

Meeting Minutes



Supplementary Aggregate Resources Policy Study - Working Group Meeting #8

Location:	Caledon Town Hall, Mayfield-Palgrave Room 6311 Old Church Rd, Caledon East, ON
Date:	May 16, 2024
Time:	6:00pm – 8:30pm

In Attendance

Glenn Pothier (GP), Joe Nethery (JN), Ian Sinclair (IS), Steven Burke (SB), Mark Dorfman (MD), David Sylvester (DS), Cheryl Connors (CC), Paula Boutis (PB), Jane Thompson (JT), Neil Morris (NM), Martin Bamford (MB), Christina Early (CE), Raida Chowdry (RC), Marsha Paley (MP)

Agenda Items

- **Opening Remarks (6:30 p.m.)**

GP:

- Welcome
- Indigenous land acknowledgement
- Working group's input and content around that
 - Signal ideas generated out of the working group.
 - There is a lot of alignment.
- Session/agenda overview.
- Were there any errors or omissions in the background report?
 - I understand there are mixed feelings about the background report. We are now moving into the policy options report. We expect this to be finished at the end of the month.
- Today we have PB speaking to us about enforcement. She is a Deputy Town Solicitor.
- JN has come up with summary slides.

Reports (6:10 p.m.)

JN:

- Thank you all for your input. I have comments not incorporated memo and will send that out.
 - Council said thank you for the report.
 - Questions have been raised in the working group meetings and MD will be tackling them.

GP:

- The policy options report is an analysis of the OP. Answering questions and inputting ideas and suggestions.
- On June 19th we will be in the community center
- Will the policy options report be available next month?
 - JN: Yes. I still owe MD comments on the initial draft. The comments tonight will help us finish that off. There are 2 weeks of work ahead of us. I desire and hope being you have it well in advance of the 5th.
- GP: The date for meeting 9 has been moved from June 6 to June 5.
- IS: The background report contains useful information, Provincial policy, and Regulations. MD included biases of what policy should be. What is the status of the report?
 - JN: The information has been received by Council.
 - IS: MDs biases are in a report to council despite him not being a part of this.
 - GP: Policy options report is where this will be.
 - JN: The design of the small group was at the request of other community members to go to the big group and give input to MD. MD is getting all the notes, questions, and ideas. In terms of the neutrality of the background report, MD is a professional planner.
 - IS: I hope this doesn't come back to hurt us.
 - JN: I would never want to challenge that, but in terms of this report, we are going to have loads of discussion of MDs answers. It is not the working groups' report; I am here to put this before Council.
 - GP: The working group members are not the authors of the background report. Are there any questions on the policy options report?
- DS: To deal with ISs concerns, would it be good to preface the background report by saying the public members disagree with the content of the report and acknowledge that there was not a wholesome report?
 - JN: The short answer is yes. When it goes on the website, we can put that disclaimer.
 - DS: The council accepted this in one second. I don't think that any Councilors read even half a page.
 - SB: JNs solution is good. It is not your job to endorse it, it is to frame it. And this is only a background report. Hopefully, we can move on.
 - SB: JN mentioned a memo about CNA, we can publish that as well.
 - JT: When it comes time, there should be a portion of the policy options report that speaks to the input of the working group into policy options. We have been working on submissions and suggestions. There is still work to be done, but time is short. We need some time to put together a piece that we all agree on.
 - I regret we didn't record the meetings. It is hard to reflect in notes what we think is important.

- o There are points that the working group wants to make. There needs to be a component that focuses on the comments from the working group. That can be to inform the public, have conversations at council, and make decisions.
- o MD is a planner, but his role is hard to get a handle on because of the way the process has unfolded. He had been working parallel before we got going. The document should specify which are his ideas and what we thought differently. What is the structure of the policy options report? Whose policy options are these? Whose call is it which options are preferred?
- GP: JT, you're working with other working group members and making policy, when will that be done?
 - o JN: is there more coming?
 - o JT: I need to do more work to finalize it. The timeline is 2 weeks. Some topics can't be fully explored.
- MD: The info I have from subgroup meetings is valuable. I am responding to all questions, including the ones I put forward. The factual stuff that came from those meetings was very helpful. It will not be my opinion. The background report will be factual. As far as producing recommendations of policy, that will be discussed with staff. I'm consolidating all factual issues and how I arrived at those answers.
- GP: To JTs point, if anyone has prepared policy options, do it quickly.
- JT: When we talk about staff, other than SB, there are other staff members that we have not met and have relevant opinions. So, what's the team and do they form recommendations?
 - o MD: Conservation authority, I know their positions and they will be addressed.
 - o JT: Dorothy came to a meeting, but the meeting ended before we heard from her. Not much discussion on natural heritage. Who are the staff?
 - o GP: SB to answer that.
 - o SB: CVC staff and CAO attended. They are invited to attend these events.
 - o JT: We never got to deal with hazardous mapping.
 - o SB: Anything that goes to Council must be endorsed by staff. We don't add it to the agenda unless we stand behind it. The policy options report will be a Town staff report, authored by Mark, with input from the working group.

