

## Addendum No. 2 to Report PDR-PCD-13-12

**To:** Chair Wright and Members of the Planning and Community Development Committee  
**From:** Sarah Morrison, Intermediate Planner  
**Meeting Date:** May 20, 2014  
**Subject:** **Flanagan Pit Expansion, County OPA 124**  
**Status:** Recommendation adopted by Committee as presented per Resolution PCD58-14 May 20, 2014; Endorsed by County Council June 3, 2014 per Resolution CC74-14;

### Recommendation(s)

**WHEREAS** an application for a County Official Plan Amendment Application has been received for an expansion of a pit into an area not designated 'Aggregate Resource Area' on Schedule B of the County Official Plan;

**NOW THEREFORE BE IT RESOLVED THAT** the Addendum No. 2 to Planning Report PDR-PCD-13-12 and Addendum to Planning Report PDR-PCD-13-12 are hereby adopted;

**AND THAT** the proposed amendment to the County of Grey Official Plan to designate the subject lands as "Mineral Resource Extraction with Exceptions" for the lands described as Part of Lot 1, Concession 16, Township of Southgate (Geographic Township of Egremont) to permit the expansion of a gravel pit be supported;

**AND FURTHER THAT** the appropriate by-law be prepared for consideration by County Council.

### Background

At the April 15, 2014 Planning and Community Development the following Resolution was passed:

*PCD44-14 Moved by: Councillor Richardson Seconded by: Councillor Barfoot*

*WHEREAS this Committee could not support this application based on the information provided;*

*AND WHEREAS this committee wishes to review additional information before making a final recommendation to County Council;*

*NOW THEREFORE BE IT RESOLVED THAT an additional Addendum Report be prepared to Planning and Community Development Committee on May 20<sup>th</sup>, 2014 on the matter;*

*AND THAT staff bring forward additional information to the next meeting respecting the following:*

- *Review the application with Transportation respecting the haul road*
- *Appropriately address questions and comments from Ms. Jo Chisholm's report*

*Carried*

Staff were directed to perform a review of Ms. Chisholm's deputation material and prepare a response. In addition to this staff were directed to determine the need for any further road study with the Transportation Services Department.

### *Transportation Services*

The Transportation Services department was circulated and commented in conjunction with Planning staff with regard to the related Local Official Plan Amendment and Zoning By-law in a letter dated April 3, 2013. The letter indicates that, "Transportation Services staff do not have any concerns with regard to the entrance or haul route as it has been indicated that this will not change with the expansion, the annual tonnage will not change."

Section 2.7.4 (3) (d) of the County OP states,

*Where an existing mineral aggregate operation exists, and the proposal is to expand the existing licensed area, a Traffic Impact Study is not required so long as the annual tonnage limit on the proposed area of expansion is the same as the existing annual tonnage limit and a condition is placed on the site plan indicating that the extraction will not occur on the expanded area until such a time as the aggregate from the existing operation has been extracted concurrently with the existing licensed area.*

The original pit is almost to the point of exhaustion and it is the intent of the applicant to exhaust the first pit prior to the expansion to begin operation. It is recommended that the site plan be revised to include a note which states this intent. With the comments

received from Transportation Services and the policy outlined above from the County OP, no additional road assessment is being required.

It is necessary to note that a report is being prepared for presentation at an upcoming Transportation and Public Safety Committee Meeting with regard to clarifying when a Road Assessment Study is required.

### *Response to Chisholm Report*

Ms. Chisholm (the writer) prepared a letter and deputation to Committee on April 15, 2014 regarding the proposed OPA 124, Flanagan Pit Expansion, or Flanagan Pit No. 2 as referenced in her report and presentation.

With regard to the letter, the writer objects to the proposed application. She summarizes her concerns from an included Appendix and extracts certain questions of interpreted importance and put them in the letter.

The letter highlights concerns with regard to pre-submission consultation. The applicant was sent a letter on both April 4, 2012 (with the original submission – OPA 115) and on February 14, 2014 (subject application OPA 124) deeming the application complete and referencing the *Planning Act* requirements.

The County has a Pre-Consultation By-law (4463-07) which does not require a formal face to face meeting. County staff had a series of phone calls with the applicant and their consultant in which it was clearly indicated that the requirements would be the same as the original application, with updated studies to the original Flanagan Pit. Staff were already familiar with the site and therefore had background on the conditions (i.e. through the original applications/studies). County staff were satisfied that proper pre-consultation occurred and the application was deemed completed.

In an attempt to make it as clear as possible, staff have extracted the 70 questions posed in Ms. Chisholm's "Appendix 1" and will respond to each one individually. Included with the questions were a number of comments which were, for the most part, responded to with the answers below. The omission of these comments in the body of this report should not be interpreted that they are correct, for the most part they are the writer's opinion and do not properly evaluate the related policy, or they are not a comment related to the County application.

