



July 11, 2023

ATTN: Sean Norman, Senior Planner, PMP, MCIP, RPP

Niagara Region
 Planning and Development Services
 1815 Sir Isaac Brock Way
 P.O Box 1042
 Thorold, ON
 L2V 4T7

Dear Mr. Norman:

**RE: Law Quarry Extension – Response to JART comments on Planning Justification Report/ARA Summary Statement and Site Plan
 OUR FILE 0956C**

We have reviewed the JART comments dated January 13, 2023 on the MHBC prepared Planning Justification Report/ARA Summary Statement, and ARA Site Plans.

The Table Below summarizes our responses to the JART comments. A PJR/ARA Summary Statement Addendum has been included with this correspondence as well as a copy of the revised Law Quarry Extension Site Plan.

Table 1: Response to Planning Justification Report & ARA Summary Statement JART Comments

Comment #	Initial JART Comments (January 13, 2023)	Report Section/Page	MHBC Response March 2023)
1.	One of the overarching land use planning issues of the application is the proposed agreement with the Township which would allow the closure of Biederman Road. Detailed comments related to this issue are included as Appendix 3.	n/a	Agreed. Ongoing discussion are occurring with Township staff regarding the closure and purchase of the Biederman Road. We are continuing to work through this process with Township staff and anticipate having agreements in place this summer.
2,	Page 23 – 1st bullet point – states that the PPS and Growth Plan permit aggregate extraction in the 'rural area'. This comment could be misleading and not technically correct. Aggregate	Page 23 – 1 st bullet	Agreed. This bullet incorrectly references "rural areas" instead of "rural lands". This is a typo in the Planning Justification Report (MHBC June 2022).

	<p>extraction is not permitted as a right, and there are some areas where extraction is not permitted, between the escarpment and Lake Ontario (Greenbelt Plan) for example. In addition the term 'rural area' is not technically correct. Outside of settlement areas Provincial Planning documents use the term 'rural' to describe land that is not 'prime agricultural'. Although the intent is understood, using the term 'rural area' could be confused to be excluding 'prime agricultural' areas.</p>		<p>An revised policy analysis is included in the Law Quarry Extension PJR 2023 Addendum Report that addresses this comment.</p>
3.	<p>Section 5.1 - The planning analysis section provided a chart for each subsection which facilitates the review of how the project meets the policies of various Provincial and Municipal planning documents - this is included for all sections except for the PPS. For consistency it would have been helpful to have the PPS section contain the same chart that is included for other planning documents.</p>	Section 5.1	<p>We have re-organized section 5.1 of the PJR into a table similar to section 5.2. This Table has been included in the PJR Addendum Report.</p>
4.	<p>Section 5.2 – 2nd paragraph - Similar to comment #2. Aggregate extraction is not permitted as a right.</p>	Section 5.2	<p>Agreed. Section 2.2.9 of the Growth Plan states that "Subject to the policies in Section 4, development outside of settlement areas may be permitted on rural lands for: a) the management or used of resources;</p> <p>This has been acknowledged in the PJR 2023 Addendum Report</p>
5.	<p>Table 3 – Growth Plan policy 4.2.8 – Subsection b) iii related to the water resource system was not addressed. More detailed commentary related to this issue is included in the comments related to the Level 1 and 2 Natural Environment Report.</p>		<p>This has been addressed in the PJR Addendum Report.</p> <p>See also Natural Environment Responses.</p>

Table 2: Response to Site Plan JART Comments

Comment #	Initial JART Comments (January 13, 2023)	Report Section/Page	MHBC Response March 2023)
1.	a. Please clarify the line symbol identifying significant wildlife habitat. It appears on the plans that the linework in the legend entry associated with significant wildlife habitat (---o---o---o--) identifies the archaeology monitoring buffer on the drawing?	Page 1	The symbology for significant wildlife habitat has been revised so that it is clearer.
	b. H. Technical Reports and I. Other Reports - How does MNRF suggest that any revisions or addendums to the technical reports be reflected on the site plans? Perhaps a note would be helpful to indicate that the application submissions is based on these reports, but note "as revised through agency and peer reviews"?	Page 1	The Report References on the Site Plan have been updated to reflect the updated versions of the Technical Reports (as applicable). Where an Addendum Report has been completed, this Report reference has been added. See Page 1, Note H and Note I.
2.	a. An existing field entrance is shown in the northwestern area of the site (off of Graybiel Road). A gate is proposed at the end of that access point. Please confirm the intended use of this access point and whether impacts from its use have been considered through the Natural Environment Report.	Page 2 and 3	The intended use of this access is outlined in Note C1 on Page 3 of the Site Plan. The wording has been slightly revised. This access will be used for: agricultural activities, setback maintenance, and rehabilitation activities only. The reference to an alternative driveway access via this field entrance in Note H3 has been deleted as this is no longer proposed.
3	a) Berms and Screening - The berms required for noise attenuation on the north and west boundary of the site (Berm A and Berm B) are 7 – 8 metres high. Have any calculations been done to determine the extent of the area that would need to be stripped to provide material to construct Berms A and B? If a large area would need to be stripped (i.e., beyond the area of	Page 3	Receptor 16 is now owned by Waterford Sand & Gravel. Accordingly, the Noise Impact Assessment has been updated and the berms along the north of the Licence Boundary are no longer required. This has been reflected on the revised Site Plans submitted with this response letter.

