



Legislative and Planning Services
Planning Services
Halton Region
1151 Bronte Road
Oakville, ON, L6M 3L1

May 14, 2021

John Stuart, MCIP, RPP
Senior Strategic Advisor
Niagara Escarpment Commission
232 Guelph St.
Georgetown, ON L7G 4B1

(delivered by email)

Dear Mr. Stuart:

**RE: Proposed Niagara Escarpment Plan Amendment PH 219 20
Nelson Aggregates Co.
Regional File No. RQ61A**

Halton Region is in receipt of the request for comments regarding the proposed Niagara Escarpment Plan Amendment by Nelson Aggregates Co. The following comments were also submitted to the Environmental Registry of Ontario Posting #019-3215 on April 26, 2021.

Proposal

An application was submitted to amend the Niagara Escarpment Plan (2017) which proposes to redesignate 78.3 ha of lands legally described as Part of Lots 1 and 2, Concession 2 and Part of Lots 17 and 18, Concession 2 NDS (former geographic Township of Nelson), City of Burlington, Region of Halton, from "Escarpment Rural Area" to "Mineral Resource Extraction Area".

The application also seeks to add a policy under Part 1.9.3 of the Niagara Escarpment Plan that would allow the continued use of an office building, maintenance building, facilities for washing, processing and stockpiling of aggregate, truck washing facility, asphalt plant, recycling facilities, and the vehicular entrances to support the extraction of aggregate on the lands proposed to be redesignated. The policy would apply only while the two sites are actively operated by a single licensee, as an integrated operation.

Information about the Site

The subject lands are owned by Nelson Aggregate Co. and are designated partially as Regional Natural Heritage System and partially as Agricultural area on Map 1 of the Region of Halton's Official Plan (2009). Map 1F shows the lands as an Identified Mineral Resource Area. The lands are identified on Maps 1G and 1E of the Regional Official Plan as having the following features:

Regional Municipality of Halton

HEAD OFFICE: 1151 Bronte Rd, Oakville, ON L6M 3L1
905-825-6000 | Toll free: 1-866-442-5866

- Natural Heritage System Key Features
- Prime Agricultural Lands in Natural Heritage System Enhancements/ Buffers
- Prime Agricultural Areas

In addition to the Niagara Escarpment Plan Amendment, the proposed quarry expansion would require the approval of other applications under the *Planning Act* including a Regional Official Plan Amendment and Local Official Plan Amendment, which the applicant has also submitted and is under review.

Joint Agency Review Team Approach to Commenting

A Joint Agency Review Team (JART) approach is being used to review this proposal under the auspices of Halton Region's Halton Consolidated – Streamlined Mineral Aggregate Review Protocol. This Protocol was most recently updated by Halton Regional Council in February 2020. The function of JART is to review, analyze and comment on the completeness of the submissions in support of a proposal for new or expanded mineral aggregate extraction operations, and to comment on and analyze the proposal on its technical merits. The JART will provide coordinated technical comments to inform decision-making of the participating parties. Staff from the Region, City of Burlington, Conservation Halton, Niagara Escarpment Commission, and the Ministry of Natural Resources and Forestry all participate in the JART review.

Through the JART process, agency staff and consultants retained by Halton Region and the City of Burlington have to date identified numerous issues in 19 thematic areas. All JART members are working with Nelson Aggregate Co. to discuss these issues.

Objection Letter to the ARA Licence application

The Region of Halton submitted a letter to the applicant and the MNRF objecting to the ARA licence application on December 14, 2020. These comments were also submitted to ERO posting # 019-2698 on December 18, 2020.

The objections contained within that letter also apply to the subject Niagara Escarpment Plan Amendment application as the applicant has not yet addressed or resolved these objections.

Planning Analysis

Halton Region is responsible for implementing matters of Provincial and Regional interest, as expressed by the Provincial Policy Statement, the range of Provincial plans, and the Halton Region Official Plan.

Provincial Policy Statement (2020)

The Provincial Policy Statement (2020) provides a framework for managing and protecting natural resources including the following areas relevant to the subject application: natural heritage, water, agriculture, mineral aggregate resources, and cultural heritage and archaeology. Also, the Provincial Policy Statement requires rehabilitation of mineral aggregate operations. It also requires the rehabilitation of human-made hazards prior to permitting future development on these sites in order to protect public health and safety.

Given the breadth of issues identified through the JART process, the application in its current form has not demonstrated consistency with the Provincial Policy Statement. At a minimum, the applicant has not demonstrated that wetlands, woodlands, wildlife habitat, fish habitat, habitat of endangered species and threatened species, and identified natural heritage features and areas both on site and on adjacent lands will not be negatively impacted by the development. The applicant also has not demonstrated that extraction will be undertaken in a manner that minimizes social, economic, and environmental impacts.

Greenbelt Plan (2017)

The subject lands are within the Niagara Escarpment Plan Area under the Greenbelt Plan (2017) as the Greenbelt Plan Area includes the Niagara Escarpment Plan Area. Section 2.2 of the Greenbelt Plan states the policies of the Niagara Escarpment Plan apply within this area and the Protected Countryside polices of the Greenbelt Plan do not apply with the exception of the polices for Parkland, Open Space and Trails.

