

To:	Warden Halliday and Members of Grey County Council
Committee Date:	March 8, 2018
Subject / Report No:	PDR-CW-12-18 Gibraltar Sand and Gravel Pit Expansion
Title:	42-42-000-OPA-135 Final Report
Prepared by:	Scott Taylor
Reviewed by:	Randy Scherzer
Lower Tier(s) Affected:	Town of The Blue Mountains
Status:	Recommendation adopted by Committee as presented per Resolution CW74-18; Endorsed by County Council March 22, 2018 per Resolution CC34-18;

Recommendation

- 1. That all written and oral submissions received on Official Plan Amendment Number 135 were considered and helped to make an informed recommendation and decision;**
- 2. That Report PDR-CW-12-18 be received;**
- 3. And that Amendment Number 135 to permit a gravel pit expansion on lands described as Part 1 RP 16R9097, Lot 6, Concession 4, Geographic Township of Collingwood, in the Town of The Blue Mountains, be supported, to re-designate the subject lands to the 'Mineral Resource Extraction with Exceptions' designation on Schedule B to the Plan, while remaining in the 'Rural' designation on Schedule A, and that a by-law to adopt the County Official Plan Amendment be prepared for consideration by County Council.**

Executive Summary

This report considers a proposed County official plan amendment in the Town of The Blue Mountains to permit a 13.6 hectare expansion to an existing gravel pit. Although 13.6 hectares are proposed to be licensed, the extraction area will be 10.3 hectares. Extraction in the current pit, as well as within the proposed expanded area will occur below the water table. The amendment is required because the expansion lands are primarily located outside of the County's 'Aggregate Resource Area' mapping. Accompanying the County official plan amendment application, are applications for official plan and zoning by-law amendment to the Town of The Blue Mountains, and a license from the Ministry of Natural Resources and Forestry

(MNRF). The subject lands would remain designated as 'Rural' on Schedule A to the County Plan, but would be re-designated to 'Mineral Resource Extraction with Exceptions' on Schedule B to the Plan. It is recommended that Amendment Number 135 be supported and a by-law to adopt the amendment be prepared for consideration by County Council.

Background and Discussion

The County of Grey has received an application to amend the County Official Plan to permit a 13.6 hectare pit expansion on the subject property. The majority of the expansion lands are not in an identified Aggregate Resource Area and therefore the proposal requires County and Town official plan amendments. The lands are designated as 'Rural' in the County and Town plans. Aside from the Town and County official plan amendments, a zoning by-law amendment and a license from the MNRF are also required for this pit expansion.

The area proposed for re-designation is 13.6 hectares in size and the area proposed for extraction is 10.3 hectares. The pit is proposed to go below the water table, and is estimated to contain approximately 2.7 million tonnes of resource. The existing pit is licensed to extract 150,000 tonnes annually. Should the proposed expansion be granted, the cumulative total of the current pit, and the proposed pit will remain at 150,000 tonnes per year. The lands will be rehabilitated to a man-made pond and forested areas. Maps 1 and 2 below show the proposed expansion lands and licensed area.