*Question #1: Should the Applicant reference technical reports and documents i.e. as required under ARA 2.01.04 to 2.01.09 and GOP 2.7.4?*

Staff Response: Yes, the applicant should reference these reports as they form the basis of justification for the establishment of the pit. All of the reports have been accepted by each approval authority, including the County of Grey.

*Question #2: Why would the Planning Report refer to the Flanagan Pit No. 2 as “expansion of an existing Class “A” Category 3 license” which in itself is a misleading statement?*

Staff Response: There appears to be significant concern related to the name, as clearly stated at the Committee meeting on April 15, 2014, all of the applications submitted are new applications, for new amendments (OPA, LOPA, zoning) and license. The request occurs on the same property immediately adjacent to an existing pit and hence why it is being called the “Flanagan Expansion.”

*Question #3: Should the Report ask the approval authority to decide which technical studies are to be submitted when GOP 2.7.4 and ARA 2.01.03 to 2.01.09 provide standards for all documents required for the approval of OPA-124?*

Staff Response: The Applicant makes reference to the original reports because they are related. The statement in the Applicant’s planning report indicates that, “the reports are “stand-alone” reports and the approval authority may opt to review the other reports.” County staff were satisfied that the “stand-alone” reports provided were sufficient for the application and deemed the application complete, a letter was sent to the applicant on February 14, 2014. [emphasis added]

*Question #4: How is it possible that Applicant, MNR and Municipalities identified the property within a “Primary Aggregate Resource Area” within the Aggregate Resource Inventory Master Plan” when the Planning Report provides a map to be reviewed by the County?*

Staff Response: Further clarification of this question was sought of the writer as it is not clear what was the intent. The writer has clarified in that because the applicant used the report from the original Flanagan Application as a template, there were omissions and errors that caused her to question the credibility of the document in its entirety.

It does appear that the identification of the expansion into the area outside of the Aggregate Resource Area was missed by other agencies. However, County staff identified this error and informed the applicant and this is why the County Official Plan Amendment application process is now occurring. The error was identified and rectified by County staff.

*Question #5: What does the Applicant mean “Currently, new or expansion to existing mineral aggregate operations are permitted only by an amendment to the County of Grey Official Plan?”*

Staff Response: It means that new pit applications, be it a brand new site or on an existing site, adjacent to an existing pit (expansion) will require an amendment to the County Official Plan if it is outside the identified Aggregate Resource Area designated

on Schedule B. At the time of original submission and the drafting of the Planning Report, OPA 80 had not come into effect. OPA 80 removed the need for Official Plan Amendments in areas that were designated Aggregate Resource Area on Schedule B of the OP. As noted staff made an error in interpretation and opined that the parcel fell within the designation. After an additional review it was determined that it was not within this designation and the need for an OPA was required.

*Question #6: Why has the Applicant not included GOP 2.7.3 Development Criteria Policies and SOP 5.6.2 Development Policies as a prerequisite for approval of Zoning-By Law?*

Staff Response: If there was not a specific mention of the requirements of the County OP under the ZBL section, that does not mean it was not addressed, it simply means it was dealt with under another section in the report (in this case the County OP was discussed two sections above the heading of Township of Southgate Comprehensive Zoning By-law).

*Question #7: Why would Applicant state "it is intended that the licensed area will be rehabilitated when a progressive and final rehabilitation Site Plan as required under ARA 2.01.04, GOP and PPS 2.4.3?"*

Staff Response: The entire sentence reads, "it is intended that the licensed area will be rehabilitated **to an agricultural use** once the mineral resource is depleted". The inclusion of this sentence was not to indicate that rehabilitation is to occur, the applicant will be rehabilitating the licensed area as indicated on the operational plan. The statement was to indicate that it was going to be rehabilitation to an agricultural use which addresses County OP policy 2.7.4 (5). [emphasis added]

*Question #8: Did the Applicant perform visual impact tests to determine if the Flanagan Pit No. 2 can be seen from Grey Road 9, Southgate Side Road 47 and Base Line? The Flanagan Pit No. 2 is approximately 425 masl, a higher elevation than Flanagan Pit No. 1 which is approximately 418 masl. Flanagan Pit No. 2 is three times larger than Flanagan Pit No. 1. Flanagan Pit No. 2 is within a closer distance to Grey Road 9 and neighbouring residences than Flanagan Pit No. 1. Neighbours living on Southgate Road 47 are 445 masl and Flanagan Pit No. 2 may be visible from their home.*

Staff Response: The applicant was not required to perform a visual impact study under any of the existing legislation based on their proposal.