A Place to Grow: The Growth Plan for the Greater Golden Horseshoe (2019)

A Place to Grow: The Growth Plan for the Greater Golden Horseshoe (2019) provides policies for growth management and environmental protection. This Plan defers to either the Greenbelt Plan or the Niagara Escarpment Plan where similar or overlapping matters are addressed.

Regional Official Plan, 2009

The proposal includes an application for Regional Official Plan Amendment that involves re-designating lands from Agricultural and Natural Heritage designations to Mineral Resource Extraction Area. It must be demonstrated that the goals, objectives and policies of the Regional Official Plan can be met in order to support the re-designation of the lands.

Given the breadth and range of issues raised through the JART review process, the applicant has not demonstrated that the proposal conforms to the Halton Region Official Plan. The guidance provided by Halton Region's Aggregate Resources Reference Manual has not been adequately followed, leaving components of the Regional Official Plan unaddressed and others not adequately addressed. Halton Region's fulsome planning analysis will follow the completion of the technical review.

Part 2 of the Niagara Escarpment Plan (2017) – Technical Comments

The subject lands are located within the Escarpment Natural Area under the Niagara Escarpment Plan. As a Provincial land use plan, the Niagara Escarpment Plan guides land use planning decisions within the Plan area and takes precedence over the Provincial Policy Statement and the Greenbelt Plan to the extent of any conflict. Municipal Official Plan policy must conform with the Niagara Escarpment Plan and no development approvals can be given, including an aggregate license until the Niagara Escarpment Commission has issued a Development Permit.

For the purposes of this review, our comments have been organized under the Development Criteria identified in Part 2 of the Niagara Escarpment Plan. Please note these comments represent the results of initial review and that Halton Region reserves the right to identify further comments or concerns, to provide more detail and to provide additional recommendations for the resolution of any concerns identified as the review of this application continues.

Part 2.6: Development Affecting Water Resources

The objective of Part 2.6 is to ensure that hydrologic features and functions including the quality, quantity and character of groundwater and surface water, at the local and watershed level, are protected and where possible enhanced. Based on the information provided, Halton Region is not satisfied the objective has been met. Among other matters:

1. There is insufficient integration among the reports submitted by the applicant, and as a result, the assessment of impacts on water resources is incomplete. The reports should be revised to address the inter-related impacts linking ground water and surface water to natural heritage. It is not possible to determine the potential impacts on the surrounding and nearby natural features without a full assessment of the surface water and groundwater impacts on ponds and other features that are outside of the area of study but likely to be within the area of influence. An integrated and cumulative assessment needs to be submitted in order to determine and analyze the extent of the potential impacts.
2. The Level 1 and Level 2 Hydrogeological and Hydrological Impact Assessment Report does not address groundwater quality. Both groundwater quality and drinking water standards will need to be addressed in order to adequately assess the potential impacts on drinking water sources and private wells.
3. The proposed mitigation measures lack adequate detail and justification. It has not been demonstrated that the proposed mitigation measures would be successful.
4. The analysis contained within the water resources reports is largely model driven. It has not been adequately established that the model used provides an adequate representation of either existing or future conditions. Further, there has been insufficient work done to ensure that the model results correlate with observed data. Confirmation is needed that model results are consistent with data and long term water levels.

Part 2.7: Development Affecting Natural Heritage

The objective of Part 2.7 is to protect and where possible enhance natural heritage features and functions, in order to maintain the diversity and connectivity of the continuous natural environment. Based on the information provided, Halton Region is not satisfied the objective has been met. Among other matters:

1. The proposed extension lands include and are surrounded by natural features. The impacts of the proposed extension on the natural heritage system, features and functions have not been fully or adequately evaluated.
2. The reports submitted analyze the impact of the proposed extension against existing conditions and without reference to pre-quarry conditions. Cumulative impacts on the natural environment should be assessed.
3. The potential of the proposed extension to fragment the natural heritage system has not been adequately addressed. The quarry is surrounded by natural features that include woodlands and wetlands. The proposed westerly extension has the potential to fragment an existing woodlot, removing connectivity and linkages with other natural areas.
4. The potential impacts of the proposal on fish habitat have not been adequately assessed. The lack of integration between the supporting reports contributes to this lack of assessment. The applicant's hydrogeology and surface water reports identify potential impacts on water resources beyond 120m from the proposed expansion. However, the Natural Environment Report has restricted its assessment to 120m. Further, the Blast Impact Assessment needs to address potential impacts on fish habitat. Therefore there are potential ecological impacts that have not been assessed.

