the wise use of mineral aggregate resources, including utilization or extraction of on-site mineral aggregate resources prior to development occurring. 	<ul style="list-style-type: none"> • Objectives to be revised to reflect same language as Growth Plan. Item A is addressed through 23.3.1. Item B should be considered further.
4.2.8.2	<p>Notwithstanding the policies in subsections 4.2.1, 4.2.2, 4.2.3 and 4.2.4, within the Natural Heritage System, mineral aggregate operations and wayside pits and quarries are subject to the following:</p> <ul style="list-style-type: none"> a) no new mineral aggregate operation and no new wayside pits and quarries, or any ancillary or accessory use thereto, will be permitted in the following key natural heritage features and key hydrologic features: <ul style="list-style-type: none"> i) significant wetlands; ii) habitat of endangered species and threatened species; and iii) significant woodlands unless the woodland is occupied by young plantation or early successional habitat, as defined by the Province, in which case, the application must demonstrate that policies 4.2.8.4 b) and c) and 4.2.8.5 c) have been addressed and that they will be met by the operation; b) any application for a new mineral aggregate operation will be required to demonstrate: <ul style="list-style-type: none"> i) how the connectivity between key natural heritage features and key hydrologic features will be maintained before, during, and after the extraction of mineral aggregate resources; ii) how the operator could replace key natural heritage features and key hydrologic features that would be lost from the site with equivalent features on another part of the site or on adjacent lands; iii) how the water resource system will be protected or enhanced; and iv) how any key natural heritage features and key hydrologic features and their associated vegetation protection zones not identified in policy 4.2.2.3 a) will be addressed in accordance with policies 4.2.8.4 b) and c) and 4.2.8.5 c); and c) an application requiring a new approval under the Aggregate Resources Act to expand an existing mineral aggregate operation may be permitted in the Natural Heritage System, including in key natural heritage features, key hydrologic features and any associated vegetation protection zones, only if the related decision is consistent with the PPS and satisfies the rehabilitation requirements of the policies in this subsection. 	<ul style="list-style-type: none"> • Item A is addressed through 23.3.11 and 23.3.12. Some minor adjustments to required for habitat of endangered and threatened species. Significant woodlands should be added. • Items B and C should be considered further.
4.2.8.3	<p>In prime agricultural areas, applications for new mineral aggregate operations will be supported by an agricultural impact assessment and, where possible, will seek to maintain or improve connectivity of the Agricultural System.</p>	<ul style="list-style-type: none"> • New policy needed to reflect the need for Agricultural Impact Assessment.
4.2.8.4	<p>For rehabilitation of new mineral aggregate operation sites, the following apply:</p> <ul style="list-style-type: none"> a) the disturbed area of a site will be rehabilitated to a state of equal or greater ecological value and, for the entire site, long-term ecological integrity will be maintained or enhanced; b) if there are key natural heritage features or key hydrologic features on the site, or if such features existed on the site at the time of the application: <ul style="list-style-type: none"> i) the health, diversity, and size of these key natural heritage features and key hydrologic features will be maintained or enhanced; and ii) any permitted extraction of mineral aggregate resources that occurs in a feature will be completed, and the area will be rehabilitated, as early as possible in the life of the operation; c) aquatic areas remaining after extraction are to be rehabilitated to aquatic enhancement, which will be representative of the natural ecosystem in that particular setting or ecodistrict, and the combined terrestrial and aquatic rehabilitation will meet the intent of policy 4.2.8.4 b); and d) outside the Natural Heritage System, and except as provided in policies 4.2.8.4 a), b) and c), final rehabilitation will 	<ul style="list-style-type: none"> • Aspects of 4.2.8.4 are present (noted in the objectives list). Most of the Amendment 11's rehabilitation policies address agricultural aspect of rehab. Additional policy guidance for natural heritage features is required.