Map 1 – Airphoto of the Subject Lands

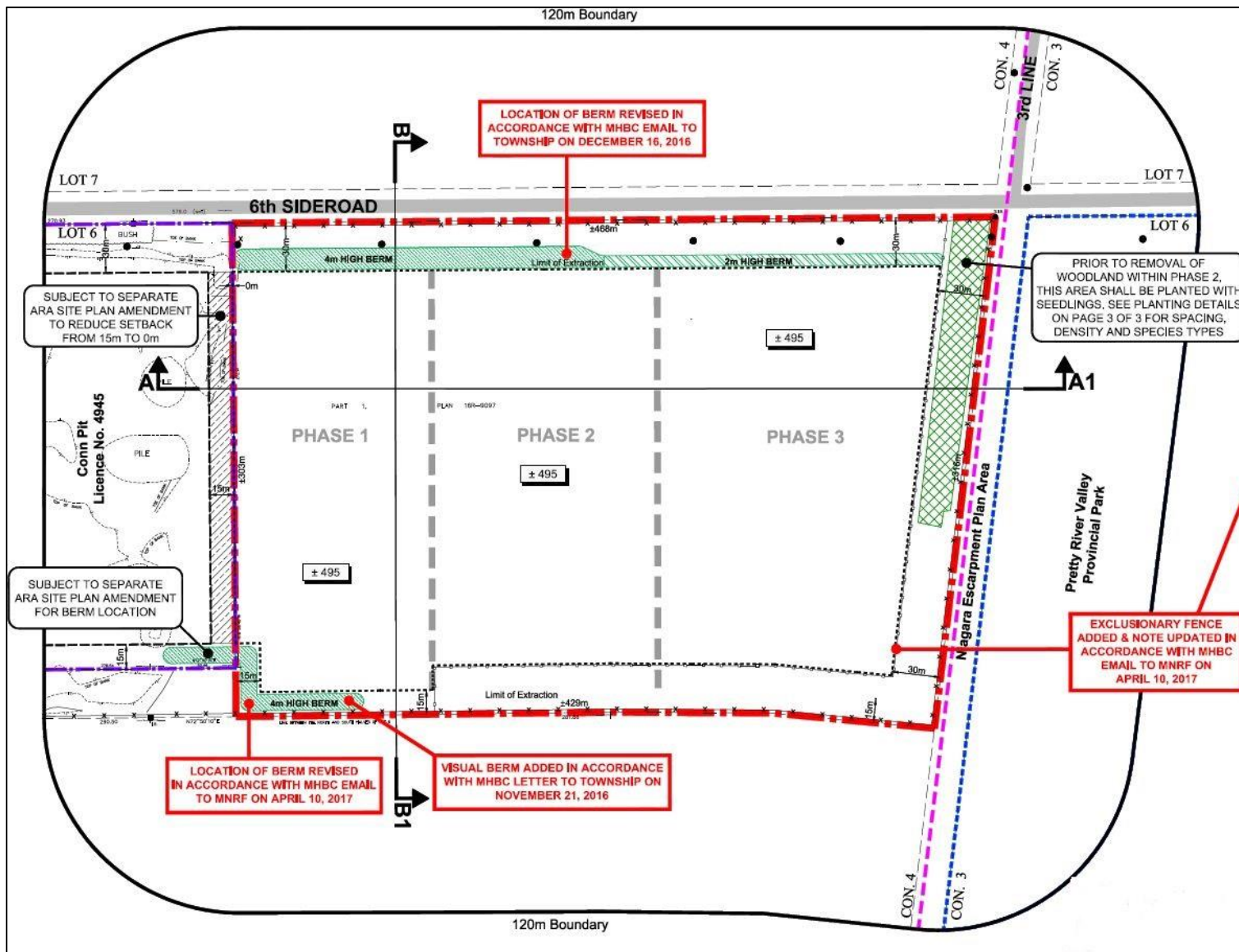
The subject lands are legally described as Part 1 RP 16R9097, Part Lot 6, Concession 4, geographic Township of Collingwood, in the Town of The Blue Mountains. To the west of the subject lands is the historical hamlet of Gibraltar. The expansion lands are currently farmed and forested and are immediately east of the existing (approved) Gibraltar Sand and Gravel Pit (License No. 4945, formerly known as the Conn Pit). East of the expansion area is a large portion of publicly owned (MNRF) lands that is known as Pretty River Provincial Park. To the

north, across 6th Sideroad is another licensed pit, known as the Bates Sand and Gravel operation. To the west of the existing pit are a series of residential dwellings. Within 500 metres of the proposed expansion site are two residential dwellings.

