August 28, 2015

Christine Gervais, MCIP, RPP
Township of East Garafuna
191282 13th Line
East Garafuna, ON
L9W 7B4

Dear Ms. Gervais:

Subject: Official Plan Amendment and Zoning By-law Amendment Applications
Tri-County Aggregates Limited (OPA 1/15 and Z1/15)
Part of Lots 2, 3 & 4, Concession 18 (311543 17th Line/391090 18th Line)
Township of East Garafuna
MMAH File No.: 22-EOPA-150256

Thank you for the opportunity to provide comments on the above noted Official Plan Amendment (OPA) and Zoning By-law Amendment (ZBLA) applications submitted by Tri-County Aggregates Ltd. for a proposed gravel pit in the Township of East Garafuna.

The applications apply to two abutting properties ("the subject lands") municipally known as 311543 17th Line and 391090 18th Line. Both properties are currently designated Agricultural in the Township’s Official Plan and zoned Agricultural in the Zoning By-law (60-2004). The properties are also located within the Greenbelt Protected Countryside Area, portions of which are included within the Greenbelt Natural Heritage System.

Both the Official Plan Amendment application and Zoning By-law Amendment application propose to re-designate and re-zone a 12.6 ha portion of 311543 17th Line and a 49.7 ha portion of 391090 18th to Extractive Industrial to permit the gravel pit use. An application for a license under the Aggregate Resources Act (ARA) has been submitted to the Ministry of Natural Resources and Forestry (MNRF) for a Category 3 – Class A Pit above water. The area to be licensed is 63.2 hectares, with 59.1 hectares proposed for excavation.

As the new Dufferin County Official Plan is in force and effect, the approval authority for Official Plan Amendments now rests with the County of Dufferin. However, the Ministry of Municipal Affairs and Housing (MMAH) is providing support to the County of Dufferin during this transition period. As such, the applications and supporting materials were circulated as part of the One Window Planning Service to the Ministry of the Environment and Climate Change (MOECC), Ministry of Natural Resources and Forestry (MNRF) and the Ministry of Agriculture, Food and Rural Affairs (OMAFRA). The comments outlined below are intended to assist the Township and the County in the decision-making process.
Prime Agricultural Areas

Section 2.3 of the Provincial Policy Statement, 2014 (PPS) provides that prime agricultural areas shall be protected for long-term use for agriculture. While permitted uses and activities include agricultural uses, agricultural related uses and on-farm diversified uses, policy 2.3.6.1 permits non-agricultural uses in prime agricultural areas for the extraction of mineral aggregate resources in accordance with policy 2.5. Section 2.5.4.1 of the PPS states that 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.

The policies in the Greenbelt Plan also permit mineral aggregate resources within the prime agricultural area of the Protected Countryside. More specifically Section 4.3.2.1 states that activities related to the use of non-renewable resources are permitted within the Protected Countryside subject to all other applicable legislation, regulations and municipal official plan policies and by-laws.

Furthermore, Section 4.2.3.1 of the County of Dufferin Official Plan permits the extraction of mineral aggregate resources within the agricultural areas. While a site specific local municipal official plan amendment is required to permit the non-agricultural use within the agricultural area, an amendment to the County Official Plan is not required.

However, the proposed re-designation of the subject lands from Agricultural to Extractive Industrial would constitute the removal of land from the prime agricultural area. Section 2.3.5.1 of the PPS states that planning authorities may only exclude land from prime agricultural areas for expansions of or identification of settlement areas, while Section 3.1.3.2 of the Greenbelt Plan states that prime agricultural areas shall not be re-designated in municipal official plans for non-agricultural uses except for refinements to the prime agricultural and rural area designations or settlement area expansion.

Given that the policies in the PPS, Greenbelt Plan and the County Official Plan permit the extraction of mineral aggregate resources as an interim use within prime agricultural areas, and that the re-designation is not part of any settlement area expansion, there is no requirement to remove the lands from the Agricultural designation. As such, it is recommended that the subject lands be identified as a site-specific exception within the Agricultural designation to recognize the mineral aggregate operation as a permitted use, should the Township support the application.

