TO: Chair and Members Planning Committee  
WARD(S) AFFECTED: CITY WIDE

COMMITTEE DATE: August 14, 2012

SUBJECT/REPORT NO: Aggregate Resources Act Review (PED12129) (City Wide) (Outstanding Business List Item)

SUBMITTED BY:  
Tim McCabe  
General Manager  
Planning and Economic Development Department

PREPARED BY:  
Heather Travis  
(905) 546-2424 Ext. 4168

SIGNATURE:  

RECOMMENDATION:

(a) That the City of Hamilton endorses the motion by the Town of Caledon regarding the Aggregate Resources Act Review, passed by the Council of the Town of Caledon on April 3, 2012, attached as Appendix “A” to Report PED12129.

(b) That this endorsement be forwarded to the Council of the Town of Caledon, the Province of Ontario, and the Association of Municipalities of Ontario (AMO).

(c) That the item “Aggregate Resources Act Review” be identified as complete and removed from the Planning Committee’s Outstanding Business List.

EXECUTIVE SUMMARY

The Province of Ontario is currently undertaking a review of the Aggregate Resources Act (ARA). The Town of Caledon passed a resolution on April 3, 2012, requesting that the ARA Site Plan Amendment process be included as part of the ARA Review, due to concerns over a lack of public notification and involvement in the Site Plan Amendment.
application process. While the City of Hamilton has not had any negative experiences regarding Site Plan Amendments under the ARA, staff do support the resolution from the Town of Caledon on the grounds that the Site Plan forms an integral part of an ARA Licence and, therefore, a comprehensive review of the ARA should include an examination of the Site Plan Amendment process and procedures.

Alternatives for Consideration - See Page 5.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial: N/A.

Staffing: N/A.

Legal: N/A.

HISTORICAL BACKGROUND (Chronology of events)

At the April 25, 2012, Council meeting, City Council received correspondence from the Town of Caledon, in the form of a Council resolution, regarding the Provincial Aggregate Resources Act (ARA) Review and the ARA Site Plan Amendment process. The correspondence was received by Council, and referred to the General Manager of the Planning and Economic Development Department for a report to the Planning Committee.

The correspondence from the Town of Caledon (see Appendix “A”) includes a resolution that was adopted at the April 3, 2012, Caledon Council meeting. The resolution is regarding the Provincial review of the ARA, and specifically, the inclusion of the ARA Site Plan Amendment process within this review. The resolution states the following:

“Therefore, be it resolved that the Province of Ontario be asked to include the Site Plan Amendment process in upcoming review of the ARA.”

The resolution further states that the motion be forwarded to the Association of Municipalities of Ontario (AMO) and to the Top Aggregate Producers Membership with a request for endorsement by the constituent members of that group.

Further, at its meeting of June 13, 2012, City Council received correspondence from the Municipality of Clarington (see Appendix “B”). The correspondence stated that Council of the Municipality of Clarington had endorsed the above noted resolution from Caledon, in principle, at the April 30, 2012, Clarington Council Meeting. This additional correspondence was also referred to the General Manager of the Planning and Economic Development Department for a report to the Planning Committee.
POLICY IMPLICATIONS

Aggregate Resources Act

The ARA provides for the management of aggregate resources in Ontario. The Act controls and regulates aggregate operations and prescribes, among other matters: types of aggregate licences; the process for applying for a licence; considerations in the evaluation of a license application; matters related to aggregate site plans; and, rehabilitation.

The Province of Ontario, through the Standing Committee on General Government, has initiated a review of the ARA to make recommendations with respect to strengthening the Act. The focus of the ARA review will include, but not be limited to, the following areas: the Act’s consultation process; how sighting, operations, and rehabilitation are addressed in the Act; best practices and new developments in the industry; fees/royalties; and aggregate resource development and protection, including conservation and recycling. The review of the Act is open to input from the public, key stakeholders, and the aggregate industry.

Public hearings were held in Toronto from May 14 - 16, 2012, with interested parties making oral submissions to the Standing Committee. The deadline for written submissions was May 16, 2012. However, staff has been informed that there will be opportunity for further consultation on the ARA Review throughout the summer months, though a final determination on the status of this additional consultation had not been made at the time this Report was written. Nevertheless, it is the opinion of staff that it is appropriate to respond to the Motion from the Town of Caledon at this time, on the basis that additional consultation may take place on this matter in the future.

