

**DATE:** September 14, 2020

**REPORT NO:** PD-116-2020

**SUBJECT:** Information Report – Provincial Changes to Excess Soil Regulations and Relationship to Township Site Alteration By-law

**CONTACT:** Brian Treble, Director of Planning and Building

**OVERVIEW:**

- The Province made changes to the excess soil regulation of the Environmental Protection Act in December of 2019, but has spent the early part of 2020 rolling these changes out to municipalities.
- Township Staff have now had a chance to attend two online training sessions as a result of COVID-19 and are still attempting to learn more about what the Province has done and how it will impact the Township of West Lincoln.
- There is general flavor in the amendments that the Province is trying to reduce the amount of excess soil that ends up in landfills and how much trucking is occurring. Having said this however, it is also staff understands that if the soil is not beneficial to the location where it has been placed, then it is deemed to be “waste”.
- Staff’s understanding is that this interpretation helps West Lincoln and will help other areas protect prime agricultural lands for agricultural purposes and only allow dumping where beneficial to soil quality and crop production.
- Additional amendments encourage onsite reuse of excess soil and will require the tracking of trucks and where soil is being hauled to.
- One of the biggest challenges with the changes is the extensive implementation/phase-in period since some regulatory changes do not take effect until January 1<sup>st</sup>, 2025.

## **RECOMMENDATION:**

1. That, report PD-116-2020, regarding “Information Report, Provincial Changes to Excess Soil Regulations and Relationship to Township Site Alteration By-law”, dated September 14, 2020, BE RECEIVED for information purposes.

## **ALIGNMENT TO STRATEGIC PLAN:**

### **Theme #6 and #5**

- **Efficient, Fiscally Responsible Operations**
- **Community Health and Safety**

## **BACKGROUND:**

There is increased concern from the development industry, municipalities and residents about the impacts of hauling excess soil from site to site for disposal purposes. Many operators deposit soil in unplanned and unapproved locations at low cost while the Province understands that such soil is being hauled to landfills and other approved locations.

More regulations by the Province will assist lower tier municipalities in attempting to regulate and control the dumping of soil. It remains to be seen if the Provincial changes will be enough, but they do appear to be a good start.

## **CURRENT SITUATION:**

The following Provincial summary provides a broad understanding of some of the changes that have been made by the Provincial Government to help regulate and control excess soil.

*This regulatory framework:*

- *provides clear rules on managing and reusing excess soil*
- *limits soil being sent to landfill*
- *reduces greenhouse gas emissions from soil transportation*
- *reduces current burden and cost of excess soil management, while continuing to ensure strong environmental protection*
- *removes barriers to brownfields redevelopment*

*The regulatory changes will do the following:*

1. **Reuse of soil** - *The On-Site and Excess Soil Management Regulation will clarify requirements for the reuse and management of excess soil, including risk-based standards for safe reuse. The regulation also clarifies when the waste designation applies to the movement and disposal of excess soil and replaces or simplifies waste-related approvals with regulatory rules for low risk soil management activities. These provisions will come into effect on July 1, 2020.*

2. **Excess Soil Planning Actions** - Subject to exceptions, project leaders of certain projects generating or receiving excess soil will be required, starting January 1, 2022, to conduct excess soil management actions before any excess soil leaves the project area, including in some cases characterizing the soil to determine the concentrations of contaminants in the soil. It would also include identifying appropriate reuse sites and tracking excess soil movements. Key information would be required to be registered on a public registry.
3. **Landfilling of excess soil** - The On-site and Excess Soil Management Regulation will restrict the deposit of clean soil at landfill sites, unless the soil is needed for cover or functions beneficial to the functioning of the landfill. This requirement will come into effect on January 1, 2025.
4. **Brownfields redevelopment** - Brownfield properties are vacant or underutilized lands previously used for industrial or commercial activities and that typically require the filing of a record of site condition before being redeveloped. The amendments to O. Reg. 153/04 include reduced requirements associated with filing a Record of Site Condition. This includes a reduced need to fully delineate contaminants for properties going through the Risk Assessment process, flexibility on meeting standards in specific circumstances, and removing the requirement for a Record of Site Condition for specific low risk redevelopment situations. These changes came into effect immediately.

Many components of the Provincial changes are being phased in, as outlined below:

- modified rules for reuse of salt-impacted soils, increased quantities and storage times at temporary sites, use of solidification agents and reuse of liquid soil
- reduced requirements for reuse of soil in infrastructure projects
- greater recognition of beneficial reuse of soils at landfills
- in response to stakeholder concerns around providing sufficient time for education, and for necessary guidance to be developed and to recognize existing contracts, the following revised implementation dates are provided:
  - upon filing (same as previously proposed): brownfields redevelopment amendments
  - July 1, 2020 (from January 1, 2020): reuse rules and the waste designation
  - January 1, 2022 (from 2021): testing, tracking, hauling records and registration
  - January 1, 2025 (from 2023): restrictions on landfilling soils

- *Grandfathering provisions - applicable from January 1, 2022 to January 1, 2026, to recognize where work to be done is already stipulated in a contract*

Staff intends to continue to monitor these Provincial changes with the hope that they support the Township of West Lincoln's site alteration by-law and our efforts to protect agricultural land for agricultural purposes and support soil placement when agricultural improvements result.

**FINANCIAL IMPLICATIONS:**

Not applicable to this report.

**INTER-DEPARTMENTAL COMMENTS:**

Not applicable to this report.

**CONCLUSION:**

Staff have provided this staff report to inform Committee and Council on changes that have been made by the Province to the Environmental Protection Act, and regulations of the act and which have slowly been rolled out to municipalities in the 1<sup>st</sup> half of 2020.

Staff will continue to monitor these changes and what impacts these changes will have to the Township of West Lincoln and staff will report back as required.

**ATTACHMENT:**

1. Management of Excess Soil – A Guide for Best Management Practices


**Prepared & Submitted by:**



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**Brian Treble, RPP, MCIP**  
**Director of Planning and Building**

**Approved by:**



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**Bev Hendry,**  
**CAO**