4.2.8 Mineral Aggregate Resources	Growth Plan Policy	Alignment with Draft Official Plan Amendment 11 (2016)
	appropriately reflect the long-term land use of the general area, taking into account applicable policies of this Plan and, to the extent permitted under this Plan, existing municipal and provincial policies. In prime agricultural areas, the site will be rehabilitated in accordance with policy 2.5.4 of the PPS, 2014.	
4.2.8.5	Final rehabilitation for new mineral aggregate operations in the Natural Heritage System will meet these additional criteria: a) where there is no extraction below the water table, an amount of land equal to that under natural vegetated cover prior to extraction, and no less than 35 per cent of the land subject to each license in the Natural Heritage System, is to be rehabilitated to forest cover, which will be representative of the natural ecosystem in that particular setting or ecodistrict. If the site is also in a prime agricultural area, the remainder of the land subject to the license is to be rehabilitated back to an agricultural condition; b) where there is extraction below the water table, no less than 35 per cent of the non-aquatic portion of the land subject to each license in the Natural Heritage System is to be rehabilitated to forest cover, which will be representative of the natural ecosystem in that particular setting or ecodistrict. If the site is also in a prime agricultural area, the remainder of the land subject to the license is to be rehabilitated in accordance with policy 2.5.4 of the PPS, 2014; and c) rehabilitation will be implemented so that the connectivity of the key natural heritage features and the key hydrologic features on the site and on adjacent lands will be maintained or enhanced.	<ul style="list-style-type: none"> Policy 4.2.8.5 of the Growth Plan is a gap and a new policy is needed to implement final rehabilitation for aggregate operations in the Natural Heritage System.
4.2.8.6	Except as provided by the policies of this subsection, decisions on planning matters must be consistent with the policies in the PPS that pertain to the management of mineral aggregate resources.	<ul style="list-style-type: none"> N/A
4.2.8.7	Where an application under the Aggregate Resources Act has been received and deemed complete by the Province as of July 1, 2017, any applications under the Planning Act to permit the making, establishment or operation of the pit or quarry to which the Aggregate Resources Act application relates, if approved, will not be subject to the policies of this Plan.	<ul style="list-style-type: none"> N/A

TABLE 2: OAK RIDGES MORaine CONSERVATION PLAN (2017)

General note: Amendment 11 recognizes that Amendment 104 was approved by the Province in 2005. Changes to the ORMCP in 2017 would need to be reflected in Amendment 11 (unless a separate amendment is planned to address these changes).

Policy Number	ORMCA Policy	Alignment with Draft Official Plan Amendment 11 (2016)
Part IV, 35(1)	<p>An application for a mineral aggregate operation or wayside pit shall not be approved unless the applicant demonstrates, that</p> <ul style="list-style-type: none">a) the quantity and quality of groundwater and surface water in the Plan Area will be maintained and, where possible, improved or restored,b) that as much of the site as possible will be rehabilitated,<ul style="list-style-type: none">(i) in the case of land in a prime agricultural area, by returning substantially all the land to a condition in which the soil capacity for agriculture is on average the same as it was before the mineral aggregate operation or wayside pit began operating, and(ii) in all other cases, by establishing or restoring natural self-sustaining vegetation;c) if there are key natural heritage features on the site or on adjacent land, that their health, diversity, size and connectivity will be maintained and, where possible, improved or restored; andd) if there are areas of natural and scientific interest (earth science) on the site or on adjacent land, that the geological or geomorphological attributes for which they were identified will be protected. <p>(1.1) Nothing in subclause 35 (1) (b) (i) requires an applicant to demonstrate that land has been returned to the condition it was in before a mineral aggregate operation or wayside pit began operating if the land is in the Countryside Area and there was a substantial quantity of mineral aggregate resources below the water table that were extracted. However, prime agricultural lands in other areas must be rehabilitated in accordance with subclause 35 (1) (b) (i).</p>	<ul style="list-style-type: none">• Amendment 11 does not include this policy.• Possible gap - Amendment 104 does not include detailed aggregate policies. Refers to the ORM section 35.
Part IV, 35(2)	<p>An application for a mineral aggregate operation or wayside pit with respect to land in a Natural Linkage Area shall not be approved unless the applicant demonstrates,</p> <ul style="list-style-type: none">a) that there will be compliance with subsection (1);b) that there will be no extraction within 1.5 metres of the water table;c) that the extraction of mineral aggregates from the site will be completed as quickly as possible;d) that the site will be rehabilitated in stages as quickly as possible; ande) that the entire site will be rehabilitated,<ul style="list-style-type: none">i) in the case of land in a prime agricultural area, by restoring the land so that the average soil quality of each area is substantially returned to its previous level, andii) in all other cases, by establishing or restoring natural self-sustaining vegetation.	<ul style="list-style-type: none">• Possible Gap - Amendment 104 does not include detailed aggregate policies. Refers to the ORM section 35.
Part IV, 35(3)	<p>In order to maintain connectivity, when a mineral aggregate operation or a wayside pit is located in a Natural Linkage Area, there shall at all times be an excluded area (which, for greater certainty, may contain both undisturbed land and land whose rehabilitation is complete)</p> <ul style="list-style-type: none">a) that, is at least 1.25 kilometres in total width, such distance being measured either entirely within the Natural Linkage Area or including areas within the Natural Core Area that is adjacent to the excluded area;b) lies outside the active or unrehabilitated portions of the area being used; andc) connects parts of the Natural Linkage Area outside the mineral aggregate operation or wayside pit.	<ul style="list-style-type: none">• Possible Gap - Amendment 104 does not include detailed aggregate policies. Refers to the ORM section 35.
Part IV, 35(4)	<p>Despite subsection 22(2), an application for a mineral aggregate operation or wayside pit with respect to land in a key natural heritage feature may be approved if,</p> <ul style="list-style-type: none">a) The key natural heritage feature is a significant woodland and it is occupied by young plantations or early successional habitat;b) the applicant demonstrates that,	<ul style="list-style-type: none">• Possible Gap - Amendment 104 does not include detailed aggregate policies. Refers to the ORM section 35.

