

Report To:	Regional Chair and Members of Regional Council
From:	Bob Gray, Commissioner, Legislative and Planning Services and Corporate Counsel
Date:	February 17, 2021
Report No:	LPS12-21
Re:	Update on the Proposed Expansion to the Burlington Quarry (Nelson Aggregate Co.), Submission of Letter of Objection, File No. RQ61A

RECOMMENDATION

1. THAT Regional Council receive Report No. LPS12-21 re: “Update on the Proposed Expansion to the Burlington Quarry (Nelson Aggregate Co.), Submission of Letter of Objection, File No. RQ61A”, for information.
2. THAT the Regional Clerk forward a copy of Report No. LPS12-21 re: “Update on the Proposed Expansion to the Burlington Quarry (Nelson Aggregate Co.), Submission of Letter of Objection, File No. RQ61A” to the City of Burlington, the Town of Halton Hills, the Town of Milton, the Town of Oakville, Conservation Halton, the Niagara Escarpment Commission, and the Ministry of Natural Resources and Forestry for their information.

REPORT

Executive Summary

- On May 14, 2020, Nelson Aggregate Co. filed applications under the *Aggregate Resources Act*, *Planning Act* and *Niagara Escarpment Planning and Development Act* to permit an expansion to the Burlington Quarry on lands west and south of the current quarry. This includes an application for Regional Official Plan Amendment.
- On October 29, 2020, Nelson Aggregate Co. posted an advertisement in the Burlington Post and provided mailings to agencies and residents living near the lands proposed for expansion. This was the official notice of application under the Provincial standards as developed by the Ministry of Natural Resources and Forestry to implement the requirements of the *Aggregate Resources Act*.

- This notice launched a 45-day period for any interested agency or individual to file an objection with the Ministry of Natural Resources and Forestry and Nelson Aggregate Co., as the applicant, citing issues related to the proposed aggregate expansion.
- A virtual public consultation event was held on December 10, 2020. Organized in response to Council's resolution adopted on November 25, 2020, a question and answer period followed a staff presentation and presentation by Nelson Aggregate Co. representatives.
- On December 14, 2020, the Region's Chief Planning Official issued a Letter of Objection outlining a series of concerns related to the proposed quarry expansion. Concerns identified in this letter were informed by the review of technical reports and studies submitted in support of the application by staff and retained consultants and input received at the public meeting.
- Staff will continue to request and receive public input on the application which will be considered by the Joint Agency Review Team (JART) through its technical review of the proposal.

Background

The existing Burlington Quarry (ARA Licence #5499), operated by Nelson Aggregate Co. ("Nelson"), abuts the hamlet of Mount Nemo and extends approximately 1.5 kilometres west to border the Burlington Springs Golf Club. Rural and estate residential development exists to the south and west of the golf course, while agricultural lands and lands within the Region's identified Natural Heritage System generally surround the entire quarry lands. Attachment #1 to this report illustrates the lands subject to the application.

Staff advised Council of the pre-consultation meeting held on November 6, 2019 and provided an overview of the anticipated application process through Report No. LPS08-20, Re: "Proposed Expansion to the Burlington Quarry (Nelson), Pre-consultation Meeting".

On May 14, 2020, Nelson Aggregate Co. filed applications under the *Aggregate Resources Act*, *Planning Act* and *Niagara Escarpment Planning and Development Act* to permit an expansion to the Burlington Quarry on lands west and south of the current quarry. This includes an application for Amendment to the Regional Official Plan. The application proposes to expand the Burlington Quarry by extending the license and extraction areas to the south and west of the existing quarry lands. The west extension is proposed to be 60.0 hectares in licenced area with an extraction area of 35.7 hectares and the south extension is proposed to be 18.3 hectares in licenced area with an extraction area of 14.5 hectares.

On September 16, 2020, Regional Council received Report No. LPS51-20 re: “Update on the Proposed Expansion to the Burlington Quarry by Nelson Aggregate Co., Receipt of Complete Application, File No. RQ61A”, that indicated the application for the Regional Official Plan Amendment was deemed complete in accordance with the Region’s complete application policies.

Discussion

On October 5, 2020, the Ministry of Natural Resources and Forestry determined completeness of the *Aggregate Resources Act* licence application. On October 29, 2020, Nelson provided Notice of the Application and Notice of Public Information Session about their proposal in the Burlington Post in accordance with the requirements of the Provincial standards developed by the Ministry of Natural Resources and Forestry to implement the requirements of the *Aggregate Resources Act*. Notice letters were also provided to residents near to the proposed expansion lands, as well as to agencies including Halton Region. This initiated a 45-day “notice” period, the first official consultation milestone in the *Aggregate Resources Act* licence application process.

Virtual Public Consultation

In August 2020, the Ministry of Natural Resources and Forestry released a bulletin titled, “Resuming aggregate application timelines and public consultation under the Aggregate Resources Act (Post COVID-19).” Prior to that, the Ministry of Natural Resources and Forestry had suspended all application review timeframes in alignment with Provincially-issued emergency orders related to COVID-19. As part of responding to the end of the Province’s emergency order O.Reg 73/20 on September 11, 2020, the Ministry made a modification to their consultation requirements.

