

JOINT AGENCY REVIEW TEAM (JART)

PORT COLBORNE QUARRIES INC. - PROPOSED PIT 3 EXTENSION CITY OF PORT COLBORNE



JART REPORT

September 2023

Table of Contents

1.0	Executive Summary	6
2.0	Introduction	7
2.1	Purpose of the Report	7
2.2	Limitations of the Report	7
3.0	Planning and Regulatory Context	8
3.1	Aggregate Resources Act and Regulations.....	8
3.2	Planning Act	9
3.3	Provincial Policy Statement.....	10
3.4	A Place to Grow: Growth Plan for the Greater Golden Horseshoe.....	11
3.5	Niagara Region Official Plan	11
3.6	City of Port Colborne Official Plan.....	12
3.7	City of Port Colborne Zoning By-law	13
4.0	The Joint Agency Review Team (JART)	14
4.1	Purpose of the JART	14
4.2	JART Members	14
4.3	Peer Review Consulting Team.....	15
4.4	Provincial Ministries.....	16
5.0	The Port Colborne Quarries (PCQ) Applications	18
5.1	Location.....	18
5.2	The Existing Quarry.....	19
5.3	Surrounding Land Uses.....	19
5.4	Description of the Proposed Quarry Expansion	20
5.5	Primary Approvals Required	20
5.6	Secondary Approvals Required.....	22
6.0	Submission and Review Process.....	25
6.1	Key Dates in Submission and Review Process.....	25
6.2	List of Technical Reports and Other Supporting Information.....	27
6.3	Planning Justification Report.....	28
6.4	Agricultural Impact Assessment	29
6.5	Stage 1 and 2 Archaeological Assessment and Supplementary Documentation	29

6.6 Cultural Heritage Screening Report..... 30

6.7 Land Use Compatibility / Sensitive Land Use Study..... 30

6.8 Air Quality Impact Assessment 31

6.9 Noise (Acoustical) Impact Study..... 31

6.10 Blasting (Vibration) Impact Assessment..... 31

6.11 Financial Impact Assessment / Economic Benefits 32

6.12 Hydrological Assessment 32

6.13 Hydrogeological Assessment, Level 1 / 2 Water Resources Study 33

6.14 Natural Environment Level 1 & 2 Report (NER) 35

6.15 Comprehensive Rehabilitation Strategy 35

6.16 Social Impact Assessment 36

6.17 Traffic Impact Study 36

6.18 Visual Impact Assessment 37

6.19 Phase 1 ESA & Conceptual Soil Management Plan..... 37

6.20 ARA Site Plans..... 38

7.0 Key Technical Issues of the Application 39

7.1 Realignment of the Wignell Drain 39

7.2 New Quarry Access to Highway 3..... 39

7.3 Contamination and Clean-Up of Humberstone Speedway Lands 40

7.4 Wetland Water Balance..... 42

7.5 Appropriate Classification of Natural Features 42

8.0 Public and Stakeholder Consultation 45

8.1 Overview of Public Consultation Process..... 45

8.2 Integration with Aggregate Resources Act Consultation Process 46

8.3 Public Liaison Committee 46

8.4 Public Open House 46

8.5 Record of All Comments Received..... 47

8.6 Summary of Comments and JART Response..... 47

9.0 Conclusion and Next Steps 55

List of Tables

Table 4-1: Peer Review Consultants 16
Table 8-1: Summary of Public Comments and JART Response47

List of Figures

Figure 1: PCQ Pit 3 Extension Lands 18
Figure 2: Public Involvement Process45

List of Appendices

Appendix A – List of Technical Material Submitted

Appendix B – JART Comment Letters

Appendix C – Staff Reports to City and Regional Council

Appendix D – Public Comments Received

Appendix E – Public Open House Q & A Table

Appendix F – ARA Site Plans

1.0 Executive Summary

This report summarizes the background work, analysis, and findings of the Joint Agency Review Team (JART) in the review of the Port Colborne Quarries Inc. (PCQ) proposed Pit 3 extension applications.

Aggregate applications are complex, involving multiple review agencies that consider a broad range of technical issues including water resources, natural environment, archaeology, air quality, noise, blasting, traffic, and others. To coordinate the agency review process for the PCQ applications, the Niagara Region (Region), together with the City of Port Colborne (City) and Niagara Peninsula Conservation Authority (NPCA) established a Joint Agency Review Team (JART). The members of the JART worked together with the technical peer review consultants to review and consider all matters related to the aggregate application. The JART does not make a recommendation on the applications, but provides a central point of contact for the review, and issues a report once the review process is complete. This JART Report is intended to provide a resource that will assist the JART agencies in their individual recommendation and decision-making responsibilities.