MHBC Planning Ltd. have submitted a Planning Justification Report in support of the proposed planning applications. A number of supporting reports and response submissions have been completed in support of this application including: a Traffic Study, a Hydrogeological Study, a Natural Environment Technical Report (NETR), an Archaeological Study and a Noise Study. Copies of all background materials can be found on the County's website at the below link.

[Gibraltar Sand and Gravel Pit Expansion Background Materials](#)

The County and Town of The Blue Mountains hosted a joint public meeting for the official plan and zoning by-law amendment applications on May 16, 2016.



Map 2 – Licensed and Extraction Boundaries on the Subject Lands (Courtesy MHBC Planning Ltd.)

Public and Agency Comments Received

The proposed applications generated a significant amount of public comments, questions, and concerns. The County has an extensive file on the official plan amendment application. For the purposes of this report, summaries of the comments have been provided, as the complete public record is far too lengthy to attach to this report.

The County received written or verbal comments from the following;

- Margot Allan
- Donald H. Avery on behalf of the Blue Mountain Watershed Trust
- Kevin Bambrough
- Leslie Brophy
- G.D. Butterfield
- Nathalie Butterfield
- Martha Butterfield
- Rick Clarke and Victoria Macrae
- Geordie C. Dalglish
- Chris Ferron
- Laura Ferron
- Friends of the Pretty River Valley
- Rob Grand
- Peter Grosskopf
- Elizabeth Harrison
- Mr. Holden
- Bernard Homonick
- Diane Hudson
- Gina & Alan Johnston
- Lars and Monica Londen
- Paul Lockett
- Jeanette Macdonald and Frederick Wetzel
- Angela Marritt
- Dan and Julia McCarthy
- Bryan Pady
- Neil Patrick
- Diana Prankevicius
- Giselle Seheult
- Bev Shaw, Shaw Farms Ltd.
- Ian Sinclair
- Annette and Chuck Solly
- Charles Stevens
- Thomas Michael Storey
- Kirsti Suutari and Peter Lamy
- Rand Thompson

A petition was also received in opposition to the proposed pit.

A summary of the written public comments are as follows;

- Concerns over impacts on neighbouring properties, including proximity to residential dwellings
- Concerns over impacts on natural environment and the Pretty River Park
- Concerns over tree removal
- Concerns over the impacts on wildlife and endangered species
- Preserve existing farmland / avoid loss of good farmland
- Concerns over the spread of weeds from the berms on-site
- Health impacts from the proposed pit and the haul route
- Public health and safety concerns
- Traffic concerns
- Increase in traffic/heavy truck traffic and trucks speeding
- Road safety concerns including impacts on cyclists, pedestrians, horseback riders, sight-seers, and all road users
- Concerns over ongoing maintenance of roads
- Rehabilitation plan questions
- Concerns over the quality of the aggregate resource on-site
- Drinking water safety concerns / impact on wells
- Concerns about going below the water table
- Concerns over potential spills
- Concerns over the proposed hours of operation
- Concerns over phasing of extraction
- Concerns over setbacks and the need for fencing on-site, in addition to berms
- Keep the unique beauty of area intact
- Impacts on tourism and outdoor enthusiasts
- Noise impacts
- Impacts on air quality and dust impacts
- Concerns over long-term risks
- Questions over Provincial Policy Statement consistency
- Questions over Official Plan conformity
- Consider the pit application within the context of the new Aggregate Resources Act: Blueprint for Change and the Niagara Escarpment Plan Review
- Growing number of gravel pits in the area, is there a need for more
- Negative impacts on surrounding property values

A summary of the verbal public comments from the public meeting has been included in the public meeting minutes.

Written comments were received from the following agencies.

Niagara Escarpment Commission (NEC)

In a letter dated April 12, 2016, the NEC concluded;

“It is anticipated that the proposal will not have a substantial negative impact on the adjacent lands within the Niagara Escarpment Plan and it does not conflict with the purpose and objectives of the NEP [Niagara Escarpment Plan].”

