



HALTON REGION

NOTICE OF MOTION

DATE: November 25, 2020

ITEM: Nelson Aggregate Co.'s Public Information Session:
Aggregate Resources Act 45-Day Notification and
Consultation Period

DATE OF MEETING
NOTICE OF MOTION
TO BE CONSIDERED: Council Meeting – November 25, 2020

MOVED BY: Councillor Rory Nisan
SECONDED BY: Mayor Marianne Meed Ward

WHEREAS the Ministry of Natural Resources and Forestry issues licences for pits and quarries in the Province of Ontario;

AND WHEREAS the *Aggregate Resources Act* R.S.O. 1990 is the primary legislation for the management of the aggregate resources in Ontario, the control and regulation of aggregate operations; the rehabilitation of land from which aggregate has been excavated, and the minimization of adverse impacts on the environment in respect of aggregate operations in the Province of Ontario;

AND WHEREAS the Minister of Natural Resources and Forestry is responsible for the administration of the *Aggregate Resources Act*;

AND WHEREAS Nelson Aggregate Co. owns and operates the Burlington Quarry (ARA Licence #5499) under a Class A licence for unlimited dolostone extraction, below water, in a 202.5 hectare licenced area at 2433 No. 2 Side Road in Parts of Lots 1 and 2, Concession 2 and 3 in the City of Burlington;

AND WHEREAS there has been significant public concern over Nelson Aggregate Co.'s 2004, 2006 and 2008 applications to expand the Burlington Quarry including impacts to private water wells, the natural environment, noise and air quality, blasting, traffic, rehabilitation, cumulative effects of the existing and proposed quarry operation, and the impact on the Niagara Escarpment, a UNESCO Biosphere reserve;

AND WHEREAS in May 2020 Nelson Aggregate Co. applied to the Ministry of Natural Resources and Forestry for a Category 2 (below water), Class A licence, to the Niagara Escarpment Commission for a Niagara Escarpment Plan Amendment and Niagara Escarpment Plan Development Permit, to Halton Region for a Regional Official Plan Amendment, and to the City of Burlington for a Local Official Plan Amendment to expand the existing operation by 78.4 hectares with a 2,000,000 tonne extraction limit per annum to the west and south;

AND WHEREAS there is a widespread public desire to have access to information about the current application in a transparent and timely manner given the significance of potential impacts to private water wells, the natural environment, noise and air quality, blasting, traffic, rehabilitation, cumulative effects of the existing and proposed quarry operation, and the impact on the Niagara Escarpment, a UNESCO Biosphere reserve;

AND WHEREAS Section 11(1) of the *Aggregate Resources Act* provides that the Minister of Natural Resources and Forestry shall require an applicant for a licence to comply with the prescribed notification and consultation procedures;

AND WHEREAS the Ministry of Natural Resources and Forestry's prescribed standards for consultation require applicants to host a presentation to the public, in the locality of the application, outlining all details of the proposal (information session, open house, community meeting, etc.) In the past, the long-standing practice has been to hold these sessions in person;

AND WHEREAS the Ministry of Natural Resources and Forestry issued a bulletin in August 2020 suggesting that applicants for new aggregate licences are now permitted to post information to a public website and schedule individual appointments with members of the public in place of a public information session;

AND WHEREAS, due to COVID-19 restrictions, prescribed time periods under the *Aggregate Resources Act* were suspended between March 16th, 2020 and September 11th, 2020 and have resumed as of September 12th, 2020 to include the 45-day notification and consultation period for aggregate applicants to provide public notice, hold information sessions for licences and provide the public, agencies and other stakeholders an opportunity to submit written notice of objections/concerns;

AND WHEREAS Nelson Aggregate Co., through their Notice in the Burlington Post dated October 29, 2020, and associated mailings sent to agencies and nearby residents, have launched the 45-day review period under the *Aggregate Resources Act* for individuals to provide their objections and reasons for objecting, with a deadline for submissions of December 14, 2020;

AND WHEREAS Nelson Aggregate Co., through that Notice, indicated that a public information session will not be held due to the ongoing COVID-19 pandemic, and instead indicated that information will be posted to its website and Nelson is willing to

organize calls between members of the public and its consultants to discuss details and answer questions related to the application;

AND WHEREAS the bulletin issued by the Ministry of Natural Resources and Forestry in August 2020 is uncharacteristically vague and represents a departure from longstanding, observed protocol that directs proponents to host open public meetings as part of due process and does not recognize the prevalent availability of tools and resources to enable effective virtual public meetings during the pandemic;

AND WHEREAS Halton Regional Council does not believe that Nelson Aggregate Co.'s approach informing the public of its 2020 Burlington Quarry application meets long established and practised protocol as prescribed by the Ministry of Natural Resources and Forestry representing minimum standards for effectively engaging communities that are potentially impacted by applications under the *Aggregate Resource Act*;

AND WHEREAS precautions around COVID-19 have resulted in a number of changes to the way all levels of government operate and engage with the public, including moving Council meetings, public engagement and consultation into online formats;

AND WHEREAS Halton Regional Council and staff continue to stress the importance of public engagement even during the COVID-19 pandemic and, much like the significant majority of municipalities and public agencies across the Province, are currently using virtual formats for public information sessions and statutory public meetings required by the Planning Act;

AND WHEREAS Halton Region is home to 23 licensed aggregate sites, with two active aggregate applications and one impending aggregate application, it is important to ensure that the prescribed notification and public consultation process occurs in an open and transparent manner allowing for live and active verbal exchanges between parties;

NOW, THEREFORE BE IT RESOLVED THAT Halton Region is committed to a well-functioning ARA review and approval process and encourages the Minister of Natural Resources and Forestry, in the strongest of terms, to require aggregate applicants in Halton Region to hold online public information sessions as prescribed by the *Aggregate Resources Act* for new and/or expansion applications, including that of Nelson Aggregate Co.'s for its applications to expand the Burlington Quarry;

AND BE IT FURTHER RESOLVED THAT Halton Region staff be directed to contact Nelson Aggregate Co. to schedule and support the delivery of a virtual public information session;

AND BE IT FURTHER RESOLVED THAT the Regional Chair write a letter outlining the above to the Premier of Ontario, the Minister of Natural Resources and Forestry; the Minister of Municipal Affairs and Housing; and provide a copy to Association of Municipalities of Ontario, Halton's MPPs; for their information and to the City of

Burlington, the Town of Halton Hills, the Town of Milton and the Town of Oakville; and Conservation Halton for their endorsement.