The JART members, together with the peer review consultants who have been retained for this project, completed a series of reviews based on the initial application submission in March 2021 and subsequent resubmissions by the applicant in January 2022, October 2022, and August 2023.

This report provides a description of the proposal and outlines the required approvals, with a brief overview of the relevant planning policy framework and summarizes the technical reports and peer review comments provided through the process. The JART meetings, site visits, technical team meetings, and discussions with the applicant have resolved questions that have been raised through the technical review process. This JART Report has also documented the public comments provided through the application process.

2.0 Introduction

2.1 Purpose of the Report

In March 2021, Port Colborne Quarries Inc. (PCQ) submitted applications for an expansion to their existing quarry in the City of Port Colborne. The project is referred to as the PCQ Pit 3 Extension. The required approvals for the proposed quarry expansion include a licence under to the Aggregate Resources Act (ARA), administered by the Ministry of Natural Resources and Forestry (MNRF), as well as Planning Act approvals in the form of a Niagara Region Official Plan amendment (ROPA) and City of Port Colborne Official Plan amendment (OPA), as well as an amendment to the City of Port Colborne Zoning By-law (ZBA).

A review of the applications was coordinated by a Joint Agency Review Team (JART). The JART is a team of planning staff from the Region, the City, and the Niagara Peninsula Conservation Authority (NPCA) and is supported by an Aggregate Advisor. This JART Report was informed by the exchange of information between PCQ, their consultants, JART member agencies, the peer review consultants, and provincial agencies that provided input. In addition, public comments received through the review process have been considered.

The purpose of this JART Report is to:

- provide a plain language description of the proposal, the applicable policy framework, and roles and responsibilities of the City, Region, and Province in aggregate applications;
- provide a summary of the technical and peer review process;
- identify key issues that have been raised during the JART review and outline any items that still have not been resolved; and
- provide an overview of the public and stakeholder process that was undertaken.

This JART Report will then be used independently by planning staff at the Region and City as the technical basis to develop a planning recommendation report. The work of the JART also helps to inform comments made to the Province and applicant under the ARA.

2.2 Limitations of the Report

This JART Report does not make a recommendation on the Planning Act applications. It is a summary of the technical review completed since the relevant applications were filed in March 2021. The contents of this report are based upon information submitted up to September 12, 2023. The technical review was generally based upon the documents listed in **Appendix A** of this report, public input, technical meetings, and other informal discussions and correspondence with the applicant.

3.0 Planning and Regulatory Context

The policy framework for managing aggregate resources is complex, as it is governed by numerous policy requirements at the provincial, regional, and local levels. In considering new aggregate operations or expansions of existing aggregate operations, proponents are generally required to submit applications under two Provincial acts, the Aggregate Resources Act (ARA), and the Planning Act.

While the licensing and management of aggregate resource operations in the province is governed by the Aggregate Resources Act, land use planning considerations including siting of operations and assessment of impacts, is a municipal responsibility under the Planning Act.

As part of an ARA approval for a license, Section 12.1 of the ARA recognizes that the ARA does not stand alone and that the Planning Act also has to be complied with since it states that: “no license shall be issued for a pit or quarry if a zoning by-law prohibits the site from being used for a pit or quarry.” This means that the zoning on the lands has to expressly permit the use of the lands as a pit or quarry for a license to be approved by the Ministry of Natural Resources and Forestry (MNRF).

When making any land-use planning decision, it is necessary for the approval authority to review matters of provincial interests, as set out in S. 2 of the Planning Act and determine how they may be impacted through development. In the case of mineral aggregate operations, often more than one provincial interest must be taken into consideration, and it is the goal of land-use planning to balance and protect these competing interests in the most effective manner, keeping in mind the long-term planning horizon and the public interest.

3.1 Aggregate Resources Act and Regulations

The Aggregate Resources Act (ARA) is administered by the MNRF and provides guidelines for the management of aggregate resources in Ontario. The four established purposes for the ARA are to:

- a. to provide for the management of the aggregate resources of Ontario;
- b. to control and regulate aggregate operations on Crown and private lands;
- c. to require the rehabilitation of land from which aggregate has been excavated, and;
- d. to minimize adverse impact on the environment in respect of aggregate operations.