Historic Saugeen Metis (HSM)

In an email dated March 24, 2016, the HSM noted that they have ‘no objection or opposition to the proposed development including the land re-designation and rezoning’.

Saugeen Ojibway Nation (SON)

The Saugeen Ojibway Nation provided peer reviews of the cultural heritage, natural heritage and hydrogeological aspects of the proposed development. On the cultural heritage and hydrogeological aspects, the reviews noted that they were in general agreement with the findings of the proponent’s technical reports. On the natural heritage component, SON’s peer reviewer noted that they focused on the deer wintering yard aspects of the proposed pit. They noted that ‘it is unlikely to have negative impacts on the local deer population, but also noted that their review was not fully informed by SON’s traditional knowledge in the area.’

Grey Sauble Conservation Authority (GSCA)

A number of submissions were received from the GSCA, who initially raised concerns with respect to these applications. Most recently in a letter dated January 29, 2018 the GSCA noted that ‘MNR has now concluded that the proposed pit is consistent with the Provincial Policy Statement (PPS). They further noted that there will be an overall increase in the total woodland area on the site. GSCA no longer have an objection to the proposal.’

Ministry of Natural Resources and Forestry (MNRF)

The MNRF submitted multiple pieces of correspondence on the applications, but most recently in an email dated November 27, 2017 MNRF commented;

“Provincial policy supports a comprehensive and integrated approach when addressing matters of provincial interest. The PPS recognizes the interim nature of mineral aggregate resource extraction, where progressive and final rehabilitation of sites are required to accommodate compatible land uses. Further to MNRF’s letter of June 26, 2017, the Ministry has considered policy 2.1.5 of the Provincial Policy Statement and is satisfied that the removal of a small portion of the significant woodland using a phased approach will not result in a negative impact based on the mitigation and rehabilitation plan in the most recent draft site plan. Conversely, this approach will result in an overall net increase in total woodland area and establish a defined wildlife corridor that serves as a connection to the woodland to the north.”

The MNRF’s June 26th letter confirmed they had no further technical concerns with respect to the pit.

Town of The Blue Mountains

In a letter dated January 31, 2018 Town of The Blue Mountains staff noted

“Please be advised that the Town of The Blue Mountains has no objection to proposed amendment to the County Official Plan to permit the expansion of the gravel operation

onto the subject lands. The Town is currently preparing the staff report regarding the Local Official Plan Amendment and Zoning By-law Amendment. Council will have an opportunity to review and decide on these applications at an upcoming meeting, following the County's decision on this matter."

Earlier on in the application review process, Town staff determined that a haul route agreement is not required for this pit expansion. Measures have also been taken through the buffer zone, to have the trees act as a living snow fence to help with snow drifting on the road.

It should be noted that the above comments are staff comments only, and Town Council has not yet rendered a position on the matter.

Analysis of Planning Issues

In rendering decisions, planning authorities must have regard to matters of Provincial interest under the *Planning Act* and be consistent with the Provincial Policy Statement (PPS). Decisions within the County must also conform to the County of Grey Official Plan and any local official plans or Provincial plans in force and effect. In this case, the Town of The Blue Mountains does have a local official plan, and a comprehensive zoning by-law. County staff will defer to Town staff for a detailed analysis of the Town's Plan. The subject lands are not within the Niagara Escarpment Plan, but are adjacent to the Plan area.

Provincial Legislation - The Planning Act

Section 2 of the *Planning Act* provides matters of provincial interest which planning authorities must have regard for in rendering any decision under the Act. Most notable to this proposed official plan amendment are the following clauses, with some staff comments below.

(a) the protection of ecological systems, including natural areas, features and functions,

The County Plan maps a pocket of Significant Woodlands on the southeast corner of the subject lands. The Town of The Blue Mountains Official Plan also maps these Woodlands as a Deer Wintering Yard. Some Butternut trees, an endangered species, were also located within the Woodlands.