Policy Number	ORMCA Policy	Alignment with Draft Official Plan Amendment 11 (2016)
	<ul style="list-style-type: none"> i) the long-term ecological integrity of the Plan Area will be maintained, or where possible improved or restored, ii) the extraction of mineral aggregates from the area within the key natural heritage feature will be completed, and the area will be rehabilitated, as early as possible in the life of the operation, and iii) the area from which mineral aggregates are extracted will be rehabilitated by establishing or restoring natural self-sustaining vegetation of equal or greater ecological value; and c) in the case of a key natural heritage feature that is the habitat of an endangered or threatened species and is located in a Countryside Area or Settlement Area, the requirements of paragraph 5 of subsection 22(2) are satisfied. 	
Part IV, 35(5)	In subclause (4) (b) (iii), “ecological value” means the value of vegetation in maintaining the health of the key natural heritage feature and the related ecological features and ecological functions, as measured by factors such as the diversity of species, the diversity of habitats, and the suitability and amount of habitats that are available for threatened species and endangered species	<ul style="list-style-type: none"> Possible Gap - Amendment 104 does not include detailed aggregate policies. Refers to the ORM section 35.
Part IV, 35(6)	<p>An application for a mineral aggregate operation or wayside pit with respect to land in a landform conservation area (Category 1 or 2) shall not be approved unless the applicant demonstrates, that the area from which mineral aggregates are extracted will be</p> <ul style="list-style-type: none"> a) rehabilitated to establish a landform character that blends in with the landform patterns of the adjacent land; and b) that the long-term ecological integrity of the Plan Area will be maintained, or where possible improved or restored. 	<ul style="list-style-type: none"> Possible Gap - Amendment 104 does not include detailed aggregate policies. Refers to the ORM section 35.
Part IV, 35(7)	An application for a mineral aggregate operation located in a prime agricultural area shall not be approved unless an agricultural impact assessment has been carried out and it demonstrates that there will be no adverse impacts to the prime agricultural area or that any such impacts will be minimized and mitigated to the extent possible.	<ul style="list-style-type: none"> Gap. Amendment 11 should reference agricultural impact assessment for applications on prime agricultural lands in the ORMCP area.

TABLE 3: GREENBELT PLAN (2017)