5. Insufficient detail and justification have been provided regarding the proposed Adaptive Management Plan.

Part 2.8: Development Affecting Agriculture

The objective of Part 2.8 is to encourage agricultural uses in agricultural areas, especially in prime agricultural areas, to permit uses that are compatible with farming and to encourage accessory uses that directly support continued agricultural uses. Based on the information provided, Halton Region is not satisfied the objective has been met. Among other matters:

1. A portion of the subject lands are designated Prime Agricultural Area under the Regional Official Plan. The removal of agricultural lands isn't supported by the Regional Official Plan as its objectives include preserving prime agricultural lands and maintaining as much land as possible for existing and future farm use. Based on the wording of the Provincial Policy Statement, the agricultural lands still need to be, "*promoted and protected.*"
2. The ability of the lands to be rehabilitated to accommodate agricultural uses has not been assessed. It is worth noting that agriculture is not just soil based and that the agricultural system includes rural lands for the other aspects of agriculture beyond growing crops and therefore having lands for other agricultural related uses and linkages are integral to the agricultural system.

Part 2.9: Development Affecting Mineral Aggregate Resources

The objective of Part 2.9 is to ensure that mineral aggregate operations and their accessory uses are compatible with the Escarpment environment and to support a variety of approaches to rehabilitation of the natural environment and provide for re-designation to land use designations compatible with the adjacent land uses. Based on the information provided, Halton Region is not satisfied the objective has been met. Among other matters:

1. The subject lands contain Key Features and include Prime Agricultural Areas as well as NHS Enhancements/ Linkages/ Buffers. The Progressive and Final Rehabilitation and Monitoring Study focuses heavily on the proposed after use of parklands and fails to adequately consider the potential to rehabilitate the subject lands to accommodate natural features or agricultural uses.
2. Insufficient detail has been provided on long term and post-rehabilitation mitigation and any management measures that may be required. More detail is required on how any such measures will be secured and funded over the long term.
3. The proposed rehabilitation plan indicates an overall plan to create a park on the entire quarry site (including the current and proposed expansion lands). Questions remain as to how the applicant is proposing to accommodate this plan within the context and confines of the current rehabilitation plan (natural filling of the excavated lands as a groundwater-fed lake). The necessary amendments to the rehabilitation plan for the existing quarry should be provided so that the rehabilitation plan and after use can be evaluated in a comprehensive manner.

Other matters that are appropriate to address

1. A safety analysis has not been undertaken to assess whether there will be any effect on traffic safety. Analysis is required to demonstrate that the proposal is not going to be detrimental to safety, both entering and leaving the site and on the haul route.
2. The truck routes to and from the quarry have not been detailed in the noise assessment, and acoustical mapping for those routes has not been completed.
3. Information on traffic volumes is required. Also, there is little discussion of mitigation strategies related to increased traffic along Regional roads likely to serve as haul routes.
4. The air quality study assesses too small an area, and only assesses individual extraction phases. Potential overlap of phases has not been assessed. The study also makes assumptions about emission rates when the actual emissions from the operating quarry would provide a more accurate basis for assessment.
5. The proposed blasting impacts have not been adequately assessed. Data and formulas used in the report require clarification as well as consistent application throughout the report. Critical conditions for blasting and proximity to infrastructure and sensitive receptors need to be recognized in the study and associated documents.
6. The broader potential effects of the quarry on human health have not been addressed.
7. The financial impacts of the proposal on the City of Burlington and Halton Region have not been adequately assessed. The net financial impact to each municipality cannot be estimated based on the information provided.
8. The *Aggregate Resources Act* Site Plan and notes require revisions to address the above issues.
9. All commitments made during the consultation process by the applicant need to be fully detailed and properly secured through site plan conditions or through appropriate agreements.

Conclusion

Through initial review of the information contained in the applicant's technical studies, Halton Region has identified a number of concerns with the application. Halton Region, therefore, objects to the Niagara Escarpment Plan Amendment application. Furthermore, consistency with the Provincial Policy Statement and conformity with the Regional Official Plan have not yet been demonstrated. The application in its current form does not have appropriate regard for the development criteria listed in Part 2 of the Niagara Escarpment Plan. The application does not support the objectives listed in Policy 1.9.1 of the NEP; in particular, objectives #2 and 4. Finally, the Application in its current form does not represent good planning and is not in the public interest—consequently, it should not be approved in its present form.

Halton Region looks forward to engaging with the proponent through this process alongside our agency partners, and involving Provincial staff at key intervals. As mentioned, Halton Region is engaged with Nelson Aggregate Co. through the JART process to discuss the issues raised. This includes the production and provision of detailed comments to support discipline-to-discipline conversations on issues with the proposal. Halton Region reserves the right to raise further issues and make further recommendations as its review progresses.

Halton Region requests notification of any future meetings or updates on the review of this file.

For further questions and correspondence on this file, please do not hesitate to contact me (joe.nethery@halton.ca, 905-825-6000, ext.3035) by using the mailing address on page 1 of our submission.

Sincerely,

A handwritten signature in black ink that reads "Joe Nethery". The signature is written in a cursive style with a large, prominent "J" and "N".

Joe Nethery, MCIP, RPP
Manager, Priority Development Projects

cc: Gordon Dickson, City of Burlington (by email)
Jessica Bester, Conservation Halton (by email)
Quinn Moyer, Nelson Aggregates Co. (by email)
Brian Zeman, MHBC (by email)