Section 12 of the ARA outlines the conditions that the Minister must consider in determining whether or not to issue a license. These are:

- a. the effect of the operation of the pit or quarry on the environment;
- b. the effect of the operation of the pit or quarry on nearby communities;
- c. any comments provided by a municipality in which the site is located;
- d. the suitability of the progressive rehabilitation and final rehabilitation plans for the site;
- e. any possible effects on ground and surface water resources including on drinking water sources;

- f. any possible effects of the operation of the pit or quarry on agricultural resources;
- g. any planning and land use considerations;
- h. the main haulage routes and proposed truck traffic to and from the site;
- i. the quality and quantity of the aggregate on the site;
- j. the applicant's history of compliance with this Act and the regulations, if a licence or permit has previously been issued to the applicant under this Act or a predecessor of this Act; and
- k. such other matters as are considered appropriate.

Section 13 of the ARA indicates that the MNRF may include such conditions as are considered necessary within a license and that the MNRF has the discretion to add a condition or rescind or vary a condition at any time. In considering appropriate conditions and the Site Plan, the MNRF generally consults with commenting agencies including municipalities.

The requirements for aggregate rehabilitation are outlined in Part VI of the ARA. Section 48 indicates that "Every licensee and every permittee shall perform progressive rehabilitation and final rehabilitation on the site in accordance with this Act, the regulation, the site plan and the conditions of the license or permit to the satisfaction of the Minister." In addition, this section provides the MNRF with the ability to order a person to carry out progressive or final rehabilitation.

On May 9, 2017, Ontario passed the Aggregate Resources and Mining Modernization Act (Act). The Act introduced new licensing conditions, giving the Minister new regulation-making powers relating to the preparation of, and the documentation to be included in, applications. Many of the details related to these changes were outlined in regulation, which was introduced in August 2020.

MNRF restructured the program delivery for aggregates on April 1, 2020, introducing a new centralized department with a mandate for processing all aggregate license and permit applications, as well as site plan amendments and license transfers and surrenders. The restructuring also separated the application review function from the compliance and inspection function, leaving the responsibility for monitoring and enforcement of licenses with local District office staff.

3.2 Planning Act

The Planning Act is the central piece of legislation governing land-use planning in Ontario. It establishes the various types of planning tools that municipalities may use to control land uses and development within their communities. The Planning Act outlines the rules and responsibilities around preparing and updating official plans and zoning by-laws, public consultation and notice requirements, and appeal rights and dispute resolution. The Planning Act also describes how land uses may be controlled and establishes land-use decision making processes that are intended to be open, accessible, timely and efficient.

When carrying out its responsibilities under the Planning Act, a municipality or any other authority that affects a planning matter must have regard for the provincial interests as identified in Section 2 of the Planning Act. These include: the protection of ecological systems, including natural areas, features and functions; the protection of the agricultural resources of the Province; the conservation and management of natural resources and the mineral resource base; the resolution of planning conflicts involving public and private interests; the protection of public health and safety; and other interests as outlined in the Act.

The Planning Act is implemented by provincial land-use planning documents such as the Provincial Policy Statement (PPS) and Growth Plan and municipal land-use planning documents such as official plans and zoning by-laws.

3.3 Provincial Policy Statement

The Provincial Policy Statement (PPS, 2020) states that the vision for Ontario's land-use planning system may be further articulated through provincial plans. The PPS recognizes that the province's natural heritage resources, water, agricultural lands, mineral aggregate resources, cultural heritage and archaeological resources provide important environmental, economic and social benefits. The wise use and management of these resources over the long term is a key provincial interest. The province must ensure that its resources are managed in a sustainable way to conserve biodiversity, protect essential ecological processes and public health and safety, provide for the production of food and fiber, minimize environmental and social impacts and meet its long-term economic needs. (PPS, Part IV).

Section 2.5.2.1 of the PPS recognizes that mineral aggregate resources are an integral component of the economy and makes it clear that the demonstration of need for mineral aggregate resources is not a factor in the development of resource strategies or in the consideration of individual applications, regardless of the municipality or location. The intent of this policy is to require that any application be considered on its land use merits only.

Section 2.5.2.2 provides the policy basis for the establishment of potential resource areas and to assess applications to establish resource uses. The determination of whether extraction minimizes social, economic and environmental impacts is an important consideration in making a decision on an application to establish a new resource use. It is also noted that the use of the word 'minimize' assumes and recognizes that some impacts may occur.

