



# Aggregate pits: municipal and provincial processes

Alberta Environment and Parks and Municipal Partners







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### Background

Alberta Environment and Parks (AEP), the Alberta Sand and Gravel Association, and the Rural Municipalities of Alberta have developed the following guidelines to provide clarity on timing and communication between municipal and provincial application processes related to aggregate pits.

Pits are defined in the *Environmental Protection and Enhancement Act* (EPEA), and aggregate removal from public land is guided further by the *Public Lands Act*.

The operation of a pit, whether on public or private land, requires authorizations from both AEP and the applicable municipality.

### Alberta Environment and Parks' Role

AEP is focused on environmental management (air, land, water and biodiversity) and the application of various provincial requirements, which includes the EPEA, the *Public Lands Act*, and the *Water Act*, and associated regulations, codes of practice, and guidelines. In relation to public land pit applications or private land code of practice registrations, AEP focuses its review on site placement to minimize environmental risk; proximity to water and water use/management; wildlife and habitat; air quality; and reclamation/remediation.

### Municipalities' Role

Municipalities have a key role in aggregate development on private lands. The *Municipal Government Act* (MGA) provides municipalities with the authority over land-use planning and development matters which includes municipal development plans, area structure or redevelopment plans, and land-use bylaws. Land-use bylaws operationalize municipal land-use plans by setting out the permitted and discretionary land uses in land-use districts (zoning) within the municipality, development standards, the requirements for processing development permit applications, and issuing development conditions to address a development's impacts.

Development conditions for aggregate operation development permits may deal with matters such as road use management/agreements; development agreements, setbacks of activity from residential dwellings; noise and dust management; and hours and days of operation, in order to provide opportunity for multiple land uses to coexist and for the safety of citizens. Building permits and business licenses are typically municipal requirements in addition to development permit approvals. Council decisions on "zoning" amendments to municipal land use plans, the land use bylaw or a council decision in a direct control district are not subject to appeal to either the local Subdivision or Development Appeal Board (SDAB) or the Land and Property Rights Tribunal (LPRT, formerly the Municipal Government Board).

### Public Engagement

Municipalities conduct stakeholder engagement in relation to processes to enable aggregate development in their municipality. The MGA requires municipalities to provide notice to applicants and affected persons of any plan or land-use bylaw amendment, along with opportunities for public engagement. This ensures municipal council considers a variety of public and stakeholder perspectives when making a decision.

AEP requires public notification for applications that require an authorization under the *Water Act*. AEP's decision on an application for aggregate development can be useful information from an environmental perspective for municipalities and citizens considering a municipal development permit. AEP will support municipalities during public engagement processes, in explaining the environmental elements of their application decision.

## Application Process

1. When the proponent makes application to AEP for a pit on private or public land (surface materials registration (SMR), surface material exploration (SME), or surface material lease (SML)), AEP will **refer** the application the applicable municipal development authority. The referral process allows the municipality to respond to the following:
  - a. For public lands applications (SMEs), do they need the aggregate for a public work in the municipality?
  - b. Are there statutory requirements AEP needs to be aware of which would guide the proposed pit development (such as a municipal development plan, area structure plan, bylaws) or concerns/ requirements that the municipality would like to raise at this stage?, **OR**

The municipality can express “no concern or requirements that apply.”

2. The timeline to for this referral will be 20 business days, although extensions may be permitted as requested or needed by the municipality. The focus of the review should be on items within the scope of existing requirements, although new issues outside of requirements may be applicable in specific circumstances.
3. AEP will consider the referral response in its regulatory review and will evaluate a variety of issues to ensure the regulatory decision is properly informed. This includes Notice of Application/Decision requirements and responses for *Water Act* components of an application. AEP does not require a municipal response prior to making its decision if the referral period has passed.
4. AEP’s decision may include approvals for public lands/*Water Act* components, registration for an EPEA code of practice, or refusal.
5. Upon receipt of the necessary provincial authorizations, proponents are then encouraged to apply to the municipality for a land-use bylaw ‘zoning’ amendment, development permit, and building permits, as may be appropriate. It is also acknowledged, that in some instances, it may be possible for a proponent to pursue applications with AEP and a municipality concurrently. Although less desirable, proponents may apply for municipal authorizations first if they have certainty that the AEP and municipal processes will not be duplicative in terms of regulatory burden on the applicant.
6. Appeal of an AEP decision can occur at the Environmental Appeals Board or the Public Lands Appeal Board. Appeal of municipal decisions are guided by the MGA, which includes appeal provisions so that landowners and proponents of development have an opportunity for an independent review of municipal decisions. Amendments to the MGA, which came into force December 9, 2020, ensure an appeal body that is intended to hear matters of provincial interest hears municipal subdivision and development appeals related to decisions of a provincial regulator. The Land and Property Rights Tribunal (LPRT) role is expanded to include subdivision and development appeals for lands related to a licence, permit, approval or other authorization of the Natural Resources Conservation Board, Energy Resources Conservation Board, Alberta Energy Regulator, Energy and Utilities Board, Alberta Utilities Commission, or AEP, which would include AEP approvals or authorizations for aggregate operations.
  - a. Under the MGA, a municipality must approve, approve with conditions, or reject a development permit application within 40 days of receiving a complete application, or the permit is deemed to be refused.
  - b. Municipalities, as part of their written decisions, must state whether an appeal lies to the SDAB or the LPRT and the timeframe by which an appeal may be filed.
  - c. A SDAB receiving a misdirected notice of appeal is required to refer the appeal to the LPRT.