

February 7, 2025

Cooney Construction Ltd.
3193 Old Perth Road
Almonte, Ontario
K0A 1A0

Subject: *Aggregate Resources Act Application # 626624*
Cooney Construction Ltd. – Cooney Pit
Aggregate Licence for a Pit Above the Ground Water Table
Maximum Annual Tonnage Limit 250,000 Tonnes
Pt. West ½ Lot 22 & 23, Concession 3, Geographic Township of Darling
Municipality of Lanark Highlands, County of Lanark

Dear Kevin and Jennifer Cooney,

The Aggregates Section of the Ministry of Natural Resources (MNR) has reviewed your application for an Aggregate Licence for a pit below water under the *Aggregate Resources Act* (ARA) application #626624. As per the ARA process, we are providing the following objections to be addressed:

Natural Environment

The 'Natural Environment Report (NER) and Environmental Impact Statement (EIS) prepared by BCH Environmental Consulting Inc. and dated September 5, 2024, has been reviewed in comparison to the Aggregate Resources of Ontario: Technical Reports and Information Standards and in consideration of relevant provincial legislation and policies and associated technical guidance material.

Wetlands

1. In the NER & EIS, the applicant has proposed a 10 m setback along the small wetland or 'pond'. However, MNR endorses a minimum 30 m, vegetated buffer along wetlands for mitigating negative effects and for maintaining the wetland form and function by regulating surface water regimes. Buffer recommendations have been developed through the analysis of existing natural heritage features and functions and in consideration of guidance from relevant scientific literature (i.e., Natural Heritage Reference Manual). Further, a minimum buffer is integral for the protection or enhancement of aquatic habitat quality and function as well as significant wildlife habitat (e.g., amphibian breeding) and for reducing potential

for physical edge effects through the establishment of a more robust dense edge vegetation community. MNRF also endorses a vegetated buffer for the protection of wetland water quality.

The intention behind the recommendations of the of the NER & EIS and the corresponding note on the site plan (page 5 Section 8.2, note 1) is unclear due to the structure of the statement. Please revise this statement in a manner that ensures that the statement is clear on whether the hydrology and quality of the wetlands is to be maintained.

2. Accurate wetland boundaries are required to ensure negative impacts of the operation of the pit are mitigated. To this end the MNR requests the applicant review the wetland boundaries as they are shown in the NER & EIS as ELC community ts2 and make updates to the site plans, as required.

Habitat of Endangered and Threatened Species

3. As per ARO: Technical Reports and Information Standards, Section 2.2 (e), endangered and threatened species and their habitat need to be assessed for negative impacts, including inventory, habitat assessments and any proposed preventative, mitigative or remedial measures must be identified. Endangered and threatened species and/or their habitat were identified in the NER & EIS as occurring or potentially occurring on site and/or the 120 m study area. We understand the applicant has circulated the MECP for review and comment, and the Ministry awaits a response from MECP and/or the applicant. Please ensure any additional recommendations from MECP are incorporated on to the site plan.

Section 8.1, note 5 of the NER & EIS pertains to the recommendation to avoid disturbance to Blanding's Turtle Category 2 habitat. However, the area to be protected, indicated on Figure 2 of the NER & EIS and in Section 4.1, is identified as Category 1 and 2 Blanding's Turtle Habitat. We request that this recommendation be revised in the NER & EIS and the appropriate site plans as Species at Risk habitat.

4. MNR has identified the potential for additional wetlands within the study area to be habitat of Blanding's turtle. The MNR requests the Blanding's turtle habitat identification and mapping guideline developed by MECP is reviewed to ensure the full extent of Blanding's turtle habitat is mapped and appropriate setbacks are applied. The guideline is available by visiting <https://www.ontario.ca/page/blandings-turtle-general-habitat-description>.
5. As per the NER & EIS, bank swallow foraging habitat is present in Phase 2 and 3 lands and with potential nesting habitat on the adjacent pit to the south. As such, please include the following wording to the recommendations on the site plan: *All aggregate operations within the site will be undertaken consistent with the document titled, "Best Management Practices for the Protection, Creation and Maintenance of Bank Swallow Habitat in Ontario" (MNRF, 2017).*