*Question #9: What is the reason for Site Plan indicating "Unlimited Tonnes" and the above mentioned text approximately 400,000 tones of sand and gravel?*

Staff Response: The original proposal was for unlimited tonnes as there was not a requirement under the ARA to have a maximum tonnage. The applicant was aware that

this caused concern, so to address this concern they noted that they would place a maximum tonnage on the Operational Plan of 40,000 per year. The reference to 400,000 tonnes was the estimated volume of the proposed extraction area.

*Question #10: What is the quality of the aggregate and years of operation based on the anticipated rate of extraction, and proposed tonnage condition?*

Staff Response: County staff cannot comment on the quality of the aggregate, this question would be better posed to the Applicant. Based on the estimated amount on site and the proposed annual extraction rate it would take a minimum of 10 years to deplete the resource from the site.

*Question #11: Did a Professional Geoscientist determine the original Hydrogeological Assessment dated 2008 was substantial for the Applicant's 2011 Application as required under Summary Report Standards and ARA 2.01.06?*

Staff Response: The Aggregate Resources Act (ARA) is administered by the Ministry of Natural Resources (MNR); this question needs to be posed to the MNR. The Provincial Ministries have reviewed the reports submitted and are satisfied that they address the Provincial standards. In addition to this, there is no Section 2.01.06 in the ARA.

*Question #12: What time of year did the Hydrogeologist perform site inspection i.e. April/May or September/October when water table levels are at their highest? The Hydrogeology Assessment dated 2008 states site was inspected but does not give the time of year.*

Staff Response: The question is specific to a report that County Staff did not compose, staff cannot respond to this question.

*Question #13: How can the original Hydrogeology assessment produced from 2006 to 2007 used to determine water table levels for the Flanagan Pit No. 1 2008 Applications, provide current data, current site conditions for Flanagan Pit No. 2 2012 Applications as required under the GOP 2.7.4, ARA 2.01.03, and 2.01.06?*

Staff Response: The County OP states, 'a Hydrogeological Study, prepared by a qualified individual, shall be required for proposed aggregate operations which are proposing to proceed below the established water table level identified in the Aggregate Resources of Ontario Provincial Standards,' Section 2.7.4 (3) (f).

For mineral aggregate operations proposing to remain above the established water table identified in the Aggregate Resources of Ontario: Provincial Standards, a letter of opinion shall be provided by a qualified individual estimating the current water table level and determining whether the proposed operation will have any impacts to the quality and quantity of surface or groundwater resources (Section 2.7.4 (3) (e)). Staff

were of the opinion at the time of submission that the previous report completed addressed any water quality and quantity concerns with the proposed application. In addition to this based on concerns raised, the applicant has had an additional site visit completed by a qualified individual and a letter of opinion has been provided [Hydrogeological Addendum Report - May 2, 2014](#). The Province has reviewed the reports and are satisfied that they address the ARA requirements.

*Question #14: Why did the Hydrogeology Assessment not use methods as described in Summary Report Standards i.e. drilled test holes?*

*Question #15: Was a Hydrogeologist present when the developer's excavation of test pits for near surface deposits did not intersect the water table as technique to determine water table levels.*

*What time of year was the excavation conducted?*

*Question #15(a): Why did two other applications submitted in 2011 use methods as described in ARA 2.01.05 Summary Report Standard and ARA 2.01.06 i.e. drill test holes?*

*Question #16: Have the approval authorities accepted the Hydrogeology Assessment 2008? The standard practice demonstrated in two other applications submitted in 2011 used methods as described in ARA 2.01.05 Summary Report Standard and ARA 2.01.06 i.e. drilled test holes.*

*Question #17: Why did Hydrologist not conduct drilled test holes i.e. installing stand pipes to determine water table levels in the Hydrogeology Assessment dated 2008?*

*Question #18: Why did the Hydrologist Report state the Beatty Saugeen River as the only surface water on the property when in fact there is a pond or wetland to the east of the existing pit not included in Hydrogeology Assessment dated 2008?*

*Question #19: Why did the Hydrologist in 2008 study not conduct a base line study for the quality and quantity of surface and ground water in order to compare future tests?*

*Question #19(a): Why was the first surface water evaluation for Flanagan Pit No. 1 was conducted November, 2013 by Gamsby and Mannerow Limited in accordance with Operation Drawing 2 "Note 6. On an annual basis after first 12 months of operations the owner/operator...shall have qualified professional review river and floodplain adjacent to the haul route..." conducted a study which only included surface water evaluation of the Beatty Saugeen River adjacent to the haul route near Grey Road 9 in November 2013?*