A Natural Environment Technical Report was completed for the proposed pit. This report made recommendations for how the property will be cleared, extracted and ultimately rehabilitated in accordance with Provincial legislation and local policy. Butternut compensation plantings will be required and a total of 4.6 hectares of trees will be replanted on-site; an increase from the existing forest cover. Edge management plans along the edge of the woodlands will be required, and the treed setbacks to the south have been increased to 30 metres from the proposed 15 metres. Removal of vegetation will also consider both bird and bat nesting seasons. Both the GSCA and MNR have signed off on the proposal from a natural heritage perspective.

(b) the protection of agricultural resources of the Province,

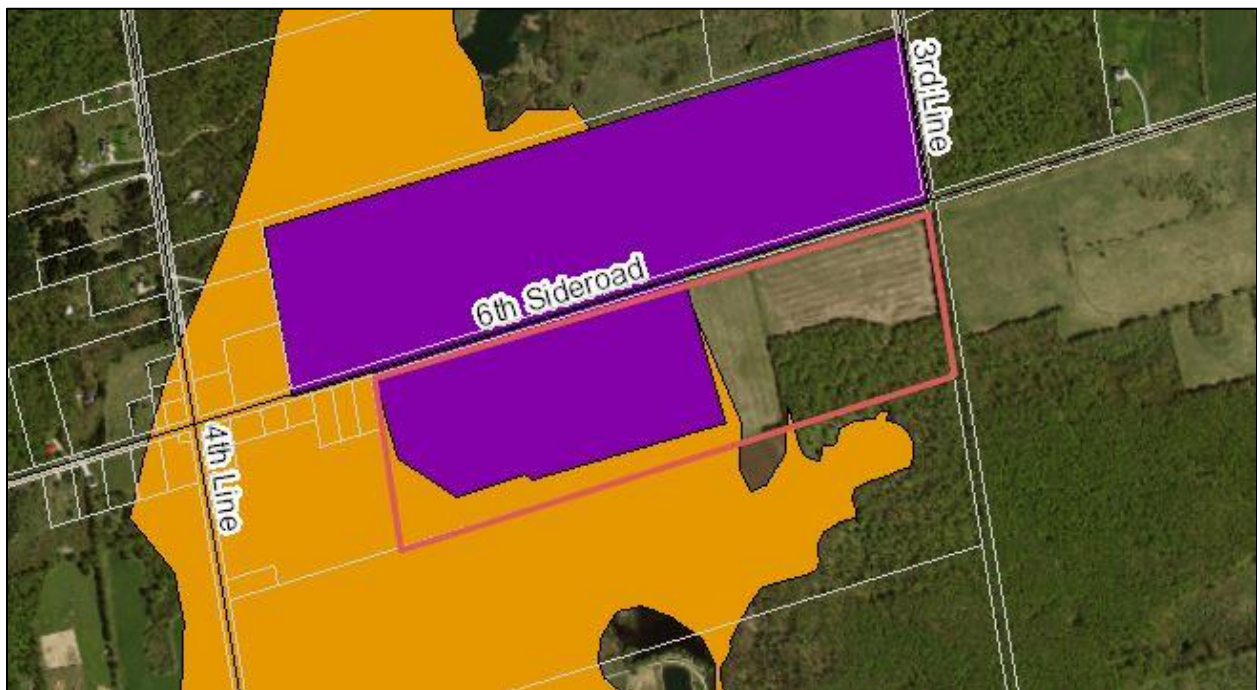
The subject property is designated as Rural on Schedule A to the County Official Plan. The subject lands would not be considered high priority for agricultural protection based on their size

(approximately 9 hectares available for agricultural production), surrounding land uses, and class 3 soils. While the County does map classes 1 -3 soils as Agricultural soils, these are only done in larger pockets of contiguous lands.

Based on the existing and proposed pit expansion being below the water table, rehabilitation back to an agricultural end use will not be feasible. The rehabilitation will include a man-made pond and naturalized areas. Provincial and local policy consider this an acceptable rehabilitation plan.