Enforcement (6:25 p.m.)

Paula's Presentation

- PB: I don't speak for the Town. I have managed a by-law team, been around enforcement work, and have a lot of experience in environmental law. I don't have much experience in aggregates. I have read the Auditor General's report on inspections from last December.
- By-law officers could get involved with this. Under the Act, you must be appointed by the minister as an inspector. But the Town would never ask for that. I think by-law officers are occupied with their mandates. Things have appeared to get worse since 2018.
- The Liberal Government came in and reorganized things and they made it easier to be an aggregate operator but did not supply the enforcement to match/regulate it.
- We have under-supported and under-trained people. They don't know what they're doing. Our officers are not trained to do this work. Someone internally needs to make a decision. They need to do all the things Provincial inspectors are doing, which is impossible for a bylaw officer.

- A parallel is covid. I was managing a by-law team; our officers took on a certain role at that time. That was extraordinary. But bylaw officers stopped doing their regular job. So, I don't see them as inspectors realistically.

Questions and Comments

- GP: Most of us feel aggregate enforcement lacks, you're saying bylaw officers can't do it (one reason being they need Provincial authority). So, what can be done?
- MD: In the policy options report, I included appendices that outline contraventions and offences under ARA. There is a long list of them and a long list of penalties. There is a whole other layer of offences under other Acts. The Province must appoint a Provincial offences officer. If the Municipality chooses to do that, they need a Provincial offences officer. The list is incredible, the things an inspector has the authority to charge (and if found guilty) the penalty is up to 1,000,000 dollars and 100,000 dollars each day an offence occurs. The other penalty is license suspension. The power is there.
- GP: What do we do about it to see better enforcement?
- JT: MTRCA recruited Provincial offense officers to enforce provincial laws. Even bylaw officers do that. I know that bylaw officers have their own job but, in my experience, it is possible to recruit someone to do what MD is talking about. The Town would hire them, get them training, and they would deal specifically with aggregate matters (we can define the scope of that).
- The Niagara Escarpment Commission sent planners out, but their enforcement wasn't great. They also formally had a Provincial offences order.
- I think we should go through whatever channels are necessary. **How can the Town hire a Provincial offences officer to enforce matters on aggregate operators? How do they have requisite authority and training, what do they need to be getting and doing?**
- I don't know how the MNRF will feel about that. A pitch must be made to the Province, but given the Auditor General's report, it doesn't seem unreasonable to be advocating to bring integrity to the regulatory process. This would be paid for by the Town.
- PB: We need to look at what is of greatest concern to the residents. From my understanding, the problem for the residents is the nuisance.
- From what I have observed, the MECP has the best inspectors. Everyone else is the junior cousin. That's why MRNA isn't treated the same way. EPA funds are 6 million dollars.
- You don't have to be an inspector, but there are private prosecutions where anyone can lay a charge, you just need evidence.
 - JT: How would the Town get that evidence?
 - PB: They wouldn't be inspectors according to Legislation. Anybody can see flyrock, dust, etc. There are many NGOs or organizations that take that on.
 - JT: Are you talking about residents? That's not helpful to residents.
 - PB: No, it is not typically residents, but organizations like Ecojustice have representatives (staff of NGOs). A famous example is bird strikes in buildings, they collected evidence and made private prosecutions. This is just one suggestion if Ecojustice got on board.
 - MB: The residents are here to live here. The concept that they need to be activists would have already happened if it could work. There are 30 marginally qualified inspectors. How did they become appointed? These 30 people are not doing anything.
 - PB: I am not suggesting that. But that is not the Town's job either. I was talking about Ecojustice, all I said was that it was an option we could approach. This is not the Town's job. The people appointed are bureaucrats. They applied and got that job. What

