

**Standing Committee on Finance and  
Economic Affairs:  
Bill 56, *Aggregate Recycling Promotion  
Act, 2013***

**March, 2014**

Thank you for providing the Association of Municipalities of Ontario (AMO) with the opportunity to contribute to your consideration of Bill 56.

The issue of recycling aggregates is certainly one that engages municipalities across the province. It is generally recognized that aggregate is a valuable resource and there is room for increased use of recycled aggregate materials. However, Bill 56 as written leads to the perception that all construction contracts must be tendered and accepted without regard to the appropriateness of the materials for the project at hand. Such a blanket approach, where a municipality cannot require the appropriate materials for a specific purpose, is of concern.

The Bill proposes that what constitutes recycled aggregate will be defined by regulation. This is of crucial importance and it is difficult to evaluate the Bill without these details. Many contractors/aggregate suppliers consider 'recycled aggregates' as all aggregates reclaimed from construction, demolition and renovation. This means the reclaimed aggregates will contain impurities such as concrete, brick, ceramics, wood strips, foam materials, plastics, glass, metals and so forth.

There are indications that even a small amount of material that can absorb moisture can impair the durability and integrity of a structure. For example, last year, the Region of Durham performed testing on samples of recycled aggregates as requested by one supplier. The analysis indicated that even a small amount (<1%) of the above impurities, having high moisture potential and thus drastic density change, has an alarming impact on the life expectancy of roads. Durham has tested the use of crushed concrete in various uses as well, with mixed results.

There needs to be room to apply judgement, to determine if recycled aggregate can indeed meet the standards for a particular use. Even using reclaimed asphalt has its limitations because the purpose for the recycled material is critical. Recycled products may not stand up as a component in a high volume, higher speed roadway such as a provincial highway or regional road, but it might work well in lower traffic, lower speed local roads, bicycle trails, parking areas etc. Local factors such as climate variations, drainage, sub-soils and the planned maintenance schedule also affect how well a recycled material may perform. All of these factors influence the decision to use recycled materials. One size definitely does not fit all. The Ministry of Transportation's *Greenpave* rating does seem to recognize the range of factors and variation that has to be taken into account.

Issues about strength, durability and longevity pertain in varying degrees to any kind of aggregate recycling, from concrete foundations to basic gravel uses like backfilling. Research on how and where such materials can be safely, cost-effectively and beneficially used is needed. To that end, municipal road engineers do experiment with materials and techniques, where they safely can, to try new applications.

The Committee needs also to be mindful that when accidents happen municipalities are highly vulnerable to litigation because of joint and several liability. This legal regime can burden municipalities with the lion's share of a damage award when at minimal fault or to assume responsibility for someone else's mistake. While Minimum Maintenance Standards offer some defence for municipalities in their capacity as road authorities, the punishing impact of joint and several liability remains. Many other jurisdictions have recognized joint and several liability is not sustainable. It is time for Ontario to do the same.

While municipalities support in principle the need to increase the use of recycled materials, we must do in a balanced manner in keeping with engineering standards as not all recycled materials are appropriate for all uses. Bill 56 as is leads to the perception that recycled products must be accepted, despite standards which may result in unintended consequences, including risks to public safety. What municipalities seek is more information regarding engineering standards that define these appropriate materials and uses.

In deliberating about this Bill, the Committee is urged to consider the recommendations of the recently released Report from the Standing Committee on General Government on the *Aggregate Resources Act* and the Ministry of Natural Resources response to that Report. In the Report, it is recommended that sharing information and best practices be enhanced to encourage appropriate use of recycled aggregates. There is also a call to establish technical protocols for testing recycled materials for suitability and performance.

AMO would echo that call and ask that provincial resources and effort be put into developing those protocols and standards so that the appropriate use of recycled aggregates becomes the norm.