*Question #19 (b): Did the Applicant conduct a baseline surface evaluation in 2007 before commencement of Flanagan Pit No. in order to compare future surface evaluations?*

*Question #20: What is the most suitable time of year conducted surface water quality?*

*Question #31: Why did the Applicant not conduct an new Hydrogeology Assessment for Flanagan Pit No. 2 to determine quality, quantity of water i.e. such as minimum base flow, depth to water table, aquifer pressure, oxygen levels, suspended solids, temperature, bacteria, nutrients and hazardous contaminants, and hydrologic to create a base line study in order circumvent any water quality and quantity problems which many occur in the future?*

*Table 3: Question #1: How can this be determined with Hydrogeological Assessment dated 2008 with out of date data and no 2008 baseline surface water evaluation to compare future surface water evaluations*

*Table 3: Question #3: What documentation is the Applicant referring to? See comments above regarding water evaluation*

Staff Response: As mentioned a Hydrogeological Study was not required for this application and a supplementary letter has been provided. The Province is satisfied with the reports from a technical standpoint. Questions specific to the Hydrogeological Report need to be posed to the author of said report, County staff cannot answer specific questions related to methodology, e, etc.

The initial hydrogeological investigation that was conducted by Thomas Haygarth of HGI Services Ltd. with the first pit application. This established the water table on the site and can be used for future evaluations.

*Question #21: What criterion was the evaluation of surface water i.e. Fisheries Act – Section 34 (2) Conservation Authority as authority to represent Deleterious Substances Cause Damage to Fish and Significant Wild Life Habitat; And Significant Woodlands. Dust, sediment, gasoline and oils from site alteration can be released into the watershed endangering fish habitat; trapped in fish gills and causing temperature moderation in watershed endangering fish habitat, wildlife habitat and vegetation. The watershed cold water temperature for brown and brook trout is required between the range of 12-20C, with 26C being fatal. The Fisheries Act carries penalties for destruction of Fish and Fish Habitat. (See Deleterious (toxic) to Fish or Fish Habitat (Fisheries Act, Sections 34(1) and 36(3)) Deleterious substances include sediment, gasoline and oils.)*

Staff Response: The reports have been reviewed by the Conservation Authority and MNR and both are satisfied that with the reports.



*Question #22: Did the Applicant request base line study to determine quality of surface and groundwater flow in order to evaluate any change in quality and quantity of water from 2008 and future studies?*

*Question #23: \*\*NOTE\*\* The writer sent an updated version of this question via email on April 28, 2014. The question in the supplied Appendix is different than the following question, although the intent remains the same:*

*What Performance Indicators related to quality and quantity of water have the Municipalities implemented with regard to protecting the health and safety residents who rely on private wells and wild life who live within the Beatty Saugeen Watershed corridor in Holstein area. See PPS 2.2.1 Quality & Quantity, 2.2.2, 4.11 Municipalities are encouraged to establish performance indicators to monitor the implementation of the policies in their official plans.*

Staff Response: County, Municipal and Ministry staff have all reviewed the provided reports and are satisfied that the subject application addresses the requirements with regard to hydrogeology.

*Question #24: How is the Applicant able to determine there is sufficient topsoil, subsoil and over burden required to rehabilitate the site?*

Staff Response: Rehabilitation will be monitored and inspected by the MNR.

*Question #25: What method is the applicant using to separate the above mentioned soil? i.e. Aerial photo of Flanagan Pit No. 1 shows one stock pile in the east corner of the pit.*

Staff Response: This is a question that needs to be posed to the applicant, County staff cannot comment.

*Question #26: Who monitors that the quality of fill remains separated?*

Staff Response: This is a question that needs to be posed to the MNR, County staff cannot comment. The comment associated with this question makes mention of the sustainability of the subsoil layers for plant growth. The statement has not referenced any research to support this claim.

*Question #27: Why was a soil analysis for quality and quantity not conducted for new site "Flanagan Pit No. 2 to provide data required for ARA License Application?*

Staff Response: It is not a requirement of the application process.

*Question #28: Why were no full-season, in-season or partial-season surveys of wildlife, fish and flora habitat (riparian cover, wetlands, rivers) not completed for*

*the site and the adjacent lands within 120 metres of the subject lands as required under PPS 2.1.4, 2.1.5 and 2.1.6 ?*

*Question #29: Why did the Consultant conduct only two field studies November 23, 2011, August 17, 2012 which is not sufficient time given to study habitat for wild life, fish and flora?*

Staff Response: All issues with regard to the Natural Environment Technical Report (NETR) have been addressed and both the Conservation Authority and the MNR have signed off. Specific questions with regard to methodology for the report itself need to be posed to the composer of the NETR.