- happens is entry-level people take on jobs with lots of responsibility, which is why there is a lot of turnover. Auditor General. How is it funded and who is the priority?
- o MB: It should be the Town's job to have an enforcement agent.
 - **CC: We need data to make these decisions. Halton does an annual report and takes track of licenses and violations.** MNR is not enforcing site plans of aggregate operations as they do not have the capacity to do so. The Town of Caledon zones them. The issue for me is that the operation wakes me up, emits PM 2.5, and we are not on site. It is more than a nuisance. I have lived next to this pit for 15 years.
 - The Ministry of Environment said they considered the aggregate company their client when I complained about this. We know the Province is negligent. I think Halton is very progressive in tracking complaints. It is impossible for me to talk to someone about my complaint, we should at least collect data.
 - **We need a policy statement around MNRFs enforcement issues** because saying it's a Provincial responsibility is not good enough.
 - o GP: I'm hearing that you would like to see Town play a much better role.
 - o CC: When that highway is built, it will open opportunities for more pits. We better have a process in place to protect the residents.
 - o MD: There is no legal requirement for MNRf, to require the operator to submit an annual compliance report to the municipality. There is no requirement for the Ministry to send a copy of the license and site plan to the Municipality.
 - o To be clear, The Ministry of Aggregate Resources has complete control over the aggregate industry. Now they have been amended to cut the Municipality off. Under EPA, there is a whole range of complaints, and it is not in the interest. The aggregate industry is in the Provincial interest, not the community interest.
 - PB: If a person has authority. When you do zoning infractions – that's a provincial statute and are private persecutions done by staff. In terms of collecting information, we could be taking that information and going to AMO. Changing site plans has been happening for a while since the Liberal Government started it.
 - CC, I am surprised that the aggregate company was called their client. That is wrong.
 - Aggregate is king. The policy isn't designed to spare us. How do old policies from the Ministry (nuisance) relate to compatibility?
 - o MD: It is a one-way streak. It protects operators from incompatible development.
 - MB: The ARA says the Minister can appoint anyone as an officer. There is zero context to that. Underneath that is a whole host of powers. Why would Town be reluctant? **Can the Town champion someone who has their interest?**
 - o PB: The Town will have to decide if they want to take this on, and how to enforce it. The existing tools aren't resolving issues.
 - o I am not aware of any Municipality having taken this one or discussing this as an option. We can track what's happening and use it for lobbying purposes to get back licenses and reports.
 - GP: Let's now focus on implications around policy to inform the report.

Topic Exploration (6:55 p.m.)

Topic 1: Blasting/Flyrock

- IS: If you don't have setbacks within the property of the site, you're putting it on other's lands and then you're confiscating their enjoyment.

- o MB: There is a similar issue with thrown ice on turbines.
- o CC: **A comprehensive inventory of sensitive receptors is needed in an application.**
- o JT: I put forward in my report also how operators put setbacks onto other landowners. It goes against the law of nuisance and the EPA.
- o I agree with the 1000 m setback buffer. IS is right, aggregate operators use others' land as a buffer, but that is contrary to nuisance and EPA. Using properties as buffers is wrong.
- o **Operators should own or control land of 1000 m (whether that be a lease, easements, etc.) around sites.** Which would go a long way in dealing with other impacts (not inconsistent with basic nuisance law).
- o MD: There has been legislation since the 1930s that protects the mining industry. They take easements across properties. So, if they create nuisance, you can't sue them. Also if a subdivision is approved near a quarry, the Municipality can set phasing such that the subdivision could move north behind the extraction, therefore protecting the operator.
- CC: We need to use consistent language. **The language of the D-6 guideline should be used in our policy document as much as possible to reinforce the incompatible nature of operations.**
 - o MD: They will not agree to any separation distance. I was in your position and my opinion has changed.
 - o CC: When we describe language, we should use their language. My suggestion is to let us mirror their language in our document.
 - o JT: The study supports the notion of 1000 meters.