(c) the conservation and management of natural resources and the mineral resource base;

Only a very small portion of the subject property is designated as 'Aggregate Resource Area' on Schedule B to the County Official Plan (see the orange areas on Map 3 below). The purple areas on Map 3 show the existing licensed gravel pits. The proponent has explored the resource on the expansion portions of the property, and found it to be sufficient for road construction. The resource is primarily comprised of granular B material, with some ability to produce granular A. Extraction is proposed for 10.3 hectares of the property, both within and outside of the current mapped Aggregate Resource Area boundaries.



Map 3 – Aggregate Resource Areas on the Subject Lands

(f) the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems;

The provision of effective water, wastewater, and communication systems has not been questioned for the proposed pit. The proposed pit will not be a heavy water or wastewater user, and should have no impact on communication infrastructure.

A number of concerns on the proposed pit, related to the traffic and road safety concerns have been raised. There was a Traffic Impact Study completed for the pit expansion that concluded that the existing entrance and haul route were sufficient to meet the needs of the pit expansion from a traffic and safety perspective. The entrance from the existing pit will be used for the pit expansion area, via an internal haul route.

The existing pit is licensed to extract 150,000 tonnes annually. Should the proposed expansion be granted, the cumulative total of the current pit, and the proposed pit expansion will remain at 150,000 tonnes per year. As a result, local traffic levels will not increase from the proposed pit expansion. Permitting the pit expansion will however extend the lifespan of the pit, with an estimated resource of 2.7 million tonnes in the expanded area.

As noted above Town staff have not asked for a haul route agreement, as the pit traffic will not increase. Measures will be taken on the operational plan to mitigate existing snow drifting impacts on the road.

A number of concerns were raised with respect to road safety and potential conflicts with cyclists on local roads. As noted above truck traffic will not increase as a result of the pit. Based on the Traffic Impact Study and the Town's review, further upgrades to these roads have not been requested at this time. Signage and education with respect to all parties 'sharing the road' would be positive steps to ensuring safety for all road users in this area of the Town.

(k) the adequate provision of employment opportunities,

The proposed development would provide some continued employment, but it would not be considered a major employment generator. The proposed pit would support construction and growth across the County, as other pits currently do.

(o) the protection of public health and safety,

There have been a number of studies prepared in support of the application in order to ensure that the proposal meets Provincial, County and Township standards for the establishment of mineral aggregate operations. Response submissions were also prepared in response to specific concerns from neighbours living in this part of the Town. The closest dwelling to the proposed pit expansion is approximately 400 metres away.

A noise study was completed for the proposed pit expansion to ensure the operations meet provincial standards for noise emissions. Recommendations of the study include;

- hours of operation limitations,
- an acoustical audit once operations are underway to ensure the actual noise meets the predicted noise of the study, and
- the requirement for a future noise study, should any vacant residential lands be built upon

Berming is also being proposed around portions of the site, which should add both visual and acoustic screening.

County staff are satisfied that the proposed pit will adequately meet Provincial and local standards with respect to the establishment of mineral aggregate operations.

(p) the appropriate location of growth and development.

Unlike some other land uses, aggregate development has to locate where the resource is available, and should be permitted as close to market as possible. Through the supporting reports the applicant has demonstrated that the proposal will not unduly impact agriculture, the natural environment, or neighbouring land uses beyond the Provincial standards.

Subject to appropriate mitigation and monitoring measures on the license, the proposed official plan amendment has regard for matters of Provincial interest under the *Planning Act*.

Provincial Policy Statement (PPS 2014)

Section 2.1 of the PPS deals with natural heritage systems and features. This item has already been addressed under the discussion on the *Planning Act*.