*Question #30: Why did the MNR not contact Grey County in June, 2012 after sending a letter dated June 25, 2012 to H. Bye Construction Limited's stating technical studies did not support a new ARA license or meet Provincial Standards in their June 25, 2012 letter to H. Bye Construction?*

Staff Response: The MNR is not required to contact Grey County. At the time of the comment a County OPA was not in process and the County was only a commenting agency. It is not required of agencies to send their comments to all parties who would be circulated as part of the application process.

In her comments, the writer quotes Section 6 of the *Planning Act* indicating that this Section means that the MNR must circulate the County any comments received with regard to applications. The section quoted actually refers to situations where new policies are being introduced through legislation, not for individual applications that are regulated under the ARA, and therefore the MNR are not required to circulate comments to the County.

*Question #32: How did the Hydrologist, MNR, SVCA and County not observe during site inspections, aerial photographs and site plan the wetland east of Flanagan Pit No.1.?*

Staff Response: County OP mapping does not identify this area as a wetland; staff cannot make comments on behalf of other agencies or individuals.

*Question #33: Has the MNR requested mitigate measures i.e. use silt fencing as per Ministry of Labour and what are the silt fence standards?*

*Question #34: How did the Applicant substantiate "there may be localized perched water tables" without a current Hydrogeological assessment and sufficient methods as described in ARA 2.01.06?*

*Question #35: Why would ditches for Flanagan Pit No. 2 not be in place before a perch water table is encountered during excavation and are the ditches located on the Site Plan?*

*Question #36: What mitigated measures are being used to prevent overflow of water from ditches, during heavy rainfall, from entering wetland and flood plain i.e. silt fencing as per Ministry of Labour Standards?*

*Question #37: How can the Applicant substantiate this comment when methods for determining ground water table as required under ARA 2.01.06 Hydrogeological Report Standards were not used in the Hydrogeology Assessment dated 2008?*

Staff Response: This questions needs to be posed to the MNR or the Applicant, not County staff.

The writer also comments about the protection of the landowner, the studies completed satisfy the County with regard to the safety of the landowner.

*Question #38: How did the Consultant come up with “approximately six rural residences within 1 kilometre of proposal”?*

Staff Response: This question needs to be posed to the consultant, not County staff. The consultant has indicated to County staff that the estimation was from the operation not the property boundaries.

*Question #38: Why is the Applicant not complying with GOP 2.7.4 (3) (c)(4) A Noise Impact Study prepared by a qualified individual which satisfies the Ministry of the Environment’s standards?*

*Question #39: Has the applicant satisfied legal requirements of MOE by providing an environmental engineering study for air quality, noise in compliance with MOE guidelines as required under GOP 2.7.4 (3)(c)(4)?*

*Question #40: How can the Applicant determine negative impact of noise without a noise study in order that extraction shall be undertaken in a manner which minimizes social and environmental impacts as required under PPS 2.5.2.1*

*Question #41: Why has an environmental engineering study demonstrating the effects on the surrounding area in terms of air quality through dust and particulate emissions and the potential for noise and vibration and levels and quality and quantity of surface water and ground water resources resulting in potential adverse effects to the residents living in close proximity to Flanagan Pit No. 2 and Peyton Pit:?*

*Question #42: Has the Public Health Ontario been to the site and reviewed the fact that there is a family with children living within 150m of Flanagan Pit No. 2?*

*Question #44: What are the mitigated measures to reduce the negative impact of dust and noise produced by processing equipment from receptors i.e. Flanagan Family and Mrs. Ellis?*

Staff Response: The closest sensitive receptor is outside 150 metres and therefore a Noise Impact Study is not required as per the Provincial Standards. A dust study is not a requirement of the application process dust will be mitigated on site as per the ARA regulations. Public Health is not required to visit the site.

*Question #43: What mitigated measures have been made to reduce the negative impact on: clean air, wild life and fish habitat (vegetation, wetlands, Beatty Saugeen River)?*

*Comment: The Public have made complaints to the Guelph District Regional Office of the MNR and the Municipalities in respect to the release of contaminates to the atmosphere with regard the operation of Flanagan Pit No. 1 and the two applications (Flanagan Pit No. 2 and Orchard Pit) as well as the potential cumulative effect of seven gravel pits operating in 3.7 km radius of the Beatty Saugeen River.*

*D-4 STUDY is a study required determining the potential for negative impacts in compliance with the Guideline D-4 including, but not limited to, ground and surface water (hydrogeology and hydrology), noise, odour, and dust, methane gas migration, traffic impact, land use compatibility, and other studies as per GOP.*

*Comment: Such a study would demonstrate degree of compliance with environment, health and safety standards.*

*Comment: The criterion used by MNR approval of an ARA License Application (operation) differs from County's approval of an Official Plan Amendment and Zoning-By law Applications (land use, health and safety of Public and Natural Heritage).*

*Comment: Letter or certificate approval from MOE should become part of the Public Notice on the Municipalities'*

Staff Response: The NETR and the supplemental work recommends mitigative measures that will protect the features in the area.