Topic 2: Water

- JT: **Areas with steeps and springs are important and should be protected. There should not be operating in areas with steeps and springs.**
- **Highly vulnerable aquifers should also be protected.**
- Applying hydrology and hydrogeology would avoid these areas. All of which are mapped in ROP or CA mapping, bring that concern to CHAMARA.
 - o IS: AMPs are inappropriate. We need certainty from mining operations. Adaptive management plans deal with a broad range of landscape issues. We need to identify who is responsible for management.
- CC: The biggest concern people have is their quality and quantity of water. They used to be able to enter into agreements that you got money back for it if you lost a well, it would be you as a private citizen fighting for yourself in court. Can we put responsibility on aggregate operators?
 - o MD: I was involved in an expansion where a washing station was leaking into an aquifer. The Province suggested limiting the station.
 - o At another site I was on, there was evidence that a private well was being contaminated with sand. Agreements were entered into between homeowners and operators to give compensation. It showed up in an approved site plan. Separation distances between quarry expansion and well. If you work hard, you can do it but, in that case, there were four other aggregate operators that were approved in a highly vulnerable aquifer, one of the purest groundwaters on earth.
- GP: MDs report will address the issues.
- CC: Development agreements are not permitted.
 - o MD: Only on road degradations.
 - o CC: No.
 - o MD: Please send that to me.

- DS: I echo what JT said verbatim. **I would like to see this priority for water incorporated into our policy ideas and suggest the protection of private wells.** We don't need to rely on precedence. Let's make a language of our own.
- JT: We should treat every application like a below the water table application. A threshold study should be done by the operator to make sure they can handle water.
- ISs suggestion was excellent. **Phasing applications such that water issues must be first addressed before dealing with remaining issues. Treating water as a threshold issue is a good one and a technical one.**
- SB: We map recharge areas. Cross-references to our policy. On mapping areas, is this about linking mapping to policies?
- IS: To clarify what JT raised. Who is going to prove it? In certain cases, you have done all the studies, and the key point is the water. So, a two-part application process for a bedrock quarry. They should look at bedrock identifications and solve groundwater issues first and then move on.
- NM: I don't think there is merit or value in it. **Can we connect holding provisions to issues satisfaction?**
 - MD: You can do that. If operators want to go below the water table, they have to prove they passed the tests. That has been done. A lot of these issues are based on guidelines
 - JT: The idea of zoning and holding when you haven't proven you can operate below the water table. This is the trickiest issue.

Topic 3: Other Uses

- MD: Other uses – does that include asphalt and concrete?
 - JN: Yes.
- IS: These other uses, if located in industrial or urban areas, are where they should be. **Not in the countryside.** These uses are not necessarily intrinsic to an applicant. Aggregate operation would be a site plan amendment.
- MB: Surface material removals (like asphalt) are regulated but not necessarily substrates underneath. Reinforced requirements for surface caps in facilities.
- CC: To reiterate, is there anything we can do to have setbacks to sensitive uses and put them in industrial areas and make them follow D-1 guidelines? License surrendered?
 - JN: We have that somewhere else.
 - CC: These are the scariest because of the highway situation.

Topic 4: Social Impact Assessment

- CC: Add it must be measurable. Does MD have this in an earlier draft to support defensibility?
- IS: Could Annelise write that protocol?
 - MD: That will be in the policy options report. Annelise does a lot of work under the EAA. One of the ideas is to put aggregate operations under the EAA. This is happening in Campbellville.
- IS: I took away that each circumstance needs an SIA for those issues. We should make a generic one for aggregates.
- MD: As the OLT said, land use is not about people. A lot of planners are waking up to this, when you talk about land use you're not talking about people.

- IS: You can't have land use without people.

Topic 5: Environmental Policy

- JN: If something comes up due to this study that isn't addressed, we will look at those policies and look at change.
- CC: The modification added a greater level of protection, but JT will have something to say about this.

● Next Steps & Open Forum (8:20 p.m.)

- JN: The open house is on June 19th in the evening.
- GP: The next ARCWG Meeting is June 5th. It will be focused on the policy options report.
 - JN: It starts at 6:00p.m.

Air Quality Video

<https://www.youtube.com/watch?v=BOuieqzEGh8>

- CC: Important to show what options we have. Requiring real-time air quality is a secret weapon for municipalities to control aggregate operations.
 - GP: Would the Town install those?
 - CC: That is the hope.
- MD: Can I get a copy of those?
- CC: I work with scientists, and I could get those people to speak with us. They study this in an evidence-based way.
- NM: This is valuable but tricky to tease out what is coming from this. This quarry is the source of what we are measuring.
- MB: We need long-term baselines ahead of development.
- CC: I have seen examples and it's not hard to see the source.

Closing Remarks (8:20 p.m.)

- CE: Thank you all for your time and contributions to the group.