During the 45-day notice period, the Ministry requires an information session to share information with the public about the application. In the August 2020 bulletin, Ministry staff noted, “the format of these sessions is not specific in regulation, and the practice has been to hold these sessions in person.” Approaches to a virtual information session offered by the Ministry as supportable included, “Posting all documents to a public website and notifying the public and agencies of times the applicant will be available to answer questions about proposal, provided there is an opportunity for an active verbal exchange between parties.”

Nelson Aggregate Co. elected to proceed with individual conversations with individual residents and did not schedule a public information session as a result of the August 2020 bulletin.

At its meeting of November 25, 2020, Regional Council unanimously adopted a resolution that, among other matters, directed Regional staff, “to contact Nelson Aggregate Co. to schedule and support the delivery of a virtual public information session.” As a result of Council’s motion, a virtual public consultation event was held on December 10, 2020. It featured presentations from agency staff and Nelson Aggregate Co.’s planning

consultant, followed by a one-hour question and answer period. The transcript of the questions has been posted to the [Region's project webpage](#).

Halton Region Letter of Objection

In this 45-day “notice” period, written objections can be filed with the Ministry and Applicant. A “Letter of Objection” is the formal, written statement made by interested agencies or individuals of their issues with an aggregate extraction proposal. It is a critical step to enabling full participation in the Ministry-led process, including potential litigation before the Local Planning Appeal Tribunal or a Joint Board with additional tribunals.

The Chief Planning Official issued Halton Region's Letter of Objection on December 14, 2020, outlining a series of concerns related to the proposal. Letters were also filed by JART partners the City of Burlington, Conservation Halton, and Niagara Escarpment Commission. The agency letters of objection were informed by the first round of technical review undertaken by staff and consultants, as well as input received at the public meeting. A copy of the Halton Region Letter of Objection is included as Attachment #2 to this report.

The Region's Letter of Objection raised twenty-nine distinct issues, categorized under nine thematic groupings:

- The potential effects of the operation of the proposed pit and quarry on the natural environment have not been adequately addressed, including effects upon key natural features, cumulative impacts, and the proposed Adaptive Management Plan.
- The potential effects of the operation of the proposed pit and quarry on nearby communities have not been adequately addressed, including transportation, air quality, noise and vibration effects.
- The suitability of the progressive rehabilitation and final rehabilitation plans for the Site have not been adequately addressed.
- The potential effects on ground and surface water resources including on drinking water sources and private wells have not been adequately addressed.
- The potential effects on agricultural lands have not been adequately addressed, including the Burlington Springs Golf Course's location on Prime Agricultural Lands as identified in the Regional Official Plan.
- Detailed consideration should be given to planning and land use matters, including conformity with Provincial and Regional plans and policies.
- Haulage routes and effects related to truck traffic have not been adequately addressed.
- Considerations remain with respect to the applicant's existing licence and how expansion plans are considered and accommodated by those licences.
- Other, miscellaneous concerns related to fees and the *Aggregate Resources Act* review process, the plan drawings and notations, and public engagement.

Next Steps in the Review of the Application

Technical review of the application through the Joint Agency Review Team process is underway. Detailed comments, expanding upon the thematic issues in the Letter of Objection, will be delivered to the applicant in January and February. Given public interest and the need for transparency in these processes, this information will be posted to the Region's website.

Public input related to the proposal is welcomed and encouraged at any time during the JART process and will be shared with technical consultants and the applicant for consideration in their respective reviews. As part of its mandate, the JART will receive and consider public input to explore the range of technical issues and impacts related to the proposal. Any public input received will be catalogued, summarized, and consolidated with materials received through statutory public consultation into a complete record of public comment to place before Council.

The next milestone in the review of the application is the statutory public meeting required by the *Planning Act* for the Regional Official Plan Amendment, which is currently being organized by staff and further information will be provided to Council once a date is set, likely for the spring of 2021.

Conclusion

Staff are ensuring the Region is participating fully in the *Aggregate Resources Act* licence application process being facilitated by the Ministry of Natural Resources and Forestry. Staff are working with agency partners at the City of Burlington, Conservation Halton, and Niagara Escarpment Commission through the JART framework. Staff continue to consult with Ministry of Natural Resources and Forestry staff and Nelson's consultant team to ensure that the objections raised in the Region's Letter of Objection are adequately addressed.

Regional Council is responsible for making a decision on the proposed Regional Official Plan Amendment. The Ministry of Natural Resources and Forestry, through the *Aggregate Resources Act* site plan approval process, is ultimately responsible for making a decision on the quarry expansion. The next step in this process, as mentioned in this report, is the statutory public meeting under the *Planning Act*.

FINANCIAL/PROGRAM IMPLICATIONS

The application fee for a Regional Official Plan Amendment for aggregate extraction operations, in the amount of \$142,466.26 inclusive of HST, was submitted with the application on May 14, 2020.

The applicant has been made aware, through the pre-consultation meeting, that peer review costs for technical reports are also required to be paid by the applicant, in accordance with Fees By-law 68-20 (which repealed By-law 92-19). Peer review work is underway following a scope of work provided to Nelson on November 6, 2020.

Respectfully submitted,



Curt Benson
Director, Planning Services and Chief
Planning Official



Bob Gray
Commissioner, Legislative and Planning
Services and Corporate Counsel

Approved by



Jane MacCaskill
Chief Administrative Officer

If you have any questions on the content of this report,
please contact:

Curt Benson

Tel. # 7181

Attachments: Attachment #1 – Locational Map
Attachment #2 – Halton Region’s Letter of Objection