
LEGAL PROCESS

There are several distinct legal instruments and processes that relate both to Fidelity's attempts to obtain approvals to establish and operate a hot mix asphalt plant at 13945 Telephone Rd., Cramahe (the **Proposal**), and to the CRAA's legal opposition to that Proposal. This note explains, at a high level, how these instruments and processes interrelate.

1. MNR Application

In 2024, Fidelity gave public notice in accordance with the *Environmental Bill of Rights (EBR)*, that it had applied to the Ministry of Natural Resources (**MNR**) to request, among other things, an Environmental Compliance Approval (Air), for its Proposal.¹ This notice identified Fidelity's Proposal as ERO #025-0670, and as MNR Ref. #9778-DFZK2E [[Link to MNR/ERO web posting](#)].

Fidelity's Proposal was required to be made the subject of a public notice under the EBR if it involves a proposal, decision or event that "could affect the environment", and the posting of this notice is an acknowledgment by MNR and by Fidelity that approval of its Proposal could have such effects.

The Application was made to the MNR because Fidelity is the current holder of a permit, issued by MNR in the 1970s under the *Aggregate Resources Act (ARA)*,² to operate an aggregate extraction (gravel) pit at this location. That operation was governed by a site plan approved by MNR. MNR is therefore identified as the Ministry having "primary responsibility" for Fidelity's Proposal, within s. 12 of the *EBR*.

Fidelity's MNR Application is thus the fundamental process that it is legally required to follow to get approval to change the use of the site from a gravel pit, and to establish and operate a permanent asphalt plant at the location. MNR has responsibility for, among other things, all changes to the existing site plan required by this proposed change in use.

In that regard, MNR also has specific responsibility for requiring and approving a rehabilitation plan for the site, which is required both by s. 48(1) of the *ARA*, and by the *2024 Provincial Planning Policy (PPS)*, issued under s. 3 of the *Planning Act (PA)*,³ when aggregate extraction from the site ceases. This is important because, as discussed below, the CRAA has presented strong evidence that aggregate extraction at the site had ceased by February 2020 (when Fidelity acquired it) at the latest. The CRAA argues that any legal right that Fidelity ever had to establish or operate an asphalt plant at this site was and is premised upon it continuing to be a source of gravel to be used in the manufacture of asphalt, and that this precondition is no longer satisfied.

¹ S.O. 1993 c. 28

² R.S.O. 1990 c. A.8

³ R.S.O. 1990, c. P.13. The current PPS was approved by Order in Council No. 1099/2024.

In the MNR Application, the CRAA has submitted a letter from its lawyers at Gowling WLG [[LINK to Gowling letter](#)] setting out legal arguments that require that this Application be dismissed by MNR because,

- (a) the public notice that has been given under the *EBR* is legally deficient because it fails to include all necessary information for the community to assess the nature and extent of the Proposal's acknowledged effects on the environment, as required by the *EBR*;
- (b) Fidelity's Proposal is not consistent with the mandatory requirements of the PPS to ensure that it has no adverse effects in terms of compatibility with sensitive land uses surrounding the site, including residences, agricultural operations, wetlands, and municipal water catchment; and
- (c) the required precondition that rehabilitation of the former aggregate extraction site be completed has not been satisfied.

The CRAA has also submitted to the MNR its own factual assessments of the risks and adverse impacts of Fidelity's Proposal, including expert reports prepared by concerned residents with appropriate environmental and engineering qualifications, as well as its detailed matrix of questions and concerns raised by Cramahe Council and the community at public meetings about the Fidelity Proposal held in early 2025. To date, neither Fidelity nor the MNR has provided any response that contradicts this factual evidence of severe adverse effects.

2. Environmental Review

The required Environmental Compliance Approval (Air), which triggered the *EBR* public notice requirement, is the subject of a separate, subordinate application by Fidelity to the Ministry of the Environment (**MOE**), that is responsible under the *EPA* for such approvals.

Again, the CRAA has raised the same objections to any approval of this aspect of the Project, as set out above, by sending a copy of the Gowling letter and its factual analysis and reports to the MOE. Again, no response has been received.

3. Request for Investigation

In an effort to force MNR and MOE to take a position on the relevant facts, the CRAA in February 2026 submitted its own formal Application for Investigation [[LINK to Document](#)], under Part V of the *EBR*. This Application seeks an investigation of past breaches by Fidelity and/or the prior site owner of the laws governing their conduct of gravel extraction operations between the years 2020 and 2024.

MNR has acknowledged receipt of the CRAA's Application.

Specifically, the Application asks the Ministries to investigate whether Fidelity and/or the prior site owner breached their existing site plan and permit approvals by extracting gravel at or below the water table level, and/or by failing to submit plans to remediate the site after gravel extraction ceased. The Application cites numerous potential breaches of applicable laws in the *ARA*, the *PPS*, the *EPA*, and in detailed regulations, permits and site plans issued thereunder.

The CRAA argues that these subjects of investigation suggest a history of non-compliance with applicable regulatory provisions in the past operation of the gravel pit, which call into question Fidelity's suitability as an operator of an asphalt plant, with potentially much more serious adverse impacts on public safety, health and the environment in the future.

They also suggest that the very foundation of any legal right Fidelity may once have had to operate an asphalt plant at this site has ceased to exist, with the commission of serious breaches of its existing site plan and permit, and the exhaustion of the pit resources and cessation of gravel extraction. The CRAA asks MNR to conclude that the existing site plan and permit at this location have effectively expired or should be revoked or cancelled in these circumstances.

4. Current Status and Future Process Options

At this time, the CRAA is monitoring developments while we wait for decisions by the Ministries on the various Applications summarized above.

In the event of decisions by the Ministries to approve Fidelity's Proposal, or any aspects of it, the CRAA will have the option to go to Court to challenge the legality and/or reasonableness of such decisions under the *Judicial Review Procedure Act (JRPA)*.⁴ The requirement that decision-makers file the "record" of their proceedings under s. 10 of the *JRPA* will provide a further opportunity to gain public access to important elements of Fidelity's Applications that are currently being withheld from the community.

Another legal aspect that may be raised by any such decisions relates to potentially disputed Municipal land use regulation issues. The CRAA has argued that the current Cramahe Township Official Plan, as approved by the Ministry of Municipal Affairs under the *PA*, is binding on all parties and does not permit the development of a permanent asphalt plant of the kind proposed by Fidelity, at all, but rather limits any such development to a portable plant that is "accessory" to an operating gravel pit on the same site. Fidelity apparently intends to argue that the applicable zoning by-law nevertheless permits a permanent plant, which would raise an issue as to whether that by-law is invalid to the extent it is inconsistent with the Official Plan. An application for judicial review could, optionally, include a request for a declaratory order to resolve this legal dispute. Alternatively, options may arise to pursue these issues to the Ontario Lands Tribunal under the *PA*.

⁴ R.S.O. 1990 c. J.1