Extraction of mineral aggregate resources is recognized as a permitted non-agricultural use in prime agricultural areas (Sections 2.3.6.1a). The policies related to the identification and protecting long-term resource supply from development and activities that would preclude or hinder resource use are unchanged (Section 2.5.2).

A new policy has been added to Section 2.5.2.4 of the PPS that clarifies the responsibility for determining depth of extraction as a matter to be addressed through the Aggregate Resources Act process:

“Where the Aggregate Resources Act applies, only processes under the Aggregate Resources Act shall address the depth of extraction of new or existing mineral aggregate operations”. According to MNR the intent of this change is to clarify that zoning should not distinguish between above and below water extraction (vertical zoning) and that the ARA regulates this matter.

In April 2023, the province introduced a proposed Provincial Planning Statement (proposed PPS, 2023) which proposed to consolidate the existing Provincial Policy Statement (PPS, 2020) and Growth Plan into a single integrated planning document. At the time of this report, the proposed changes are still under review, however, there is a possibility that the proposed PPS, 2023 will be in place at the time decisions are made on the ROPA, LOPA and ZBLA, and that the decisions will need to be consistent with the new PPS. Should this be the case, additional analysis would be provided in the respective City or Regional planning reports.

3.4 A Place to Grow: Growth Plan for the Greater Golden Horseshoe

The Growth Plan is a planning document that applies to the “Greater Golden Horseshoe” region of Ontario and guides decisions on a wide range of issues, such as transportation, infrastructure planning, land-use planning, urban form, housing, natural heritage, and resource protection in the interest of promoting economic prosperity.

Related to mineral aggregate resources section 4.1 of the Growth plan notes: “Building compact communities and the infrastructure needed to support growth requires significant mineral aggregate resources. The Aggregate Resources Act establishes the overall process for the management of mineral aggregate operations, and this Plan works within this framework to provide guidance on where and how aggregate resource extraction can occur, while balancing other planning priorities. The GGH contains significant deposits of mineral aggregate resources, which require long term management, including aggregate reuse and recycling. Ensuring mineral aggregate resources are available in proximity to demand can support the timely provision of infrastructure and reduce transportation-related greenhouse gas emissions”.

In addition, the Growth Plan policies reflect a greater emphasis on protection of agricultural resources and requires that an Agricultural Impact Assessment be prepared to support development, including new aggregate operations, in prime agricultural areas.

3.5 Niagara Region Official Plan

The new Niagara Official Plan (NOP) was approved, with modifications, by the Minister of Municipal Affairs and Housing and came into effect on November 4, 2022. Policy 7.12.2.5 of the NOP states that development applications deemed complete prior to the date of the NOP approval shall be permitted to be processed and a decision made under the 2014 Regional Official Plan (ROP) policies. The PCQ Pit 3 Extension Regional Official Plan amendment application was deemed complete on July 8, 2021, and is therefore being processed under the 2014 ROP.

An amendment to the ROP is required because the proposed PCQ Pit 3 Extension is not identified on Schedule D4 as a Possible Aggregate Area, pursuant to ROP Policy 6.C.13.

Regional staff have and will be reviewing the requested amendment relative to all applicable ROP policies, with particular attention being paid to policy 5.B.7, Chapter 6 and policy 14.D.5. In addition to the ROP, it is the responsibility of Regional Planning staff to review the application for consistency with the PPS and conformity with applicable Provincial Plan (i.e. Growth Plan). Supporting technical studies have and will be reviewed relative to those ROP topic specific policies (e.g. natural environment relative to Chapter 7, etc.), in addition to relevant Provincial policies.

As noted above, the applications have been prepared to reflect the policies in the 2014 ROP. Section 6 of the 2014 ROP contains the policies related to mineral resources. The stated objectives of Section 6 of the ROP are:

- To ensure an adequate supply of mineral resources (including sand, gravel, stone and shale) for the short-term and long-term construction, chemical, and metallurgical needs within the Niagara Region.
- To ensure the suitable location, operation and rehabilitation of mineral extraction activities in order to minimize conflicts with both the natural and human environment of the Region.

The existing Port Colborne Quarries operation and the proposed expansion area are identified as “Potential Resource Areas: Stone” on Schedule D1 of the ROP. The ROP policies set out the general considerations for new aggregate operations or expansions to existing operations. These considerations include compliance with the policies in the ROP including those related to protection of the natural environment, as outlined in Section 7 of the ROP; compatibility with surrounding land uses; the impact on the natural environment including surface watercourses and groundwater; the proposed manner of operation, site plan and rehabilitation; and the proposed haul routes and impacts on roads.