RELEVANT CONSULTATION

- Not Applicable.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

The resolution from the Town of Caledon respects the ARA Site Plan Amendment process, and requests that this process be included as part of the overall ARA review. As such, background information on the ARA Site Plan Amendment process is provided below, followed by staff’s opinion regarding the Caledon resolution.
ARA Site Plan Amendment Process

The ARA requires that every application for a licence for a pit or quarry requires a Site Plan to be developed in accordance with prescribed standards. The Site Plan required under the ARA is different than a Site Plan required under Section 41 of the Planning Act. Rather, an approved Site Plan under the ARA forms part of the licence and incorporates key information about the operation of the pit or quarry, required mitigation measures, and rehabilitation. Notes are included on the Site Plan, which also forms part of the ARA licence for an approved pit or quarry. A Site Plan will apply to the entire licensed area of a site and will indicate the limits of extraction, processing areas, truck routes on site, environmental features, and mitigation measures. It is important to note that the entirety of a licensed site may not be used for extraction and, therefore, the entirety of a licensed site may not be zoned for extractive uses. Portions of a site not identified for extraction may be zoned for other uses (processing uses, open space, etc.). Any areas identified for extraction must be zoned for that use, in accordance with the ARA. Site Plans required under the ARA are approved by the Minister of Natural Resources.

An applicant may apply to the Minister of Natural Resources to amend a Site Plan approved under the ARA. The Act states that the Minister may deem a proposed Site Plan Amendment to be a matter of importance, in which case notice would be provided to the Clerk of the local municipality. The municipality would have the opportunity to provide comments within 30-days of receiving notice. A proposed amendment that is not deemed to be a matter of importance would not be circulated to the local municipality.

While a municipality is notified of a proposed Site Plan Amendment, which is deemed to be important and given an opportunity to provide comments, it is noted that the municipality is not the approval authority for such amendments. If the proposed amendment falls within an existing licensed area for a pit or quarry which is already zoned for such use, the municipality would not have any approval authority in the case of a Site Plan Amendment, which could include an expansion to an extraction area or operational changes to the existing quarry. The resolution from the Town of Caledon notes that “the existing Site Plan Amendment process is not adequate in public notification and participation to ensure the integration of economic, social, and environmental considerations in decision-making” and, therefore, requests that this process be included within the ARA review.
City of Hamilton Context

As noted above, if a Site Plan Amendment application is made to the Minister of Natural Resources in respect of a licensed site that is already zoned for the extractive use, the municipality does not have any approval authority over the proposed amendment, and input is limited to that of a commenting agency. However, should a Site Plan Amendment application be made in respect of a licensed site, whereby only a portion of the site is zoned for the extractive use, and the amendment is in respect of the portion of the site that is not zoned for the extractive use, the municipality would then be in the position of an approval authority. The zoning on the subject lands would have to be amended to permit an extractive use on the additional lands prior to the Site Plan Amendment being approved by the Minister. It has been the City of Hamilton’s best practice in the past to only zone those portions of a property that are identified for extraction with extractive zoning, thus providing the City with a greater opportunity for input on future Site Plan Amendment applications in cases where a Zoning By-law Amendment is required.

As such, while it is noted that the City of Hamilton has not had any negative experiences with the ARA Site Plan Amendment process to date, staff do support the resolution of the Town of Caledon to include the Site Plan Amendment process in the ARA review. The Site Plan is an integral part of an ARA licence and, as such, in order to ensure that the ARA Review is comprehensive, the Site Plan Amendment process should be reviewed in terms of procedure, notification, and content.

**ALTERNATIVES FOR CONSIDERATION:**

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

1. Not endorse the resolution of the Town of Caledon regarding inclusion of the Site Plan Amendment process within the ARA Review. While there are no negative implications to the City of Hamilton with this alternative, it would mean that the City’s input on this matter would not be considered in the ARA Review. This alternative is not recommended by staff.

2. Endorse the resolution of the Town of Caledon regarding inclusion of the Site Plan Amendment process within the ARA Review. This would result in the City’s input on this matter being considered in the ARA Review. This alternative is recommended by staff.
Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

Values: Honest, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)


Intergovernmental Relationships

- Influence Federal and Provincial policy development to benefit Hamilton.
- Maintain effective relationships with other public agencies.