D-4 studies are related to landfill sites and would not be applicable to a pit application.

*Question #45 [there was no question]*

Staff Response: No response required.

*Question: #46: Did the municipality question the manner in which the Flanagan Pit No. 2 addressed provincial interests without substantiating compliance statements?*

Staff Response: This question needs to be posed to the Township, not County staff.

*Table 3: Question #2: Has the Applicant corresponded with First Nations and Metis on applications that will have the potential to infringe on aboriginal treaty rights and aboriginal interest?*

Staff Response: This question needs to be posed to the Applicant. As part of the *Planning Act* process the First Nations and Metis were circulated.

*Table 3: Question #4: What is the amount of financial contribution for education, health, cultural and recreation facilities? See my revised levy of below of \$4,000 annually split between Province and municipalities.*

*Table 3: Question #5: Why did the Applicant not provide a current levy fee based on Planning Report 2011 40,000 tonnes annually which would yield approximately \$4,000 split between Province and municipalities? The 2007 Hydro One \$25,000 levy fee is not related to Flanagan Pit No. 2*

Staff Response: Staff are assuming that the reference to levies is regarding The Ontario Aggregate Resources Corporation (TOARC) fees, which are prescribed under the ARA and are calculated based on the actual annual extraction. With regard to the question about the inclusion of the current levy fee, this question needs to be posed to the Applicant, not the County.

*Table 3: Question #6: Why did the Applicant not circulate the MNR's letters in 2012 & 2013 to Municipalities re: non-compliance with ARA and non-compliance with PA?*

Staff Response: This question needs to be posed to the Applicant or the MNR, not County staff. At the time of receipt of the MNR letters the County did not have an application before us and would not have been required to have been circulated. See also, response to Question #30.

*Table 3: Question #7: How can the Public present objections when they were not provided with Public Notice of the replacement Natural Environment Study 2012 or have the time to review ARA?*

*Comment: The Applicant's Licensee Assessment Reports from 2011 to 2013:*

*ARA B5 Site Protection\* -required 1.2m post with page wire fencing around site and **Applicant's remedial measure to mitigate non-compliance was to install an electrical wire fence around Flanagan Pit No.1.***

*The MNR's inability to review all Licensee Assessment Reports has placed the public safety at risk.*

*The MNR Aggregate Technical Specialists has 200 pits to monitor – Staff inspect 1 pit every five years. The MNR first inspection of Flanagan Pit No. 1 and inspection of Flanagan Pit No. 2 site occurred 1 in October, 2013.*

*Note: MNR has 20 days to determine whether the application is complete. This period commences upon receipt of the application by MNR.*

*The Aggregate Inspector should inspect the site to ensure that the site plan accurately reflects the site conditions, provided that the review can be undertaken within the 20-day period. MNR determined Flanagan Pit No. 2 complete February 13, 2012 – site inspection should have occurred 20 days later.*

Staff Response: Questions and comments related to the ARA process and MNR need to be directed to the MNR, County staff cannot comment.

With regard to the question about updates to reports, as part of the process any member of the public is permitted to come in and view a file related to any application. These reports are also made available on the County Website. This file would include any updated comments or addendums to reports, etc. It is not a requirement of the *Planning Act* process to send notification to all interested parties or neighbours every time a new piece of correspondence is received. It is the responsibility of the individual to keep themselves informed. If a substantial amendment is required based on recommendations and/or comments from one of the files, then an additional circulation and public meeting would be held as per the requirements of the *Planning Act*.

Comments with regard to the negative impacts have not been substantiated with documented evidence and cannot be responded to as a result. Staff recognize that there will be certain effects with the higher volume of pits within the area, however at this point there have been no studies that show the subject application has or will negatively impact the natural environment or public. The studies have been reviewed by a number of agencies and no concerns have been identified.

*Question #47: Has the Township reviewed costs the Aggregate Industry incurs with regard to servicing costs i.e. repair of roads and bridges. The Township of Southgate collects an average annual level fee of \$27,000 from all gravel pits, approximately ten (10). The Township has not conducted a cost/benefit analysis to date.*

Staff Response: This question needs to be posed to the Township.

*Question #48: Has the sand and gravel deposit changed from primary significance outside of the Aggregate Resources Area?*

Staff Response: No.