Section 2.3 of the PPS contains policies on the permitted uses in prime agricultural areas. Section 2.3.6.1 of the PPS states;

“Planning authorities may only permit non-agricultural uses in prime agricultural areas for:

- a) extraction of minerals, petroleum resources and mineral aggregate resources, in accordance with policies 2.4 and 2.5;”*

Section 2.5.4.1 of the PPS states;

“In prime agricultural areas, on prime agricultural land, extraction of mineral aggregate resources is permitted as an interim use provided that the site will be rehabilitated back to an agricultural condition. Complete rehabilitation to an agricultural condition is not required if:

- a) outside of a specialty crop area, there is a substantial quantity of mineral aggregate resources below the water table warranting extraction, or the depth of planned extraction in a quarry makes restoration of pre-extraction agricultural capability unfeasible;”*

Although the subject lands are not within a prime agricultural area, this section of the PPS provides for the most prescriptive tests for permitting extractive uses (i.e. more detailed than the policy tests applied to a rural area). The proposed pit expansion would meet the above-noted tests, in that land is being removed from agricultural production for extraction, and because it will be below the water table, it will not be rehabilitated back to an agricultural end use.

Section 1.1.5.2 of the PPS notes; *“On rural lands located in municipalities, permitted uses are: a) the management or use of resources;”* The PPS considers aggregate extraction within rural and agricultural areas of the Province.

Section 2.5.2.1 of the PPS notes that;

“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.”

As a result, the County cannot consider the test of need when siting aggregate operations, regardless of the fact that there may be other operations within this part of the County.

Section 2.2 of the PPS provides for the protection of the Province’s water resources. Being a below the water table pit expansion, a Hydrogeological Assessment was completed in support of the proposal. This assessment reviewed the private wells in the area, which are drilled wells, with the exception of one dug well. These drilled wells get their water from a confined bedrock source. Although the pit will be below the water table, water will not be pumped out of the pit, as the pit floor will not be below the bedrock. The proposed pit expansion will also require a monitoring program using three on-site wells, and three wells within the existing Gibraltar pit. Similar to the existing pit, a well interference and response protocol is also going to be required. Within this protocol, the operator may be required to replace local water resources (wells) on a temporary or permanent basis, if the pit is found to be the cause of the water disruption. Reporting is required to MNRF and MOECC in the event of a water complaint regarding water quality or quantity. As noted above, the SON also had a hydrogeologist peer review the Hydrogeological Assessment, and this peer reviewer agreed with the conclusions of the proponent’s hydrogeologist.

Section 2.6 of the PPS requires significant built, cultural and archaeological resources to be conserved. The applicant has completed a Stage 1 and 2 Archaeological Assessment for the subject property. The recommendations of the Stage 1 and 2 Archaeological Assessment concluded that there was *“no evidence of the existence of significant prehistoric or historic archaeological/heritage resources found within the confines of the study area.”* Notes have however been added to the site plans, should any deeply buried archaeological material be found. In addition, the SON and HSM have also noted they have no further concerns with cultural heritage aspects of the proposed pit.

Subject to mitigation and monitoring measures on the license, the proposed official plan amendment is generally consistent with the PPS.

County of Grey Official Plan

All new development proposals within the County must conform to the purposes and policies of the Official Plan. The requirements for official plan amendments are outlined in section 6.3 of the County Plan, while the detailed Rural policies are found at section 2.3 of the Plan. The subject lands would remain designated as Rural on Schedule A to the County Plan, but would be re-designated to Mineral Resource Extraction with Exceptions on Schedule B to the Plan.

Within the County Official Plan Section 6.3 sets out criteria for amending the County Plan. Although subsection (a) requires the County to consider “the need for the proposed change”, it is clear under the PPS that the test of need can no longer be required when considering aggregate operations. The impact on other policies of the Plan, and the County’s objectives has been addressed through the materials provided, and is similar to justification provided on other pit applications.