3.6 City of Port Colborne Official Plan

Section 10 of the City’s Official Plan sets out the policies for mineral aggregate and petroleum resources. An amendment to the official plan is required for any new or expanded pit or quarry. The application requirements for a new or expanding pit or quarry are outlined in Section 10.2. The list of matters to be considered is similar to the items outlined in the regional official plan and includes: land use compatibility, potential impacts on the natural environment and on ground and surface water systems, potential impacts on surrounding agricultural operations, potential impacts on the transportations system, the proposed rehabilitation and other matters that the City deems necessary.

Schedule C of the Official Plan identifies existing Mineral Aggregate Operations, including PCQ Pits 1, 2 and 3 and shows potential resource areas. The expansion lands are identified as a potential bedrock resource area. The proposed Pit 3 Extension lands are currently

designated Agricultural with the northerly portion of the site currently designated as Environmental Conservation Area (ECA).

3.7 City of Port Colborne Zoning By-law

The zoning by-law is the legal document that implements goals, objectives and policies described in the official plan. It regulates the use and development of buildings and land by stating exactly what types of land uses are permitted in various areas and establishing precise standards for how the land can be developed. These include setting lot sizes and frontages, building setbacks, the height and configuration of buildings, the number and dimensions of parking and loading spaces and requirements for open space. Zoning by-law amendments are used for major revisions to the by-law such as land use changes or significant increases in permitted building heights and densities.

The subject lands are currently zoned A (Agricultural) and Environmental Conservation (EC) per the City of Port Colborne Comprehensive Zoning By-law 6575/30/18. An amendment to the zoning by-law (ZBLA) is required for the proposed pit extension. The PCQ application for rezoning proposes a change from the Agricultural (A) zone to the Mineral Aggregate Operations (MAO) zone to permit the extraction of mineral aggregates.

The provisions of the MAO zone in the Port Colborne Zoning Bylaw include a setback of 90 metres from “any lot line which abuts a provincial highway”. The Pit 3 Extension proposes a 30 metre setback from Highway 3, which is consistent with ARA requirements. The ZBLA requests a special provision to acknowledge the proposed 30 metre setback as a variance from the zone requirements.

4.0 The Joint Agency Review Team (JART)

The JART was established to coordinate the technical review of applications submitted by PCQ. This technical review, which is supported by a team of peer review consultants, is intended to form a resource for the JART agencies to help formulate recommendations and reach decisions on the applications based on their respective jurisdictions. The JART review considers the applications in the context of applicable provincial, regional and local planning policies and is based on the technical and other information, and public input, available at the time of writing. Staff from applicable provincial ministries have been engaged through the JART process as well.

4.1 Purpose of the JART

The purpose of the JART is to share information, resources, and expertise so that the application and the associated studies are reviewed in a streamlined and coordinated manner.

The JART does not make a recommendation on the application, rather the JART works to:

- ensure that the required range of studies and work is completed by the applicant;
- ensure that the studies are sufficient in terms of their technical content;
- review of the studies and work of the applicant either by technical staff or by peer reviewers;
- ensure a coordinated public and stakeholder consultation and engagement process; and
- prepare a technical JART Report on the application once all reviews are complete.

4.2 JART Members

The JART members for the PCQ proposed Pit 3 extension application include:

- Niagara Region
- City of Port Colborne
- Niagara Peninsula Conservation Authority (NPCA)

4.2.1 Niagara Region

The Region is responsible for implementing the regional official plan and reviewing the application relative to provincial policies and plans. The Region is the approval authority for the regional and local official plan amendments. The Region reviews Planning Act applications on the basis of the impact on surrounding land uses and the compatibility of the proposed development with existing and future land uses. As part of their role, the Region considers issues related to the environment, transportation infrastructure, financial impacts, cultural heritage, surface and groundwater resources, noise, dust, vibration, and impacts on human health.

4.2.2 City of Port Colborne

The City is responsible for implementing the City's official plan. City planning staff will make a recommendation on the City official plan amendment, and City Council will make a decision on the proposed amendment. As noted above, the Niagara Region the approval authority for the official plan amendment.

In addition, an amendment to the City's zoning by-law will be required to support the proposed quarry expansion. City planning staff will make a recommendation on the proposed zoning by-law amendment, and City Council will make a decision. The City is the approval authority for the zoning by-law amendment.

