



December 8, 2021

Ministry of Northern Development, Mines, Natural Resources
and Forestry
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Delivered via email

Dear Sirs/Mesdames:

**RE: Nelson Aggregate – Burlington Quarry
Aggregate Resources Act Site Plan Amendment Application
Part Lot 1 & 2, Concession 2 City of Burlington (Geographic Township of Nelson)
Region of Halton – Licence Nos. 5499 and 5657**

This letter is sent in response to the letter dated November 4, 2021, from Mr. Brian Zeman on behalf of Nelson Aggregate Co. requesting comments on a site plan amendment application filed by Nelson as directed by the Ministry of Northern Development, Mines, Natural Resources and Forestry. We understand that the purpose of the amendment is to integrate the existing Burlington Quarry with the proposed Burlington Quarry Extension.

Halton Region is participating in a Joint Agency Review Team (JART) with the City of Burlington, Conservation Halton, and the Niagara Escarpment Commission (together, the "Agencies") in reviewing Nelson's applications to expand its existing Burlington Quarry. In the course of a first round of technical review, the Agencies and technical consultants identified 988 issues across 16 technical disciplines. Given that the proposed site plan amendments are driven by Nelson's expansion plans, many of the issues identified apply equally to Nelson's existing quarry licence and, in particular, to the amended site plan for which Nelson is seeking approval.

In light of the Agencies' deep engagement with the site, the proposed expansion and the proposed changes to the existing site plan, we are writing to provide comments. We have grouped our high-level comments under a number of themes. Specific technical comments are also attached in two bundles: one of items arising through review of the submitted proposed amendments to the site plan, and one with items identified in the first round of technical review on the expansion application and the current status of those items in JART discussions.

Regional Municipality of Halton

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Recognizing the Need for Integration and a Consolidated Process

The proposed site plan amendments are intended to integrate the existing quarry with the proposed expansion. We acknowledge Calinda Manning's update to JART on November 17, 2021, that this amendment to the current Burlington Quarry site plan would only occur alongside an approval of the expansion application. We agree it would be premature to make any decision on the proposed site plan amendments unless and until a positive decision has been made on the expansion application and the final details of any expansion are known.

We also acknowledge and appreciate Nelson Aggregate Co.'s recognition of the integrated nature of the operation in the additional proposed amendments.

In order to ensure coordination, the consideration of the proposed site plan amendment should be integrated into the consideration of the proposed expansion. If the Ministry sees fit to refer the expansion application to a hearing before the Ontario Land Tribunal, we recommend that the amendment application be considered in the same hearing.

The Current Licence Requires Updates to Reflect Modern Standards

The existing site plan is somewhat dated. Nelson Aggregate Co. also recognizes this through the additional technical amendments contained in the proposal.

The Agencies believe it necessary to ensure all current standards, best practices, mitigation measures, and operational requirements are incorporated into the existing licence and harmonized across all licences associated with the operation—and can happen independent of any decision on the rehabilitation plan. Amendments identified by the JART members and technical consultants in the course of reviewing the expansion application also need to be integrated into this plan, should the expansion be approved. Please see the enclosed comments for details.

Issues with the Revised Rehabilitation Plan Have Not Been Addressed

The most significant proposed amendment is the revised rehabilitation plan. Whereas the previous site plan contemplated an end to de-watering and gradual rehabilitation to a lake, the proposed site plan amendment contemplates the continuation of dewatering forever. A number of issues raised by this proposal have not been addressed in either the amendment application or in the application for expansion (matters the Agencies are reviewing with Nelson Aggregate Co. through the JART process); in particular:

1. There are policy issues related to perpetual dewatering, including Policy 2.9.11(j) of the Niagara Escarpment Plan and Policy 110(8.2) of the Halton Region Official Plan. Policy justification for this change has not been provided.
2. There is no indication that arrangements have been made to provide for perpetual dewatering. The proposed rehabilitation plan will create a long term liability (i.e. there will be ongoing costs to operate and maintain pumping infrastructure in perpetuity). So far as Nelson has disclosed, there is no plan in place to fund or manage this long term liability. Before this long term liability is created, appropriate measures should be identified to manage this liability in perpetuity. This can and should be demonstrated without a future owner having been identified.

Specific Concerns Relating to Rehabilitation Notes

Rehabilitation Note 1 b) is not appropriate. The uses referenced in this note are outside of the purview of the *Aggregate Resources Act* and, therefore should not be referenced in these site plan notes. If Nelson Aggregate Co. or some future landowner wishes to pursue any of these uses after surrender of the licence, they may do so under the applicable land use planning regime.

With respect to Rehabilitation Note 1 c), we are not aware of any specific commitment having been made to convey the lands into public ownership, nor of any public authority which has agreed to take the transfer of the subject lands. Given that this note does not appear to be factually correct, it should be eliminated.

The wording of Rehabilitation Note 10 suggests that arrangements are conditional on a future decision about maintaining the site in a dewatered state. Our understanding is that the proposed site plan amendment would require this. The intention to maintain the site in a dewatered state should be confirmed and any associated requirements should be mandatory and not conditional. Again, the Ministry should not approve the proposed licence amendment until specific arrangements for perpetual pumping and other required long-term management are made.

Conclusion

Thank you for providing the opportunity to comment on the proposed site plan amendments. We appreciate the Ministry of Northern Development, Mines, Natural Resources and Forestry for requiring this engagement step and recognizing the value added by municipal review.

As technical discussions on the proposed expansion application continue, additional technical issues may come up. Also, any changes to the proposed expansion application may necessitate further comments on the site plan amendment application. Therefore, we reserve the right to revise and/or supplement these comments as needed.

We would be pleased to discuss these comments and meet with representatives of the Ministry and applicant at your convenience.

Sincerely,



Joe Nethery, MCIP, RPP
Manager of Priority Development Projects

cc: Debbie Ramsay, Director, Niagara Escarpment Commission
Mark Simeoni, Director of Community Planning, City of Burlington
Barb Veale, Director, Planning and Watershed Management, Conservation Halton