*Question #49: Did the County take into account that traffic has increased due to the cumulative effect of the increased number pits operating in the Holstein area since the Flanagan Pit No. 1 2008 Applications?*

Staff Response: The proposed application would not increase the traffic volumes to any more than what currently exists, as it will maintain the same volume of traffic as the original pit.

*Question #50: Why did the Planning Report not included mitigated measures to reduce adverse effects on items a) to h) as defined in Environmental Protection Act?*

Staff Response: It was not required.

*Question #51: Has council conducted their due diligence of PPS 1.7.1 which would be supported by: a Financial Analysis of Cost/Benefit, Natural Environmental Report, Hydrogeological Assessment, Noise Study, Dust Study, Traffic Study, reviewed or approved by appropriate agencies in order to determine adverse effects and mitigated measures as per GOP 2.7.4.*

Staff Response: Staff have conducted a thorough review of the application and required reports, as mentioned in previous comments, not all above mentioned reports are required for this application Staff are satisfied that the proposal is consistent with the PPS and conforms to the County OP.

*Question #52: What is the cumulative negative impact of seven pits in close proximity to the Beatty Saugeen watershed (wetlands and riparian cover) which provides fish habitat, potentially causing harmful alteration, disruption or destruction of fish habitat, except where, in conjunction with the appropriate authorities, it has been authorized under the Fisheries Act, using the guiding principle of no net loss of productive capacity?*

Staff Response: The subject application was not required to assess the entire Beatty Saugeen watershed. The SVCA has provided comments with regard to their mandate and have not raised concerns with regard to the watershed and the proposed extraction on this site.

*Question #53: Why were no full-season, in-season or partial-season surveys of surface and ground water which supports wildlife and fish habitat (riparian cover, wetland, Beatty Saugeen River) and flora not completed for the site and the adjacent lands at least within 120 metres of the subject lands as required under Policies 2.1.4, 2.1.5 and 2.1.6 of the Provincial Policy Statement?*

Staff Response: Sections 2.1.4, 2.15 and 2.1.6 of the PPS speak to development and site alteration within proximity to and within natural heritage features. These policies do not specify timing for surveys to be completed. As mentioned in response to Questions #28 and #29 all issues with regard to the Natural Environment Technical Report (NETR) have been addressed and both the MNR and Conservation Authority are satisfied that the proposed pit will have no negative impacts.

*Question #54: Why hasn't the County addressed the water policies in Section 2.2.1 of the Provincial Policy Statement that require the watershed to be used as the ecologically meaningful scale for planning?*

*Comment: The MNR, the Ministry of the Environment, the SVCA and local municipalities have not undertaken to date a watershed study for the Beatty Saugeen River Watershed and associated wetlands and natural heritage features and functions. There is a disturbing lack of watershed and sub watershed information about the area and particular the Holstein area.*

*Ontario Wetland Evaluation System (OWES)*

*The MNR is responsible for determining which wetlands and wetland complexes (groups of individual wetland units which are functionally related in some important manner) are provincially significant, whether MNR or other qualified individuals conduct the evaluations.*

*Wetlands are evaluated using the Ontario Wetland Evaluation System (OWES) Manual Policy A.R. 2.01.07 Page 3 of 9 (Northern or Southern), a science-based Provincial ranking system to identify provincially significant wetlands and wetland complexes.*

*Information on the status of specific wetlands is available from the local MNR office.*

*Unevaluated wetlands cannot be assumed to be non-significant unless agreed to by the local MNR office. If MNR cannot advise on significance through reconnaissance, it will advise the applicant regarding MNR's schedule to evaluate the wetland. The applicant can choose to wait until the MNR evaluation is completed or hire a trained wetland evaluator (trained in an MNR recognized OWES training course) to carry out an evaluation based on the criteria and procedures outlined in the OWES manuals. In the latter case, MNR will review the wetland evaluation file to confirm the wetland boundary and status and ensure the evaluation was completed to OWES standards.*

*The local planning authority may consider non-provincially significant wetlands to be 'regionally' or 'locally' significant. However, the applicant is not required to address these features within the Natural Environment report.*



Staff Response: County staff are satisfied that the information provided with the application has adequately addressed Section 2.2 of the PPS and applicable policies in the OP. MNR staff and SVCA staff have also reviewed the application and have signed off on the proposal. An entire evaluation of the watershed is not required for this application.

*Question #55: Why has the Consultant not provided a forecast of the Flanagan Pit No. 1 remaining supply of aggregate, remaining term to deplete pit and anticipated date to commence rehabilitation of Flanagan Pit No. 2?*

*Forecast of the Flanagan Pit No. 1 remaining supply of aggregate, remaining term to deplete pit and anticipated date to commence rehabilitation of Flanagan Pit No. 2 is required before approval of OPA and ZBA.*

Staff Response: This information is not required to address the County OP policies.