As noted above, the subject lands are currently designated as Rural on Schedule A to the County Plan. The County’s Rural designation would support both farm and resource extraction

uses on the subject lands. Small portions of the subject property are designated within the County's Aggregate Resource Area mapping on Schedule B to the Plan. However, because the proposed extraction area extends beyond this mapped area, an official plan amendment is required. The Aggregate Resource Area mapping is meant to protect lands for future extraction purposes. Should the applications be approved, then the extraction could occur.

Under Section 2.7 of the County Plan, the County requirements are set out for the establishment of new mineral aggregate operations. The applicant pre-consulted with the County and has submitted the necessary reports and studies, and responded to concerns through response submissions. Mitigation, including berms, vegetated buffers, noise and water monitoring, and no increase in the annual extracted tonnage, beyond what exists today should help minimize impact on neighbours. While there will be some impacts to neighbours based on this proposed pit expansion, such impacts would appear to be within Provincial and local policy guidelines.

Section 2.7.3(1) of the Plan states;

"It shall be a policy of this Plan that an applicant who wishes to undertake a mineral aggregate operation other than a wayside pit and quarry must, if requested to do so by the local municipality, enter into a Development Agreement with the local municipality. The Agreement shall be entered into prior to local Council's enactment of the implementing Zoning By-law Amendment.

Such an Agreement may include:

(i) Capital arrangements regarding improvements beyond the boundary of the applicant's land, as they may be required by reason of the operation of that extractive industry, e.g. widening and improving roads; and

(ii) Routes to be used by trucks carrying aggregate."

As noted earlier in this report, Town staff are not requiring a haul route agreement, based on there not being an increase in annual extraction rates as a result of the expansion.

Section 5 of the County Plan deals with transportation matters, and it has been discussed above in the review of the *Planning Act*.

The proposed official plan amendment would generally conform to the goals and objectives of the County Official Plan provided the mitigation measures and monitoring attached to the license are implemented, as per the technical background studies.

The subject Official Plan Amendment application would appear to have regard for matters of Provincial Interest under the *Planning Act*; be consistent with the Provincial Policy Statement; and conform to the goals and objectives of the County Official Plan, and can therefore be supported by County staff. Furthermore, Town of The Blue Mountains staff have not flagged any concerns with respect to the Town Official Plan.

Other Considerations beyond Legislation and Policy

One of the primary concerns for neighbours to the proposed pit was the potential for negative impact on their property values. Residents have raised concerns with respect to potential for

property value reduction. County staff have also seen information to suggest there is no impact on property values. In either case however, property values are not something a County Planner can consider under the existing legislative and policy framework. Although staff can certainly understand why this is of primary concern to any landowner, it is not something that staff can factor into our recommendations on development applications.

Similarly, impacts on tax rates within the County, or within a particular municipality, are not something that can be factored into recommendations on development applications. Staff acknowledge that new development can have impacts on property taxes, including increasing assessment, generating new employment, creating increased infrastructure needs, or in some cases decreasing assessment (e.g. allowing for a conservation easement on a piece of land). However, Planning staff cannot make recommendations based on what generates the most assessment growth. Throughout the development application process, and through legislated tools such as Development Charges, staff works to ensure that adequate infrastructure is in place to support development, with minimal impacts on the existing tax base.

Legal and Legislated Requirements

There are no anticipated legal considerations associated with the proposed official plan amendment, beyond those normally encountered in processing an amendment. Should the application be appealed to the Ontario Municipal Board additional legal resources may be required. However, it should be noted that if County Council approves Amendment 135, and that decision is appealed, then the County would not be a party to the hearing, unless otherwise directed by Council to do so.

Financial and Resource Implications

There are no anticipated financial or staffing considerations associated with the proposed official plan amendment application, beyond those normally encountered in processing such applications. The County has collected the requisite application fees for this application.

Relevant Consultation

- Internal: Planning Staff
- External: Town of The Blue Mountains, required agencies under the *Planning Act*, and the public

Appendices and Attachments

[Report PDR-PCD-12-16](#)

[Draft Official Plan Amendment 135](#)

[Draft Schedule A to Official Plan Amendment 135](#)