Significant Wildlife Habitat

6. Processes and conclusions regarding the presence or absence of some Significant Wildlife Habitats (SWH) within 120 m of the site is unclear and/or insufficient to prove absence. In general, the NER & EIS should provide sufficient information on the methods and findings to substantiate conclusions with respect to significant wildlife habitat. In sections 3.1.6, 5.4, and 8 of the report it has been indicated that the ts2 wetland may represent amphibian breeding habitat. Similarly, in section 5.4 of the NER & EIS, it has been indicated that SWH may be present in the larger wetland (ts1) associated with Craigs Creek and the ANSI. The potential SWHs are as follows, including Waterfowl Nesting Area, Turtle and Lizard Nesting Areas, and Amphibian Breeding Habitat. It is unclear if targeted surveys for breeding waterfowl, turtles & lizards, and amphibians were carried out in support of the application. The ecosites identified and mapped for the proposed licence area as well as Section 3 of the NER & EIS suggest the following candidate Significant Wildlife Habitats may also be present (at minimum): Waterfowl stopover/staging areas, shorebird migratory stopover area, bat maternity colonies, Turtle wintering areas, reptile hibernaculum and amphibian movement corridors. The NER & EIS should provide a conclusion (and rationale) regarding the presence or absence of each wildlife habitat described in the ecoregional criteria.
Please also provide additional information on any survey methodologies, observations and conclusions related to SWH (e.g., field data sheets, timing, weather conditions). This information will help inform if supplementary mitigation measures for SWH are required (e.g., rehabilitation).
7. The NER & EIS recommends turtle exclusion fencing be installed to prevent turtles from entering the site. MNR agrees, in principle, with this practice. However, please incorporate the fence design details as shown in Appendix C of the NER & EIS to the site plan and provide details on installation timing and locations, and how the integrity of the fencing will be monitored for its duration. Please also refer to Comment 44 (Recommendation of Technical Report) below.
8. We agree a timing restriction on vegetation removal is necessary to protect migratory birds, but it is also necessary to avoid impacts to Significant Wildlife Habitats like bat maternity colonies and turtle nesting. Environment Canada has established the migratory bird nesting period for this region to be from early to mid-April to late August for forest and wetland habitats. We recommend that all vegetation removal only occurs between November 1st and March 30th to avoid the breeding bird nesting and the active season for bats and turtles.

Mitigation

9. We recommend all setbacks from natural heritage features be clearly marked under the direction of a qualified Ecologist and prior to the start of operations.

Hydrogeology

The 'Hydrogeological Level Assessment,' prepared by McIntosh Perry and dated February 2024 and October 26, 2024, has been reviewed in comparison to the Aggregate Resources of Ontario: Technical Reports and Information Standards and in consideration of relevant provincial legislation and policies and associated technical guidance material. There are no comments on this report.

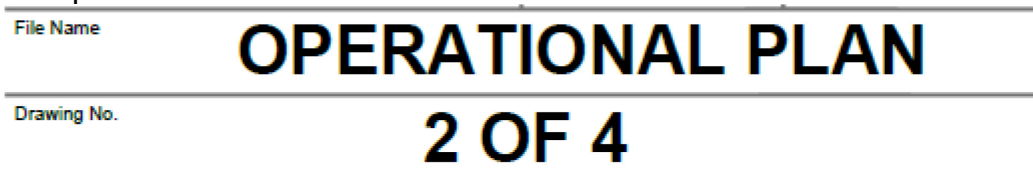
Site Plans

The Site Plans (pages 1 to 5 of 5), prepared by Milestone Aggregate Consulting Services Inc. and dated July 26, 2023, has been reviewed in comparison to the Aggregate Resources of Ontario: Site Plan Standards, the Aggregate Resources of Ontario: Technical Reports and Information Standards and in consideration of relevant provincial legislation and policies and associated technical guidance material.

Where applicable, comments are organized by reference to the relevant site plan standard (SPS), as listed in the 'Aggregate Resources of Ontario: Site Plan Standards' (Aug.2020).