*Question #56 What pit floor will the portable processing plant be stored on i.e. Flanagan Pit No. 1 or Flanagan Pit No. 2?*

Staff Response: This question needs to be posed to the Applicant, and noted on the site plan.

*Question #57: What is the County's classification of subject deposits now that Flanagan Pit No. 2 is outside Aggregate Resource Area?*

Staff Response: The County OP does not classify every deposit in the County. The OP identifies areas that have high potential for the resource to be available. On Schedule B of the OP the subject lands are immediately adjacent to the Aggregate Resource Area.

*Question #58: What studies has the Applicant conducted to minimize social and environmental impacts related to air, noise and visual issues as well as haul route as required under PPS 2.5.2.2.*

Staff Response: The applicant has completed a NETR with regard to environmental impacts, as mentioned they were not required to complete any noise and visual assessments as the closest sensitive receptor is further away than 150 metres from the license boundary. The applicant will also mitigate dust on site as per the requirements of the ARA. All other reports have been deemed satisfactory to fulfill the requirements of the applications and would therefore adequately address any social impacts as per the legislative requirements.

*Question #59: Why would the Planning Report state "some policies found in Official Plan are general in nature and assume that because a development agreement was not entered into during the initial development of the pit that they do not anticipate entering development agreement?"*

*Question #60: Why did the Planning Report/Summary Report state only site plans were submitted to the MNR for pre-submission consultation when technical studies as per ARA 2.01.01 Pre-Consultation and 2.01.04 to 2.01.09 were available?*

Staff Response: This question needs to be posed to the composer of the Planning Report.

*Question #61: Why did the Planning Report not confirm “prior to making a decision on whether or not a County-level application is complete the Applicant is required to make a pre-consultation appointment with County as required under Grey County Official Plan Mandatory Pre-Consultation GOP 6.18 6.18 Complete Applications and Planning Acts. 22(3.1), 34(10.0.1), 41(3.1), and 51(16.1).*

Staff Response: The County sent a letter on both April 4, 2012 (Original Submission) and on February 14, 2014 deeming the application complete and referencing the *Planning Act* requirements.

The County has a Pre-Consultation By-law (4463-07) which does not require a formal face to face meeting. County staff had a series of phone calls with the applicant and their consultant in which it was clearly indicated that the requirements would be the same as the original application, with updated studies to the original Flanagan Pit. Staff were already familiar with the site and therefore had background on the conditions (i.e. through the original applications/studies).

County staff were satisfied that proper pre-consultation occurred and the application was deemed completed.

*Question 62: The examples in 5.6.2 Development Policies are intended as examples of what may be included in a Development Agreement.*

Staff Response: This appears to be a statement and not a question.

*Question 63: Why was the Public not notified of the MNR’s In 2011 Applicant presented only the Site Plans to the MNR pre-submission consultation with the MNR. The application was received by MNR on November 24, 2011. The application was deemed complete on February 13, 2012. During the 45 day public commenting/objection period, the MNR objected to the proposed application regarding the Natural Environment Report and concerns it failed to meet the Provincial Standards and policies. The revised document did not become part of the public record*

Staff Response: The question is incomplete. It appears the question has something to do with the MNR process, this question should be posed to the MNR, County Staff cannot comment. In addition to this the MNR has reviewed the revised NETR and it addresses MNR’s previous concerns

## *Related Reports:*

For ease of reference included below are links to the report from last month and the original report presented in 2012.

[PDR-PCD-13-12 Flanagan Pit Expansion](#)

[Addendum to PDR-PCD-13-12 - Flanagan Pit Expansion](#)

The following links are to Ms. Chisholm's letter and appendix.

[Jo Chisholm Letter](#)

[Jo Chisholm Appendix](#)

## Financial / Staffing / Legal / Information Technology

### Considerations

There has been significant opposition from neighbouring landowners with regard to this application. A positive decision could result in an appeal to the Ontario Municipal Board (OMB). If the application is appealed to the OMB, legal costs associated with such a hearing could occur.

### Link to Strategic Goals / Priorities

The subject application is a private development application. The processing of such applications in a timely and efficient manner would fall under the Planning department's core business mandate.

This development application should have no direct impact on the County's ability to achieve corporate strategic goals and priorities; staff recommends that the proposed amendment be approved as it conforms to the goals and objectives of the County Official Plan and is consistent with the *Planning Act* and the Provincial Policy Statement (2005 and 2014).

### Attachments

None.

Respectfully submitted by,

Sarah Morrison, Hons. BA, MCIP, RPP  
Intermediate Planner

Director Sign Off: *Randy Scherzer*