Key Natural Heritage Features and Key Hydrological Features

As noted earlier, the subject lands are located within the Protected Countryside of the Greenbelt Plan, with a small portion (0.6 ha) being subject to the policies of the Greenbelt Natural Heritage System. Mineral aggregate operations are permitted within the Protected Countryside and the Natural Heritage System, subject to the policies of the Greenbelt Plan.

In support of the proposal, a Natural Environmental Assessment and Natural Heritage Evaluation Report (prepared by Beacon Environmental) were submitted by the proponent. These reports indicate that, aside from the endangered and threatened species habitat noted below, there are no significant key natural heritage features or key hydrological features located within the proposed licensed area.
Section 4.3.2.3a)(ii) of the Greenbelt Plan does not permit new mineral aggregate operations within the significant habitat of endangered and threatened species. This policy protection is also reflected in the FPS. The submitted reports have identified that suitable habitat for the little brown myotis and northern myotis, both endangered bat species, may exist on the subject lands, but no surveys have been undertaken to confirm the presence of such species. In order to satisfy the requirements of the Greenbelt Plan and PPS, it is necessary for the proponent to undertake a bat survey to determine if suitable habitat is present in the old farmhouse and shed on the subject lands. Staff from the MNRF are available to advise on the requirements of such a study.

In addition, the reports also identified the presence of significant habitat for two endangered and threatened bird species, Bobolink and Barn Swallow, on the subject lands. In this case, MNRF is satisfied that appropriate mitigation measures, as described in the reports, will be undertaken by the proponent to address provincial concerns.

Beyond the licensed area, there are a number of other key features that have been identified within the northern limit of the subject lands. These key features are within the Greenbelt Natural Heritage System and include a significant woodland, intermittent stream (tributary of Shaw's Creek), and fish habitat. Based on its review of the submitted reports, MNRF has identified concerns with respect to potential impacts to the Shaw's Creek tributary.

Section 4.3.2.3b) of the Greenbelt Plan permits applications for new mineral aggregate operations in other key natural heritage features and key hydrologic features and any vegetation protection zone associated with such features where demonstration of connectivity, habitat and water resources will be protected or enhanced.

Specifically, MNRF is concerned about the proposed water taking and the potential drawdown of the water table and the associated impacts to key hydrological features (e.g. streamflow in Shaw's Creek) and key natural heritage features (e.g. fish habitat - seasonal spawning in Shaw's Creek). MOECC has also expressed concerns about impacts to the surface water features, as noted below in the comments on 'Water Resources'. As such, further information is required from the proponent to address these concerns.

**Water Resources**

MOECC staff have completed a technical review of the Water Resources Assessment Report to determine the feasibility of operating the proposed extraction operation and associated water taking without having adverse effects to the Alton municipal water supply and Shaw's Creek tributary. MOECC has also noted the need for additional approvals, including a Permit to Take Water and potentially an Environmental Compliance Approval.

Based on the overall assessment of the data and analysis provided in the report, MOECC has indicated that they concur with the report's conclusion that the proposed gravel extraction (above the water table) is unlikely to have any significant impact to the groundwater within the site's vicinity. However, the impact of the water taking for mineral aggregate washing and evaporation from the proposed supply pond will remove water from the system and the extent of that impact has not been accurately evaluated at this time. MOECC has indicated, however, that a more detailed assessment, to be undertaken by the proponent at the time of their application for a Permit to Take Water, would potentially address any outstanding concerns with respect to negative impacts on the water resource system.