	Phase 1 and 2), perhaps indicate in the report recommendation notes for Agricultural Impact Assessment that material required for berm construction may influence the extent of the disturbed area		<p>The acoustical berm located along the western licence boundary is not required until Phase 2 of extraction.</p> <p>Calculations of the available on-site material have been completed to ensure that there is sufficient material on-site, to be stripped in phases, to construct the required acoustical berms. The existing quarry site plan will also be amended to allow for the movement and use of overburden materials across the two Licences to allow for efficient materials movement. (e.g. the material in the berm currently located along Biederman in the existing Licence may be used to construct the new berms in the extension).</p>
	b) Please add "A licensee or permittee shall take all reasonable measures to prevent fly rock from leaving the site during blasting if a sensitive receptor is located within 500 metres of the boundary of the site" as per ARA Reg 244/97	Page 3, Note M1	This wording has been added.
5.	The notes refer to restrictions for vegetation clearing and site alteration in the ecological communities occupied by Spoon-leaved moss. While these areas are described in the Natural Environment Report, they are not shown on the Site Plans. According to the Natural Environment Report, with the exception of the area in the SE corner of the site, the locations where Spoon-leaved moss was found are outside of the area of extraction. Perhaps the note could more closely reflect the comment in the NER, or identify areas where the restrictions apply?	Page 3, Note M4	<p>The Natural Environment Report recommendations on the Site Plan have been revised to improve clarity and to address MNRF and JART comments.</p> <p>In consultation with MECP, new Site Plan notes have also been added under the Natural Environment Report recommendations to address SAR habitat protection located on and adjacent to the proposed Licence boundary, including Whip-poor-will and Spoon-Leaved-Moss.</p> <p>The habitat areas have been identified on the revised Site Plan.</p>
6.	There is also reference to a 30-metre undisturbed setback from the significant woodland,		We agree that this is confusing and have updated the mapping and labeling on the Site Plan. The

	however this is not identified on the plans. If the significant woodland boundary is the same as the PSW perhaps note this on the plan.		Significant Woodland setback and the PSW setback are the same.
7.	Report Recommendations – M5. Archaeology - Note 1 identified the sites within the area of extraction that are to be protected. One of the sites (AfGt-266) is outside of the area of extraction but in a location that is proposed for berm construction (Acoustic Berm B). Suggest revising drawings and note for clarity	Page 3, Note M5	<p>The Archaeology references on the site plan drawing, Schematic on Page 2, and archaeology notes on Page 3 have been re-written in consultation with MCM.</p> <p>The new notes are included on the revised Site Plan. Archaeological sites located “under” berms have been addressed in the revised Archaeology Site Plan notes.</p>
8.	<p>Report Recommendations – It does not appear that the recommendations presented in the Agricultural Impact Assessment (AIA) were carried forward into the Site Plan notes as they were for other studies. The following are examples of AIA recommendations that do not appear to have been carried forward:</p> <p>i. “If during extraction, the material below the water table is found to be of insufficient quality or quantity to warrant extraction, then the operator should consider revising the rehabilitation plan to implement agricultural rehabilitation of the property, where feasible.”</p> <p>ii. “A groundwater monitoring program is included on the quarry Site Plan.”</p> <p>Draft Site Plan 3/5 Section 3 references the WSP “Level 1 & 2 Water Study Report” and “WSP Maximum Predicted Water Table Report”, however, site plan itself does not contain the language from the above item.</p>	Page 3, Note M	<p>The AIA Report recommendation are included on page 3 of the site plan above the Variations from Control and Operations Standards Table.</p> <p>The recommendations from the Water Report regarding the monitoring program and water well complaint program have been added to the Site Plan on the Notes Pages (Page 3).</p> <p>The wording regarding non-invasive berm and rehabilitation planting is addressed on Note F4 on page 3 and Note E1 on Page 4.</p>

	iii. "All planting associated with the berms and future rehabilitation will be non-invasive species and will not impact surrounding agricultural producers."		
9.	Some of the information included under section M appears to be conclusions of the study rather than recommendations that need to be implemented. It would be helpful to be as concise as possible with the information that is included on Sheet 3 of 5, as the amount of text is extensive which could hinder implementation.	Page 3	Extensive revisions to the Site Plan have been made to address MNRF and JART comments. Overall, the revised site plan has improved clarity.
10.	The species list for the plantings is limited in terms of species diversity. Please consider adding a greater diversity of native species, especially within the aquatic communities, to improve the future ecological value of rehabilitated areas.	Page 4	A revised species planting list has been included on Page 4. The revised list includes a greater diversity of species for the aquatic and terrestrial habitat areas.
11.	Cross Sections - Should the groundwater table shown for the unextracted areas in the rehabilitated condition be adjusted to match the water elevation in the lake?	Page 5	Yes, this has been updated on the revised Site Plan.

We trust that this response letter address the comments provided by the JART reviewers in January 2023. We would be happy to meet with you to discuss these comments further.

Included with this correspondence is a revised Law Quarry Extension ARA Site Plan. The Site Plan has been extensively revised and updated to address MNRF and JART comments. All revisions have been identified in red-line.

Yours truly,

MHBC

Caitlin Port, MES, MCIP, RPP

cc. Ed Lamb, Waterford Sand and Gravel

*Attach Planning Justification & ARA Summary Statement Addendum Report (MHBC, July 2023)
Revised Law Quarry Extension Site Plans, June 2023*