General

10. Consulting firms contributing to this application are depicted in the site plan index box (RPM Indigenous Group and WSP are shown in the different drawings). Please provide an explanation for their inclusion on the site plans.
11. Throughout the site plan notes, references are made to figures, drawings, and maps. Please use a single term to indicate locations on the plan. Additionally, it is recommended to simplify the formatting in the index box at the bottom. For example:



12. For formatting, it is recommended to either bold the caption in the notes or use a colon to separate the caption and the note. E.g., "1. **Key Map:** see Title Block area to the right of the drawing."
13. SPS 3 – UTM coordinates identified on Drawing 1 appear to be incorrect. If this is the case, please review and correct them. For example, should point A be approximately Easting: 37389280.0, Northing: 5007929.48?
14. SPS 9 – The note specifies that the north arrow is in the upper right corner of the drawing, but it was not found. Please ensure that a north arrow is added to all drawings.

15. SPS 10 – It is my understanding that this note will be updated after the two-year period to reflect site plan amendments and cleared out from 'issued for revision.' Please confirm.
16. SPS 11 - The following items need clarification/corrections regarding their representation in the drawing and the legend:
- a. The legend on Drawing 2 indicates that the property boundary is represented by a bold black line. This line is covered by the white parcel line. This parcel line is represented in Drawing 1 and should be removed from Drawing 2.
 - b. The entrance/exit is not currently shown in the legend. It should be added. It is currently depicted as a hatched rectangle, which is difficult to distinguish. It is suggested to use a bold black arrow to represent the entrance/exit.
 - c. The noise setback (150m radius circle) needs to be labeled accordingly and added to the legend. This area should correspond with the extraction boundary. Further comments on the noise setback are provided in comment 29, SPS 40)
 - d. There are line delineations and labeling that are not consistent on each drawing.
 - i. The 'pond' (wetland) is shown on Drawing 2 but is either absent or outlined differently on other drawings. Additionally, the lines delineating the 'pond' (wetland) and mixed forest are not shown in the legend. Please correct these delineations to ensure consistency across the drawings and the legend. Furthermore, the pond has been identified as a wetland in the NER & EIS and needs to be correctly labeled (see comment 18, SPS 20 for more details).
 - ii. The ANSI and license pit are only labeled on Drawing 2. These need to be added to all pages. Additionally, Pit #15752 should be added to the license pit MXQ.
 - e. The green area (mixed forest) on Drawing 2 needs to be added to the legend.
 - f. Please show existing fencing and proposed fencing (including turtle exclusion fencing) in the drawing and legend on drawings.
17. SPS 13 – Please confirm if the total site area (50.64ha) is property that the applicant owns and include this in the notes. If this is the case, there is a discrepancy in the Summary Statement Report which indicates the total area of applicant owned property as 44ha. Please confirm the correct area.

Existing Features

18. SPS 20 – All significant natural features on and within 120 m of the site shall be depicted on the Existing Features page. Please include all significant natural features on the site plan (e.g., significant wildlife habitat, wetlands, habitat for endangered and threatened species, and fish habitat). With respect to the ANSI, please change earth science to life science.

To be consistent with the NER & EIS the “pond” within the licenced boundary should have been identified as wetland ts2, but it is not depicted on the site plan as indicated in the report. If changes to the wetland boundary are made, to resolve other comments, please ensure on the existing features, operational, and rehabilitation pages of the site plan the correct boundaries of the wetland feature are shown, and labeled as a wetland, not pond. Finally, ensure the setback distance from the wetland and berm are shown on the site plan (Refer to comment 1).

19. SPS 21 – Add the Licence # 15752 to the note and all drawings. Additionally, the NER & EIS identifies an Abandoned Mine Hazard Site within 120m and should be identified in the Existing Features Page of the drawing. Lastly, please remove note about labeling ANSI here.

20. SPS 23 – Contour lines are missing as required by the standards. Please add contour lines to Drawing 2. It seems that there may have been a formatting issue here, as there appears to be elevation contours on this drawing, but they are not readable and look like 3 dotted lines across the page.

21. SPS 25 – Mixed forest surrounds the site, not just along the north and east portions. Describing the mixed forest within 120m, not just on the site, is relevant for both progressive and final rehabilitation, ensuring compatibility with surrounding land use. This should be noted here.