4.2.3 Niagara Peninsula Conservation Authority

The role of the NPCA as part of the JART has changed since the time of the pre-consultation and submission of applications. Initially, the NPCA was providing comments on natural hazards and supporting review of natural heritage. With the passing of Bill 23 in late 2022, Conservation Authorities are prohibited from providing natural heritage comments on a range of applications, including those under the Planning Act and Aggregate Resources Act. The role of the NPCA is now to provide comments and support the JART in the area of natural hazards.

In addition, Conservation Authority regulations do not apply to sites that are licenced under the Aggregate Resources Act (ARA). Therefore, the conditions of potential approval under the Planning Act or ARA cannot include the requirement to obtain a permit from the NPCA.

4.2.4 Aggregate Advisor

The Aggregate Advisor is an independent professional with experience dealing with aggregate applications and associated land-use planner matters. The Aggregate Advisor was retained by the Region on behalf of the JART and provides guidance and supports the JART throughout the length of the decision-making process for the regional official plan, local official plan, and zoning by-law amendment applications. The Aggregate Advisor also plays a crucial role in helping the JART understand and participate in the Aggregate Resources Act process.

4.3 Peer Review Consulting Team

Niagara Region, on behalf of the Joint Agency Review Team (JART) retained peer review consultants to review several of the technical studies which were required to support the application for the proposed extension of Port Colborne Quarry Pit 3.

For each of the technical disciplines, the work of the peer reviewers included:

- an initial site visit;
- a preliminary technical meeting with the applicant's consulting team;
- the review and comments on the first iteration of the technical studies;
- the review of the second and third iterations of the technical studies (as required); and
- participation in other technical and team meetings (as required).

Table 4-1 lists the JART peer review consultants for the PCQ applications:

Table 4-1: Peer Review Consultants

Technical Discipline	Firm
Noise, Air Quality, Blasting Impact	DST Engineering / Englobe
Hydrogeology (Groundwater)	TerraDynamics Inc.
Hydrology (Surface Water)	Matrix Solutions
Natural Heritage	Dougan & Associates
Financial Impact and Economic Benefits	Watson & Associates

The technical reviews of the Agricultural Impact Assessment, Social Impact Assessment, Visual Impact Assessment, Transportation Impact Study, Planning Justification Report, Rehabilitation Strategy, and ARA Site Plans were completed by JART and Aggregate Advisor with support from other Regional, City, and NPCA staff as required.

4.4 Provincial Ministries

The City and Region are responsible for implementation of provincial, regional, and local planning policy in a way that reflects unique local conditions and community values. This is achieved through regional and local official plans, and local zoning by-laws. The JART is the coordinating body for the review of the Planning Act applications. Certain matters, such as transportation of aggregate on municipal roadways, entrance permits onto municipal roads, municipal drainage approvals, and other matters not governed by the ARA or other provincial ministries are also municipal responsibilities.

Further to the municipal responsibilities, there are several provincial ministries involved in the review of the related application under the ARA. These agencies are not part of the JART; however, an understanding of the provincial perspective and position on the details of the application is helpful information for the JART process. The roles of these provincial ministries are briefly outlined below.

4.4.1 Ministry of Natural Resources & Forestry (MNR)

MNR oversees the review and decision-making on licences for new aggregate operations and is responsible for the management of existing operations through the ARA. This includes the monitoring and enforcement of aggregate operations to ensure compliance with licence and site plan conditions. MNR is the approval authority for the required ARA licence for the proposed quarry extension, and for any future amendments to the licence.

MNR's Aggregate Section manages the processing of the ARA application in accordance with the ARA and Regulations. Through the review process, JART periodically consulted with MNR staff regarding the ARA process, quarry design operations and rehabilitation, and Site Plan conditions. This conversation has been particularly important as it relates to the Wignell Drain realignment and the relevant Site Plan conditions.

The MNRF cannot issue a licence under the ARA unless the appropriate land use approvals (i.e. zoning) is in place to permit the use. Therefore, the Planning Act applications and approval of the zoning is considered a prerequisite for any decision on the quarry licence application.

4.4.2 Ministry of the Environment, Conservation and Parks (MECP)

The MECP is a commenting agency under the ARA and provides input regarding any effects of the proposed quarrying and related water management on drinking water supplies, local domestic wells, and nearby surface water features. MECP's Species at Risk Branch is also involved in the review of the ARA application.

