

Aggregates Resources Act (ARA) Amendments Proposed Under Bill 132

To: Chair and Members of the Board of Health

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Recommendations

It is recommended that the Board of Health:

1. Receive this report for information.
2. Write the Hon. John Yakabuski, Minister of Ontario's Natural Resources and Forestry, a letter, with copies to local MPPs advocating for Municipalities to maintain influence over decisions that have the potential to impact local groundwater resources. Specifically, that municipalities should maintain their authority, in accordance with the *Planning Act*, to pass and use zoning by-laws as a means of ensuring that when below water table extraction is proposed that assessments are completed to identify potential groundwater impacts.

Key Points

- Bill 132, *Better for People, Smarter for Business Act*, 2019 includes proposed amendments to the *Aggregate Resources Act (ARA)*. This *Act* governs the approval and operation of gravel pits and quarries, in Ontario.
- Amendments proposed in Bill 132 will prohibit municipalities from regulating the depth of aggregate extraction in their zoning by-laws. Zoning by-laws have been used by municipalities as a tool to require studies to assess groundwater impacts from extraction activities.
- Such amendments have the potential to negatively impact the groundwater that supplies several large municipal residential drinking water systems in Wellington, Dufferin and Guelph, as well as hundreds of other smaller drinking water systems and over 30,000 private wells.

Discussion

The *ARA* governs the approval and operation of gravel pits and quarries, in Ontario. In October 2019, the Provincial government released Bill 132, *Better for People, Smarter for Business Act*, 2019. The Bill includes proposed amendments to the *ARA*.¹ This Report briefly highlights a section of the proposed updates that may potentially have impacts on public health.

Municipal influence over protection of groundwater

The Province is proposing to amend the *ARA* to prohibit municipalities from regulating the depth of aggregate extraction in their zoning by-laws.^{2,3} Extracting aggregates close to or below the water table has the potential to impact groundwater quality and quantity and consequently, municipalities have used zoning by-laws to ensure that groundwater resources are protected from impacts of aggregate extraction.⁴ Under Bill 132, Schedule 16, proposed amendments to the *ARA* remove existing municipal authority to regulate the depth of extraction through zoning. Specifically, Schedule 16 updates Section 12.1 of the *ARA* and states that "... any restriction contained in the zoning by-law with respect to the depth of extraction at the site is inoperative."⁵ This amendment eliminates powers provided under the *Planning Act* that have been used by municipalities to exert influence over land-use decisions that may potentially impact groundwater resources.

Under the existing *Planning Act*, a municipality can permit and restrict uses of land by setting both horizontal and vertical boundaries to a parcel of land (i.e. property). Consequently, to maintain a level of influence over decisions that have the potential to impact groundwater quality and quantity, some municipalities have passed zoning by-laws that would trigger a zone change application when an operator applies to change the depth of their extraction activities. This tool has enabled municipalities to require operators to complete studies to assess potential impacts to groundwater.⁴ This is particularly relevant to the Wellington-Dufferin-Guelph jurisdiction as all drinking water is supplied from groundwater sources, or groundwater related sources. Proposed amendments to Section 12.1 of the *ARA*, however, would make provisions in zoning by-laws that restrict the depth of extraction inoperative.^{2,3,4} This amendment lessens municipal influence over decisions that can impact groundwater quantity and quality.

Conclusion

In October 2019, the Provincial government released Bill 132, *Better for People, Smarter for Business Act*, 2019. The bill includes proposed changes to the *ARA* with the intent to streamline the approval of aggregate operations. Changes to section 12.1, however, lessen the ability of a municipality to influence decisions related to the depth of aggregate extraction, and consequently decisions that can impact groundwater resources. In the Counties of Wellington and Dufferin and the City of Guelph, this amendment has significant potential to reduce a municipality's power to protect local drinking water.

Ontario Public Health Standard

This Report presents information related to the Safe Water Program Standard under the Ontario Public Health Standards.

WDGPH Strategic Direction(s)

- Health Equity:** We will provide programs and services that integrate health equity principles to reduce or eliminate health differences between population groups.
- Organizational Capacity:** We will improve our capacity to effectively deliver public health programs and services.

Service Centred Approach: We are committed to providing excellent service to anyone interacting with WDG Public Health.

Building Healthy Communities: We will work with communities to support the health and well-being of everyone.

Health Equity

In 2017, the former Environmental Commissioner of Ontario (ECO) issued their annual environmental protection report to the Ontario Legislature⁶. The ECO noted that “the process of both siting and approving the operation of pits... and quarries... is often highly controversial and divisive for many local communities... Aggregate operations can also impact local water systems, wildlife, natural habitats, and farmland.”⁶

This BOH Report highlights elements within the proposed amendments to the *ARA* that reduce a municipality’s ability to influence decisions that have potential impacts on their communities. Pits and quarries are not evenly distributed across the province and may be concentrated in certain regions. These amendments will have a greater impact on communities with larger numbers of pits and quarries and potentially, to a greater extent, those that rely entirely upon groundwater as a drinking water source. Moreover, households on private water may possibly be at greater risk (than those on large municipal systems) should groundwater resources be impacted since they rely on a single well. Larger municipal systems may have some flexibility to temporarily shut down one well that feeds their system and still maintain adequate supplies for their community.

Additionally, under a scenario where groundwater resources become compromised, low income households may not have the means to purchase bottled water to ensure they continue to have access to a safe supply of drinking water. Moreover, water is very heavy and difficult to transport, which presents additional challenges for those without access to a vehicle.

References

1. *Proposed amendments to the Aggregate Resources Act*, Environmental Registry of Ontario No.019-0556 [Internet], 2019 [cited 2019 Nov 26] Available from: <https://ero.ontario.ca/notice/019-0556>

2. City of Guelph. ERO Notice #019-0556 - Comments on Bill 132: Schedule 16 [Internet] 2019 October 28. [cited 2019 Nov 26] Available from: https://guelph.ca/wp-content/uploads/info_items_110819.pdf#page=79
3. County of Wellington. Committee Report. PD2019-19 *Proposed Amendments to the Aggregate Resources Act – REVISED*. [Internet] 2019 October 29. [cited 2019 Nov 26] Available from: <https://calendar.wellington.ca/council/Detail/2019-10-31-1000-County-Council-Meeting/c84f71a5-12f8-479d-9682-aaf600b044c9>
4. Region of Waterloo. Regional Response to Proposed Amendments to the Aggregate Resources Act. [Internet] 2019 November 5. [cited 2019 Nov 26]. Available from: <https://calendar.regionofwaterloo.ca/Council/Detail/2019-11-05-1200-Planning-and-Works-Committee/01fba165-4570-40a2-929b-aafb00f7d231>
5. *Bill 132, Better for People, Smarter for Business Act, 2019* [Internet] 2019 [cited 2019 Nov 26]. Available from: <https://www.ola.org/en/legislative-business/bills/parliament-42/session-1/bill-132#BK18>
6. Environmental Commissioner of Ontario. Good Choices, Bad Choices. Environmental Rights and Environmental Protection in Ontario. [Internet] 2017 [cited 2019 Nov 26]. Available from: <http://docs.assets.eco.on.ca/reports/environmental-protection/2017/Good-Choices-Bad-Choices.pdf>

Appendices

None.