22. SPS 26 – Please show existing fencing in the drawings and legend on Drawing 2.

23. SPS 29 – To maintain consistency, please add the caption “existing fuel storage areas” here.

24. SPS 31 – Please correct the small typo: ‘exist’ should be ‘exit’.

Operations

25. SPS 33 – See comment 16 (SPS 11). Hatched rectangle for entrance/exit is hard to see. Suggest bolded arrow.

26. SPS 36 – Please show existing fencing that will be maintained and proposed fencing (including turtle exclusion fencing) in the drawings and legend on Drawing 3. See comment 44 (Recommendation of Technical Reports).

27. SPS 37 – Formatting issues here. Instead of dots it should read a/b/c/d.

- i. Please confirm whether all permanent structures (e.g., equipment garage) will be located as shown in Drawing 3 (Operational structures/equipment). If so, this should be noted here. Lastly, instead of specifying a “reefer van” for storing maintenance tools and small equipment, consider just referring to van/trailer, to allow future flexibility.
- ii. There should be a set location for scrap identified on Drawing 3, or a statement that it will move with operation. If scrap will be moving with the operation this will need to be identified here, and restrictions to scrap locations noted (e.g., 30m from any body of water, only scrap generated directly as a result of the operation, limited to a single designated location at a time, and removed on an ongoing basis)
- iii. Stockpile of an aggregate topsoil and overburden should be under the same line (c).
- iv. Move internal roads to its own line (d). State no internal roads within setback areas.

28. SPS 38 – Will the portable crushing and screening equipment move with the operation? If so, then this should be specified here. It is noted that initially, portable crushing and screening equipment will be set up on the existing pit floor 'below grade.' This is confusing because no ground will be open at the beginning of the operation to allow this to happen. Please clarify. Additionally, the establishment of processing plants will be subject to MECP approvals. Any permanent processing plants should be planned for and shown on the site plan now, or the site plan should be amended to show them in the future.

29. SPS 40 – The operation must reflect the current knowledge of the site. According to the standards, a noise assessment report is required if proposed excavation and/or processing facilities are within 150m of a sensitive receptor. Currently, assumptions about a future noise assessment are being modeled in both the notes and drawings. The site plan must not assume future approvals. The notes and drawings need to be revised to reflect the operation as if there is a 150m setback from sensitive receptors. Specifically, the extraction boundary and areas need to be recalculated to include the 150m setback.

30. SPS 42 – Revisions and clarity are needed for this note. It mentions 7m high lifts from the lowest elevation of 203masl, then states this will be 'approximately 3m below the current pit floor.' The 3m measurement and the maximum height in phase 2 are unclear.

31. SPS 46 – Please indicate the distances for all setbacks on the drawings and in the notes (e.g. ANSI – 60m; Butternut – 50m; Sensitive receptors – 150m; Highway – 30m; Wetland – 30m; Remaining setbacks - 15m remaining).

Additionally, please include the setbacks from Butternut in this note.

32. SPS 48 – This note proposes constructing a berm along the northeast boundary, adjacent to the home, for visual and acoustic benefits. If a berm is to be built at this location, it must maintain a 150m setback from the residence until a Noise Assessment is completed and a site plan amendment is submitted to revise according to recommendations and approvals.

Additionally, it is noted that berms for storing topsoil and overburden may be constructed within the setbacks. Restrictions from ANSI, wetlands, Butternut, and sensitive receptors must be respected and included in the notes.

Lastly, according to section 8.1 Wetlands (3.1.6) on Drawing 5, a soil berm is recommended. This berm should also be included in the notes and shown on Drawing 3. Consideration must be given to ensure it does not interfere with butternut trees and exclusion fencing

33. SPS 49 – It is understood that berms for acoustical/visual purposes and those for storing topsoil and overburden will be seeded accordingly. Please include the actions that will occur if vegetation does not establish.

In addition, for erosion and sediment control including interim berms and stockpiles, to help mitigate erosion, impacts associated with tree removal and the loss of candidate significant wildlife habitat it is recommended the applicant should use a diverse wildflower seed mix, comprised of native species.