MECP is also the approval authority for many of the required secondary permits, such as a Permit to Take Water (PTTW) for quarry dewatering, or a Environmental Compliance Approval (ECA) under the Environmental Protection Act in relation to noise (extraction, processing and on-site haulage), blasting, and air quality (primarily dust). Obtaining many of these secondary permits is often a condition of the ARA licence and/or a note on the ARA Site Plans.

4.4.3 The Ministry of Tourism, Culture, and Sport (MTCS)

The MTCS reviews and provides clearance on the archaeological assessment and provides comments on cultural heritage matters. MTCS has reviewed the archaeological assessment, and there are Site Plan notes requiring additional archaeological assessments must be completed in several identified areas of archaeological potential before any disturbance may occur.

4.4.4 The Ministry of Agriculture, Food and Rural Affairs (OMAFRA)

The OMAFRA provides comments as part of the ARA process on agricultural policy matters, as well as any minimum distance separation (MDS) concerns.

4.4.5 The Ministry of Transportation (MTO)

The MTO will become involved in the application process if the affected property is to be accessed by a Provincial Highway or is located in close proximity to a Provincial Highway. This is the case with the PCQ Pit 3 extension particularly as related to access onto Highway 3. The MTO has reviewed the proposal, and a future permit will be required before a new access onto Highway 3 can be constructed.

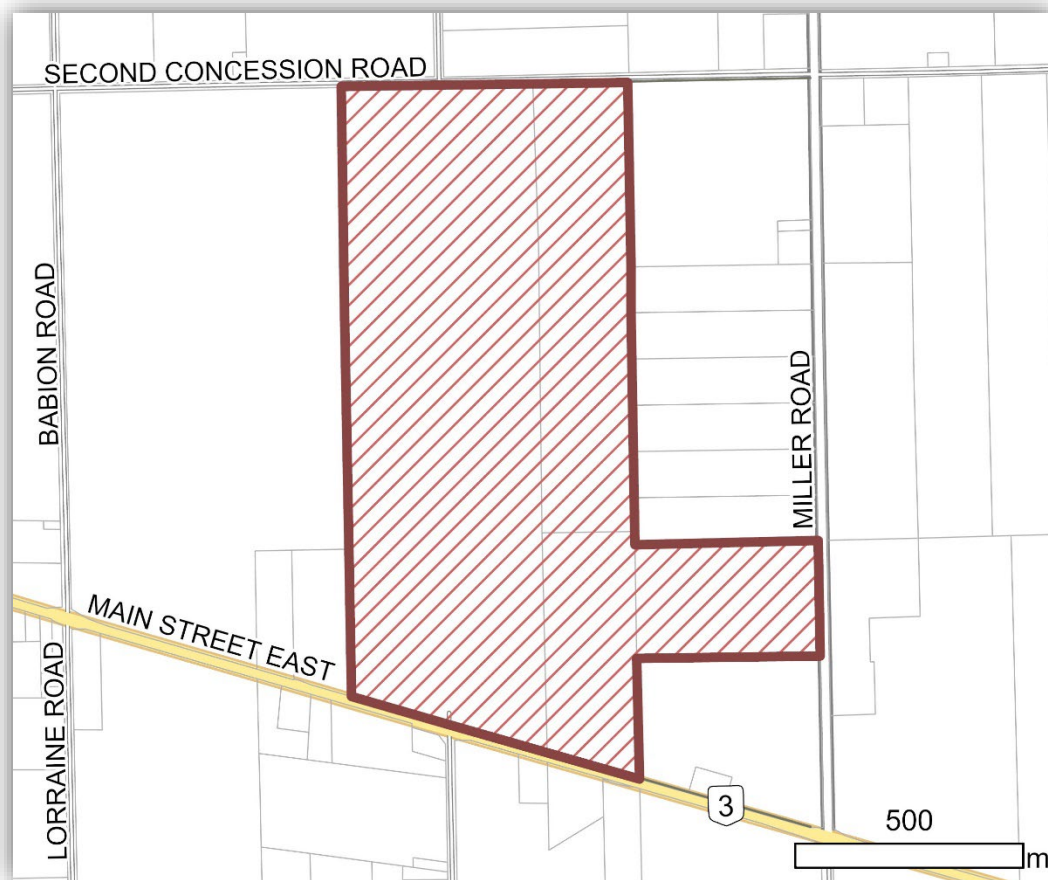
5.0 The Port Colborne Quarries (PCQ) Applications

The following sections provide an overview of the applications and required approvals.