4.3.2 Non-Renewable Resources	Greenbelt Policy	Alignment with Draft Official Plan Amendment 11 (2016)
	For lands within the Protected Countryside, the following policies shall apply:	
4.3.2.1	Non-renewable resources are those non-agriculture-based natural resources that have a finite supply, including mineral aggregate resources. Aggregates, in particular, provide significant building materials for our communities and infrastructure, and the availability of aggregates close to market is important for both economic and environmental reasons.	<ul style="list-style-type: none">• All lands within the Greenbelt are covered under the Oak Ridges Moraine Conservation Plan. See audit table above.
4.3.2.2	Activities related to the use of non-renewable resources are permitted in the Protected Countryside, subject to all other applicable legislation, regulations and official plan policies and by-laws. The availability of mineral aggregate resources for long-term use shall be determined in accordance with the PPS, except as provided below.	
4.3.2.3	Notwithstanding the policies of section 3.2, within the Natural Heritage System, mineral aggregate operations and wayside pits and quarries are subject to the following: a) No new mineral aggregate operation and no new wayside pits and quarries, or any ancillary or accessory use thereto, shall be permitted in the following key natural heritage features and key hydrologic features: i. Significant wetlands; ii. Habitat of endangered species and threatened species; and iii. Significant woodlands, unless the woodland is occupied by young plantation or early successional habitat (as defined by the Ministry of Natural Resources and Forestry). In this case, the application must demonstrate that sections 4.3.2.6 (b), (c) and 4.3.2.7 (c) have been addressed and that they will be met by the operation; b) Any application for a new mineral aggregate operation shall be required to demonstrate: i. How the connectivity between key natural heritage features and key hydrologic features will be maintained before, during and after the extraction of mineral aggregates; ii. How the operator could replace key natural heritage features and key hydrologic features that would be lost from the site with equivalent features on another part of the site or on adjacent lands; iii. How the Water Resource System will be protected or enhanced; and iv. How any key natural heritage features and key hydrologic features and their associated vegetation protection zones not identified in section 4.3.2.3 (a), will be addressed in accordance with sections 4.3.2.6 (b), (c) and 4.3.2.7 (c); and c) An application requiring a new approval under the Aggregate Resources Act to expand an existing mineral aggregate operation may be permitted in the Natural Heritage System, including in key natural heritage features, key hydrologic features and in any associated vegetation protection zones, only if the related decision is consistent with the PPS and satisfies the rehabilitation requirements of this section.	
4.3.2.4	In prime agricultural areas, applications for new mineral aggregate operations shall be supported by an agricultural impact assessment and, where possible, shall seek to maintain or improve connectivity of the Agricultural System.	
4.3.2.5	New and existing mineral aggregate operations and wayside pits and quarries within the Protected Countryside shall ensure that: a) The rehabilitated area will be maximized and disturbed area minimized on an ongoing basis during the life cycle of an operation; b) Progressive and final rehabilitation efforts will contribute to the goals of the Greenbelt Plan; c) Any excess disturbed area above the maximum allowable disturbed area, as determined by the Ministry of Natural Resources and Forestry, will be rehabilitated. For new operations, the total disturbed area shall not exceed an established maximum allowable disturbed area; and d) The applicant demonstrates that the quantity and quality of groundwater and surface water will be maintained as per Provincial Standards under the Aggregate Resources Act.	
4.3.2.6	For rehabilitation of new mineral aggregate operation sites in the Protected Countryside, the following policies apply:	

4.3.2 Non-Renewable Resources	Greenbelt Policy	Alignment with Draft Official Plan Amendment 11 (2016)