With respect to source water protection, MOECC has noted that the proposed mineral aggregate operation is located within the wellhead protection area (WHPA-D) for the Alton
Village municipal wells #3 and #4. Based on site specific data and information gathered as a part of the water resources assessment, the report concluded that there is no direct connection between the local shallow groundwater system at the site and regional flow system contributing to the Alton municipal wells. Given that the site is located within a secondary protection zone with associated travel time between 5-25 years and the site is located more than 6 km from the municipal wells, it has been determined that the proposed mineral aggregate operation will have no impact on the Alton municipal wells.

Rehabilitation

The Site Planning Report submitted by the proponent indicates that rehabilitation will be progressive and the site will be restored to a similar soil quality to support future agricultural use. Approximately 88% of the excavated site is proposed to be rehabilitated. This approach is supported by both the PPS and the Greenbelt Plan.

Section 4.3.2.4 of the Greenbelt Plan sets out a number of provisions for MNRF to pursue through the ARA for all mineral aggregate operations in the Protected Countryside. Subsection d) of this policy, states that rehabilitated areas will be maximized and the disturbed area will be minimized on an ongoing basis during the life-cycle of an operation. This is reflected in Section 2.5.3.1 of the PPS, which requires that negative impacts of rehabilitation (e.g. site disturbance) be mitigated to the extent possible.

The Operational Plan outlined in the Site Planning Report states that "as the excavation advances, topsoil and overburden will be stripped and transported to areas undergoing progressive rehabilitation. It is expected that up to 40 hectares or 64% of the site including the haul road, berms and wash ponds, could be disturbed during peak development." To meet the intent of the Greenbelt Plan and PPS, the wording within 'Note 2' on Drawing 3 (Progressive and Final Rehabilitation Plan), should be replaced to reflect the same wording noted above. Should the application be approved, it is recommended that this wording also be reflected in the official plan amendment.

Section 4.3.2.5d) of the Greenbelt Plan requires that when undertaking rehabilitation in the Protected Countryside, operators shall ensure that aquatic areas remaining after extraction are to be rehabilitated to aquatic enhancement, representative of the natural ecosystem in the particular setting or ecodistrict, and meeting certain criteria.

In Drawing 3, Progressive and Final Rehabilitation Plan, the proponent has identified a wetland pond as part of the rehabilitated area. This is the location of the proposed washing ponds that will be used during extraction. After a review of the submitted material, it is unclear how the proponent intends to meet the intent of Greenbelt policy 4.3.2.5d) noted above. As such, additional information is required from the proponent to demonstrate how the pond will be rehabilitated to aquatic enhancement.

Both the Greenbelt Plan and the PPS also encourage the need for comprehensive rehabilitation where there is a concentration of mineral aggregate operations. There are a number of existing and proposed mineral aggregate operations in the vicinity of the subject lands. Moving forward, the Township and County should work together with MNRF and the aggregate industry to consider the long-term rehabilitation objectives for this area.

Closing Comments

Thank you again for the opportunity to review and provide comments on the Tri-County Aggregate proposed OPA and ZBLA. These comments have been provided to assist the
Township in its review and consideration of the planning applications and to inform the County, as the approval authority, about provincial concerns that have been identified. In summary, the province has identified the following matters for consideration:

- the need for additional work to confirm the presence of endangered species habitat (little brown myotis and northern myotis);
- the need to identify potential impacts from water taking on the water resource system, including adjacent key natural heritage features and key hydrological features related to the Shaw's Creek tributary;
- the need to clarify rehabilitation with respect to the proposed wetland pond; and
- consideration of the comprehensive rehabilitation of the area, given the concentration of existing and proposed mineral aggregate operations.

These matters should be addressed before moving forward with the applications. Further provincial comments can be provided to the Township and County should additional information be forwarded and/or undertaken by the proponent to address the concerns raised in this letter.

Should you have any questions regarding our comments please contact me at (416) 585-6063, or alternatively Laura Daly at (416) 585-7578.

Sincerely,

Mark Christie, MCIP, RPP
Manager, Community Planning and Development

cc: Sue Stone, CAO/Clerk-Treasurer
    Rob Stovel, Stovel and Associates Inc.