34. SPS 50 – There is a typo here. Please remove duplicate “trailer” in this note.

35. SPS 51 – This note is unclear regarding the transplanting of native trees in clumps at the entrance. Please clearly indicate the intent to transplant trees along the entrance and show this on Drawing 3.

36. SPS 54 – Formatting issues for this note. Please put into a table format and provide rationale. For example:

| O.Reg 244/97 Section 0.13 | Variance | Rational |
|---|--|--|
| (3) a. – 1.2m fence at site boundary | No fencing along entire south, west, and north | (e.g. heavily wooded area, adjacent property owned by applicant) |

| | | |
|-----------------------------------|---|---|
| | portions of the licence boundary | boundary will be delineated with painted stakes or other visibly acceptable markers every 50 metres |
| (1) 10 – 15-meter setbacks | a) 0m setback along the entire south licence boundary - Common boundary with #157352. | a) Common boundary with adjacent licence #157352 |

37. SPS 54 - To accompany justification for setback variances of 0m, please provide a copy of a common boundary agreement with Licence # 15752, as well as property deed/Articles of Incorporation for land owned by applicant.

38. SPS 55 – Please correct the typo here and add “IN any calendar year”.

Rehabilitation

39. SPS 59 – To protect the integrity of adjacent ANSI and provide compatibility with surrounding landscape the summary statement report states that the side slopes, areas extracted in proximity to bedrock outcrops and the perimeter of the site will be planted with upland tree species indigenous to the area (hard maple, white pine, red and white oak, white cedar). Please include this in both the progressive and final rehabilitation notes and drawings. We also request that the applicant provide more details on location, quantity, and planting density (e.g., spacing) of tree and shrub plantation. Please also indicate that monitoring, tending, and re-planting must occur, as needed, to ensure the survival for two growing seasons on the site plan.

As indicated in the NER & EIS, the forests on site could be suitable habitat for Special Concern bird species (e.g., Eastern wood pe-wee), the ministry recommends the applicant consider incorporating a diverse wildflower seed mix in the perimeter, comprised of native species, to provide improved foraging habitat for this species.

40. SPS 60 – As mentioned above, the notes here need to specify how and when trees will be planted. Additionally, please correct typo to read “no more than 6.0 hectares at any time”.

Cross Sections

41. SPS 73 – please include on the site plan a cross-section of the proposed berm located adjacent to the wetland if it will be different from the cross-section already included on the site plan.

Recommendation of Technical Reports:

42. Please correct formatting for Hydrogeological conditions so that they are shown as bullets.
43. Under the Noise conditions, you refer to restrictions in Phase 3 until approvals and mitigations are in place as per a future Noise Assessment. See comment 29, SPS 40. The extraction area will need to be revised to show the 150m setback in the absent of a Noise Assessment. This section will need to be revised accordingly.
44. Please incorporate the conditions from the Technical Recommendations on the operations page to make it easier for operators to follow any restrictions and ensure mitigation measures are adhered to:
 - Timing windows (refer to comment 8).
 - Turtle exclusion fencing
 - Mitigation for tree protection

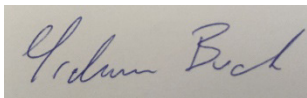
Additional comments may be provided pending the additional information provided to the above-mentioned points. Additionally, further reviews for conformity with the *Aggregate Resources Act*, 1990, site plan standards, policies and procedures will be undertaken as further edits to the site plan are made.

Following receipt of this letter, to expedite Aggregates Section reviews of any follow-up submissions please clearly highlight any and all changes to the site plan or reports. Additionally, in the submission related correspondence, please provide a statement for the record confirming that all changes have been highlighted.

To facilitate a more efficient review and to reduce delays in responses, please consider updating the Site Plan Notes to reflect the current standards and numbering. The Aggregate Resources of Ontario: Site Plan Standards (2020) are available online at <https://www.ontario.ca/page/aggregate-resources>.

We are open to having discussions with you to discuss the items outlined in this letter. If you have any questions, or require additional information, please contact Jennifer Tighe at jennifer.tighe@ontario.ca.

Sincerely,

A handwritten signature in blue ink that reads "Graham Buck". The signature is written in a cursive, flowing style.

pp. Graham Buck for the Aggregates Section