	<ul style="list-style-type: none"> a) The disturbed area of a site shall be rehabilitated to a state of equal or greater ecological value and, for the entire site, long-term ecological integrity shall be maintained or enhanced b) If there are key natural heritage features or key hydrologic features on the site, or if such features existed on the site at the time of an application: <ul style="list-style-type: none"> i. The health, diversity and size of these key natural heritage features and key hydrologic features shall be maintained or enhanced; and ii. Any permitted extraction of mineral aggregates that occurs in a feature shall be completed, and the area shall be rehabilitated, as early as possible in the life of the operation; c) Aquatic areas remaining after extraction are to be rehabilitated to aquatic enhancement, which shall be representative of the natural ecosystem in that particular setting or ecodistrict, and the combined terrestrial and aquatic rehabilitation shall meet the intent of section 4.3.2.6 (b); and d) Outside the Natural Heritage System, and except as provided in sections 4.3.2.6 (a), (b) and (c), final rehabilitation shall appropriately reflect the long-term land use of the general area, taking into account applicable policies of this Plan and, to the extent permitted under this Plan, existing municipal and provincial policies. In prime agricultural areas, the site shall be rehabilitated in accordance with section 2.5.4 of the PPS. 	
4.3.2.7	<p>Final rehabilitation for new mineral aggregate operations in the Natural Heritage System shall meet these additional policies:</p> <ul style="list-style-type: none"> a) Where there is no extraction below the water table, an amount of land equal to that under natural vegetated cover prior to extraction, and no less than 35 per cent of the land subject to each license in the Natural Heritage System, is to be rehabilitated to forest cover, which shall be representative of the natural ecosystem in that particular setting or ecodistrict. If the site is also in a prime agricultural area, the remainder of the land subject to the license is to be rehabilitated back to an agricultural condition; b) Where there is extraction below the water table, no less than 35 per cent of the non-aquatic portion of the land subject to each license in the Natural Heritage System is to be rehabilitated to forest cover, which shall be representative of the natural ecosystem in that particular setting or ecodistrict. If the site is also in a prime agricultural area, the remainder of the land subject to the license is to be rehabilitated in accordance with section 2.5.4 of the PPS; and c) Rehabilitation shall be implemented so that the connectivity of the key natural heritage features and the key hydrologic features on the site and on adjacent lands shall be maintained or enhanced. 	
4.3.2.8	Operators are encouraged to consider and provide for public access to former aggregate sites upon final rehabilitation, where appropriate.	
4.3.2.9	<p>Notwithstanding any provision of this section to the contrary, within the specialty crop areas identified on Schedule 2 as the Niagara Peninsula Tender Fruit and Grape Area, mineral aggregate operations and wayside pits and quarries are subject to the following requirements:</p> <ul style="list-style-type: none"> a) No new mineral aggregate operation, wayside pits and quarries or any ancillary or accessory use thereto shall be permitted between Lake Ontario and the Niagara Escarpment Plan Area; b) A new mineral aggregate operation or wayside pits and quarries may only be considered on primary and secondary selected sand and gravel resources on the Fonthill Kame, in the Town of Pelham, as identified by Aggregate Resource Inventory Paper #4, if the applicant demonstrates that: <ul style="list-style-type: none"> i. Substantially the same land area shall be rehabilitated back to an agricultural condition which allows for the same range and productivity of specialty crops common in the area; and ii. The microclimate on which the site and the surrounding area may be dependent for specialty crop production shall be maintained or restored; and c) A new mineral aggregate operation or wayside pits and quarries shall only be permitted in the parts of the Niagara Peninsula Tender Fruit and Grape Area not identified in 4.3.2.9 (a) and (b) where the applicant demonstrates the following: 	