APPENDICES / SCHEDULES

- Appendix “B”: Letter to Mr. John O’Toole, MPP Durham, from C. Anne Greentree, Deputy Clerk, Municipality of Clarington, Dated May 3, 2012

:HT
Attachs. (2)
April 11, 2012

Ms. Sylvia Jones,
MPP Dufferin-Caledon
244 Broadway
Orangeville, Ontario
L9W 1K8

Dear Ms. Jones:

RE: Aggregate Resources Act Review

At the regular meeting of Council held on April 3, 2012, Council passed a resolution regarding the Aggregate Resources Act Review. The following resolution was adopted:

Whereas the Province has announced a review of the Aggregate Resources Act (ARA); and

Whereas the Province has indicated that specific parts of the ARA will be reviewed; and

Whereas the ARA requires a Site Plan for every application for an aggregate permit; and

Whereas Site Plan is the primary tool that controls the operation and rehabilitation of all pits and quarries; and

Whereas a licensee of an aggregate operation can request the Site Plan be amended; and

Whereas the Town of Caledon has repeatedly indicated for many years that the existing Site Plan Amendment process is not adequate in public notification and participation to ensure the integration of economic, social and environmental considerations in decision-making;

Therefore be it resolved that the Province of Ontario be asked to include the Site Plan Amendment process in upcoming review of the ARA; and

Further be it resolved that this motion be forwarded to Sylvia Jones MPP, the Region of Peel, the Niagara Escarpment Commission, AMO, and to the Top Aggregate Producers membership with a request for endorsement by the constituent members of that group.

The Town of Caledon respectfully requests your consideration and support on this matter.

Yours truly,

Barbara Karrandjas
Council/Committee Co-ordinator
e-mail: barbara.karrandjas@caledon.ca
cc: Mary Hall, Director of Development Approval & Planning Policy
Region of Peel
Niagara Escarpment Commission
AMO
The Standing Committee on General Governance
Town of Amherstburg
Township of Armour
County of Brant
City of Brantford
Township of Brock
Town of Bruce Mines
City of Burlington
Municipality of Clarington
Township of Clearview
Township of Cramahe
Township of East Garabaldi
City of Greater Sudbury
Town of Fort Erie
County of Halton
Town of Halton Hills
City of Hamilton
Town of Huntsville
Municipality of Huron Shores
City of Kawartha Lakes
City of Kingston
Municipality of Lennoxville
Town of Lincoln
City of London
Township of Loyalist
Town of Milton
Town of Mississippi Mills
City of Niagara Falls
Town of Niagara-on-the-Lake
Township of North Dumfries
Township of Oro-Medonte
City of Ottawa
Township of Pelham
Town of Perth South
Township of Plummer Additional
City of Port Colborne
County of Prince Edward
Township of Puslinch
Township of Ramara
Township of Severn
Township of South-West Oxford
Township of Springwater
Municipality of Thames Centre
Township of Uxbridge
Township of Wellington
Township of Wellesley
Township of Wilmot
Township of Zorra

OFFICE OF THE CITY CLERK

APR 17 2012
ACTION: [Signature]
May 3, 2012

John O'Toole, MPP
75 King St. E.,
Bowmanville ON L1C 1N4

Dear Mr. O'Toole:

RE: AGGREGATE RESOURCES ACT REVIEW
FILE NO.: C10.GE

At a meeting held on April 30, 2012, the Council of the Municipality of Clarington endorsed in principle the following resolution:

"WHEREAS the Province has announced a review of the Aggregate Resources Act (ARA); and

WHEREAS the Province has indicated that specific parts of the ARA will be reviewed; and

WHEREAS the ARA requires a Site Plan for every application for an aggregate permit; and

WHEREAS Site Plan is the primary tool that controls the operation and rehabilitation of all pits and quarries; and

WHEREAS a licensee of an aggregate operation can request the Site Plan be amended; and

WHEREAS the Town of Caledon has repeatedly indicated for many years that the existing Site Plan Amendment process is not adequate in public notification.
and participation to ensure the integration of economic, social and environmental considerations in decision-making;

THEREFORE BE IT RESOLVED THAT the Province of Ontario be asked to include the Site Plan Amendment process in upcoming review of the ARA; and

FURTHER BE IT RESOLVED THAT this motion be forwarded to Sylvia Jones MPP, the Region of Peel, the Niagara Escarpment Commission, AMO, and to the Top Aggregate Producers membership with a request for endorsement by the Constituent members of that group.

Yours truly,

C. Anne Greentree, B.A., CMO
Deputy Clerk

CAG/ms;

cc: John O'Toole, MPP
   Sylvia Jones, MPP
   Region of Peel
   Niagara Escarpment Commission
   Association of Municipalities of Ontario
   Top Aggregate Producers membership
   Barbara Karrandjas, Council/Committee Co-ordinator