4.3.2 Non-Renewable Resources	Greenbelt Policy	Alignment with Draft Official Plan Amendment 11 (2016)
	<div><div>i.</div><div>The physical characteristics of the proposed site allow for the rehabilitation of the property back to an agricultural condition ; or</div><div>ii.</div><div>If the physical characteristics of the proposed site will not allow for the rehabilitation of the property back to an agricultural condition, the applicant has considered alternative locations; and</div><div>iii.</div><div>Where other alternatives have been considered by the applicant and found unsuitable, and in situations where complete agricultural rehabilitation in the specialty crop area is not possible due to the depth of planned extraction or a substantial aggregate deposit below the water table warranting extraction, agricultural rehabilitation in the remaining licensed area shall be maximized as a first priority to allow production of specialty crops.</div></div>	
4.3.2.10	Where a municipality has undertaken a comprehensive aggregate resource management study and implemented the results into its official plan prior to December 16, 2004, such policies shall be deemed to conform with this Plan.	
4.3.2.11	Municipalities should ensure that all land use activities related to the post-extraction rehabilitation of mineral aggregate operations are consistent with any relevant approved source protection plan and relevant watershed or subwatershed plan.	

TABLE 4: MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING REVIEW

Ministry of Municipal Affairs and Housing Comments and Recommendations (Letter Dated April 15 th , 2015)	Alignment with Draft Official Plan Amendment 11 (2016)
a) Section 23.1 – Goal (Page 6) The goal statement refers to protecting mineral aggregate <i>resources</i> whereas the Aggregate Designation section applies to mineral aggregate operations. The PPS requires municipalities to protect mineral aggregate operations from incompatible development. In order to be consistent with the PPS, it is required to insert the words “recognize and” prior to the word “protect” and the words “operations and” prior to the word “resources” in the first sentence.	<ul style="list-style-type: none"> Gap. Goal should be updated to reflect Province’s preferred wording.
b) Section 23.2 Objectives (Page 6) The bullet regarding recognizing and protecting licensed operations has been removed. It must be added to be consistent with the PPS (Policy 2.5.2.4). The following should be added to this section: <i>“To recognize and protect licensed pits and quarries from incompatible development”</i> .	<ul style="list-style-type: none"> Gap. Revisions to objective should be added.
c) With regards to the fifth bullet point, “prohibiting” below-water extraction is neither appropriate nor necessary given that appropriate studies are already required to ensure environmental impacts are addressed. This unnecessarily constrains access to the resource and does not satisfy the PPS requirement of making available “as much of the mineral aggregate resources as is realistically possible”. The previous bullet already speaks to the objective of minimizing impacts of operations by requiring appropriate studies. This bullet also requires the proponent of a mineral aggregate operation seeking to go below-water to establish and maintain a Mitigation Trust Fund. Requiring a mitigation trust for all below water extraction operations is also neither appropriate nor necessary. Aggregate license applications are required to evaluate impacts to water levels in adjacent private wells. There is an existing investigative process led by the Ministry of Environment and Climate Change under the <i>Ontario Water Resources Act</i> for issues with private wells. Applying this requirement to all below-water extraction operations (including up front provision of money) is not a reasonable approach and it duplicates or may conflict with existing processes under other legislation. Given the above, the entire fifth bullet point is recommended to be removed.	<ul style="list-style-type: none"> Comment addressed. There is no longer an objective which prohibits extraction below the water table.
d) Section 23.3.2 – Policies (Page 7) The last line of this policy which states that “Council will require, where appropriate, the grouping of mineral aggregate operations” is not implementable and is recommended to be removed. Applications for a new mineral aggregate operation must be considered in accordance with the policies of the Official Plan regardless of location or co-location of such operations.	<ul style="list-style-type: none"> Comment addressed. No longer a policy requiring the grouping aggregate operations.
e) Section 23.3.5 – Policies (Page 8) This policy appears to attempt to address operational matters. For example, the policy requires that “the amount of disturbed area at any one time shall not exceed one and one-quarter of the approved phases of extraction”. Maximum disturbed area may be determined on a site-specific basis on the site plans prepared during the <i>Aggregate Resources Act</i> (ARA) licensing process. Comments or concerns from municipalities can be considered during the ARA process. This policy in the Official Plan is not reasonable or appropriate and is recommended to be removed.	<ul style="list-style-type: none"> Comment addressed. No longer a policy which speaks to operational site matters.
f) Section 23.3.6 – Policies (Page 8) Suspension of a license is an enforcement tool under the <i>Aggregate Resources Act</i> to address compliance issues and operational matters. Any reference to requesting that MNRF suspend a license should be removed.	<ul style="list-style-type: none"> Gap. Policy 23.3.7 states that the City may request the MNRF to suspend a license “When noise, traffic flow, air quality and water discharge associated with the licensed mineral aggregate operation do not conform to City By-laws, the City may request that the MNRF suspend the respective License”. Policy could be deleted since the City can make this request whether it’s in an OP policy or not. Another option would be frame this policy in a more positive light “When noise, traffic flow, air quality and water discharge associated with the licensed mineral aggregate operation do not conform to City By-laws <i>the City will work with the MNRF and Operator to ensure compliance.</i>”
g) Section 23.3.7 – Policies (Page 8) This policy requires hydrological studies to be updated if it is more than five years old by the time extraction reaches the water table. Once a license is issued, it must operate in accordance with the provincial standards and any monitoring requirements identified on the site plan. Requiring additional studies across the board based on a set time-frame conflicts with the provincial standards and is not reasonable or	<ul style="list-style-type: none"> Comment addressed. Policy has been reframed to reference the Province’s authority in the process.

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appropriate. It is recommended this text be removed.	
h) Section 23.3.8 – Policies (Page 8) As per the previous comment regarding the requirements for a Mitigation Trust fund, it is recommended this policy be removed.	<ul style="list-style-type: none"> Comment addressed. There is no longer a policy which references a Mitigation Trust Fund.
i) Section 23.3.13 – Application Submission Requirements (Page 9) The rationale for potentially requiring studies to encompass an area up to 2.0 km from the proposed operation is not clear. This policy suggests that any studies could be requested to investigate within this distance. Required studies under the ARA are triggered within specified distances (e.g. 120m for significant natural heritage features). As stated in the general comments above, it is recommended that the requirements for aggregate uses in the City’s Official Plan be consistent with the ARA process. Applying such a large distance for any required studies without rationale conflicts with the ARA potential standards and does not provide clear or reasonable direction as required by section 4.7y of the PPS. It is recommended for this part of the policy to be clarified or removed.	<ul style="list-style-type: none"> Comment addressed. There is no longer a policy which references 2km.
j) Section 23.3.15 – Application Submission Requirements (Page 9) It is not clear what is meant by the sentence that states “The City may request that the MNR include additional technical studies if monitoring results exceed provincial standards ...” Once an operation is licensed, MNRF has no authority to request additional studies. There are existing processes under other legislation to address situations where monitoring reports exceed provincial standards. It is recommended for this portion of the policy to be removed.	<ul style="list-style-type: none"> Comment addressed. No longer reference to additional technical studies.
k) Section 23.3.16 – Application Submission Requirements (Page 9) This policy does not sufficiently describe how existing licenses will be protected from incompatible development, as required by the PPS (Policy 2.5.2.4). It is recommended that this policy be deleted from this section as it is not an aggregate operation application submission requirement. It is also required that the following policy to be added to the Aggregate Designation Section: “Existing aggregate operations shall be protected from development and activities that would preclude or hinder their expansion or continued use or which would be compatible for reasons of public health, public safety or environmental impact. Development applications within 300 m of a pit and 500 m of a quarry will be required to demonstrate to the City that the above policy has been met” .	<ul style="list-style-type: none"> Comment addressed. New policy has been added (23.3.9)
l) Section 23.3.23 – Water Resources (Page 10) It is recommended to insert the word “aggregate” after the word “mineral” as ‘mineral extraction’ refers to a different type of operation (mining) governed by different legislation. This is also consistent with the Official Plan definition of mineral aggregate.	<ul style="list-style-type: none"> Comment addressed. 23.3.23 has been updated.
m) It is also recommended for the following words to be inserted after the words “protection area” in bullet point (a) of this section: “as per the applicable policies in the local source protection plans. Designated vulnerable areas are defined as ‘areas defined as vulnerable, in accordance with provincial standards, by virtue of their importance as a drinking water source’ (Provincial Policy State, 2014”). This wording provides clarity to a proponent on how they should demonstrate that municipal drinking water supplies and designated vulnerable areas are protected. As well, it clarifies what is meant by designated vulnerable areas, as they are not included in the current Official Plan definitions. It should be noted that both Source Protection Plans (SPP) within the City of Kawartha Lakes have been approved by the Province. The Trent SPP came into effect as of January 1, 2015 and South Georgian Bay Lake Simcoe SPP will be effect as of July 1, 2015. On the date the plan takes effect, all decisions on planning matters must conform with the policies on List A (significant threat policies) or have regard for the policies on List B (moderate/low threat policies).	<ul style="list-style-type: none"> Comment addressed. 23.3.24 includes definition.
n) The Aggregate Policy Review contains policies with competing objectives in the Water Resources section. Policy 23.3.2 requires grouping of aggregate operations and policy 23.3.22 requires operations within 1 km of each other to jointly investigate cumulative effects. This conflict must be addressed in order to provide clear direction to proponents seeking a new operation. Policy 23.3.22 does not provide any direction regarding what a cumulative effect study should entail. Additional clarification would help ensure this policy is applied consistently and appropriately. Section 4.7 of the PPS directs municipalities to “...provide clear, reasonable and attainable policies to protect provincial interests and direct development to suitable areas”. In this regard, the proposed policy must be refined to define the process and criteria that would be used to complete the assessment of cumulative impacts in support of planning applications.	<ul style="list-style-type: none"> Comment addressed. Grouping policy has been removed.
o) Section 24.3.1 – Policies (Page 14) This policy refers to resources of primary and secondary significance, which do not apply to bedrock. The Sept 25, 2014 version of the Secondary Plan clarified that the Bobcaygeon and Gull River bedrock formations were used to identify high quality bedrock resources for	<ul style="list-style-type: none"> Comment addressed. Policy no longer references primary and secondary significance.

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protection in the Official Plan. This working must be retained in the policy to provide clarity on how the mapping was derived.	
p) Section 24.3.4 – Policies (Page 14) With regards to constraint feature table Item 1, the wording “as defined by the Ministry of Natural Resources and Forestry” must be removed because some significant features are to be identified by municipal planning authorities”	<ul style="list-style-type: none"> Comment addressed. Amendment no longer includes constraint feature table.
q) The Aggregate Policy Review included refinements to the aggregate resources mapping on Schedule H to focus in on the highest quality unconstrained aggregate resources. This has resulted in a substantial decrease in the amount of mineral aggregate recourse areas to be protected from incompatible development. The City must sufficiently demonstrate that these remaining mineral aggregate recourse areas will receive strong protection from incompatible development to ensure they are protected for the long term in accordance with the PPS. The current policies must define the extent of adjacent lands in order to provide a sufficient level of protection.	<ul style="list-style-type: none"> Gap. As discussed, the mapping of the Aggregate Resource areas should reflect the mapping provided by the Ministry and should not have areas removed/deleted (with the exception of lands within urban area boundaries).
r) Section 24.3.6 – Policies (Page 15) This policy must define the extent of adjacent lands for mineral aggregate resources and require compatibility studies to be completed if it is unclear whether the intent of the policy is met by a proposed development. The adjacent lands distances of 300 m for sand and gravel resources and 500 m for bedrock resources as per the 1997 Non-Renewable Resources Training Manual must be used. Special attention should be given to land uses with sensitive receptors (defined in the Aggregate Resources of Ontario Provincial Standards as including residences or facilities where people sleep (nursing homes, hospitals, trailer parks, camping grounds, schools, day-care centres, etc.).	<ul style="list-style-type: none"> Comment addressed. Policy 24.3.4 includes reference to 300 metres/500 metres.
s) Schedule H-Aggregate Resource and Haul Routes The mapping of the newly regulated Carden Alvar Provincial Park is incorrect and includes parcels of private land. The label should also be changed to “Carden Alvar Provincial Park”. This change may require an update to the constraint mapping to ensure resources were not omitted from the Schedule due to the use of an incorrect provincial park boundary.	<ul style="list-style-type: none"> Since environmental features have been removed from the schedules, this comment would not need to be addressed.

Ministry of Municipal Affairs and Housing Suggestions Comments and Recommendations (Letter Dated April 15 th , 2015)
a) Section 23.3.9 – Policies (Page 8) It is suggested to add the following wording because licenses in some cases may be surrendered when there are still viable resources remaining: “Where a pit or quarry has been rehabilitated and the license has been surrendered <i>due to resource depletion...</i> ”. The City should note that once an operation ceases to exist, Policy 2.5.2.5 of the PPS continues to apply (PPS Policy 2.5.2.4).
b) Section 23.3.3 – Water Resources (Page 10) It is suggested for the City to consider including a policy to address the drinking water threats that may be associated with the establishment of new transport pathways or modification of existing transport pathways by a mineral aggregate extraction operation. This is in accordance with Section 27(3) of O.Reg. 287/07 made under the <i>Clean Water Act</i> , which addresses the requirements of a municipality to notify the appropriate conservation authority when a proposal creates a new or modifies an existing transport pathway. A transport pathway is not a threat itself, but rather a ‘condition of land resulting from human activity that increases the vulnerability of a raw water supply of drinking water system’. A transport pathway can elevate an existing drinking water threat from low to medium or from medium to high, but not create a drinking water threat by itself. The City may wish to consider inserting the following policy as policy 23.3.1.7 and renumbering the subsequent policies accordingly: <i>“Where a new or expansion to a mineral aggregate extraction operation is proposed within a wellhead protection area or intake protection zone (as identified in a local assessment report approved under the Clean Water Act), the City shall circulate the planning application to the appropriate conservation authority with respect to the potential for creating or modifying a transport pathway. A transport pathway is defined as ‘a condition of land resulting from human activity that increases the vulnerability of a raw water supply of a drinking water system’ (Clean Water Act, O.Reg. 287/07). The City shall circulate the appropriate conservation authority a description of the proposal, the identity of the person responsible for the proposal and a description of the approvals the person requires to engage in the proposed activity”.</i>
c) Section 23.3.26 – Aggregate Advisory Committee (Page 11) and 23.3.28 – Transportation and Haul Route (Page 11) This policy commits the City of work with adjacent municipalities on amendments to haul routes in the future. If not already undertaken at this stage, it is suggested that adjacent municipalities be provided with an opportunity to review and comment on the proposed haul route network to ensure that haul routes are coordinated across jurisdictional boundaries. Section 1.2 of the PPS speaks to using a coordinated approach when dealing with matters that cross municipal boundaries (including managing mineral resources and infrastructure).
d) Section 24 – Mineral Aggregate Resource Areas (Page 14) We note that the Aggregate Secondary Plan includes a revised constraint analysis as well as significant changes to the aggregate resources mapping on Schedule H. It would be the City’s responsibility to ensure they can demonstrate

that they have identified “as much of the mineral aggregate resources as is realistically possible” in accordance with the PPS.	
e) Schedule H – Aggregate Resources and Haul Routes	We recommend that the City ensure that its mapping includes the most up-to-date information found in Land Information Ontario. The City should also note that unopened road allowances included within provincial park boundaries are vested in the Crown and no longer under municipal control (under authority of Section 32(1) of the <i>Provincial Parks and Conservation Reserves Act, 2006</i>). It may not be necessary to separate the licenses by tonnage in the Official Plan as these are subject to change over time and there is no difference in policies that apply to these areas.
f)	No reference is made to the source of Mineral Aggregate Resource information. The Aggregate Resources Inventory of Victoria County – Paper 168, published by MNDM’s Ontario Geological Survey should be referenced in the Legend. It is recommended that reference be made in the following form: Aggregate resources inventory of Victoria County;; Ontario Geological Survey, Aggregate Resources Inventory Paper 168, 2000.