5.1 Location

The proposed expansion to the Port Colborne Quarry is located north of Main Street East (Highway 3) on the south side of 2nd Concession, and west of Miller Road in the City of Port Colborne. The area is referred to as the Pit 3 extension and is immediately adjacent to the existing PCQ quarry operation on Highway 3. Figure 1 shows the location of the site.

Figure 1: PCQ Pit 3 Extension Lands



The quarry extension property is legally described as Part Lots 18 & 19 Concession 2, geographic Township of Humberstone in the City of Port Colborne. The proposed extension lands include part of the unopened road allowance between Lots 18 & 19 (Carl Rd.) situated between Highway 3 and 2nd Concession. The road allowance was acquired by PCQ from the City in 2020.

The area to be licensed includes the Humberstone Speedway, being a dirt-track car racing oval with grandstands. The racetrack lands are L-shaped extending to Miller Road to the east along with frontage on Highway 3 to the south.

The northern portion of the site is occupied by woodlands and wetlands. A municipal drain, known as the Wignell Drain, transverses the site.

The total area to be licensed is 100.2 hectares and the total area proposed to be extracted is 68.7 hectares.

Approximately two-thirds of the area consists of active agricultural lands and the remainder is above noted natural area (wetlands and woodlands). The proposed expansion is located outside of the urban area boundary of the City of Port Colborne.

5.2 The Existing Quarry

The existing PCQ operation is located on Highway 140 in the City of Port Colborne, north of Main Street East (Highway 3) and south of 2nd Concession. It is understood that the quarry first began operating in the 1950's and was acquired by its current owner, Rankin Construction, in 2007.

The existing quarry consists of three "pits" (Pit 1, Pit 2, and Pit 3). Quarrying activity in Pit 1 predates both the Pits and Quarries Control Act and the Aggregate Resources Act (ARA). As a result, Pit 1 is not licensed under the ARA and does not have a provincially required or approved rehabilitation plan. Pit 1 has been depleted for several decades, and is now the location for aggregate processing facility that supports the quarrying activities of the other two pits (Pit 2 and Pit 3). The processing area includes a series of wash ponds associated with the equipment. Accessory uses include an office, a scale house, shed and warehouse. Some backfilling has already been performed in Pit 1 for side-slope stabilization using imported material. Any future, final land use of Pit 1 will require official plan and zoning applications and related public process under the Planning Act.

Pits 2 and 3 are licensed under the ARA and the rehabilitation plans outline the after use of these pits to become passive recreational lakes. If approved, as operations progress into the proposed Pit 3 extension area, PCQ has indicated the plan is to relocate the main processing plant into Pit 3, so that it is closer to the area of extraction, and so that rehabilitation of Pit 2 can begin.

5.3 Surrounding Land Uses

The lands immediately to the west of the subject lands are licensed for aggregate extraction and are part of the existing PCQ operation. The lands to the north of 2nd Concession are primarily cultivated for common field crops.

There is a mix of agricultural and non-agricultural land use to the east and to the south. There are several commercial and industrial land uses including an auto wrecker's depot and automotive shop, dog grooming and kennel facilities, small engine, equipment and truck repair shops & service businesses located in the area, some of which are in close proximity to the expansion lands.

5.4 Description of the Proposed Quarry Expansion

It is proposed that extraction within the expansion area would be completed in three phases. Phase 1, which includes sub phases 1A, 1B, and 1X, includes most of the south, central and east portions of the property. As proposed, extraction would begin in the westerly limit of the site adjacent to the existing quarry. Extraction would proceed to the north into Phase 2 and 2X, and finally Phase 3X. A copy of the ARA Site Plans is included as **Appendix F**.

Extraction and processing will occur during daytime hours (7:00 am to 7:00 pm) during the week (Monday to Friday) and between 8:00 am and 3:00 pm on Saturdays with no operations on Sundays or statutory holidays.

The quarry will be extracted in two lifts with a maximum bench height of 8 metres for each lift. The proposed annual tonnage limit is 1.815 million tonnes to be combined with the permitted annual total for the existing quarry. As proposed, the expansion would permit the continuation of the existing operations at the current levels of production and shipping. Based on the reserve volume and the production limits, the expected life of the proposed Pit 3 extension is approximately 35 years.

Berms will be constructed around the perimeter of the site as shown on the Site Plans to provide noise attenuation and a visual screen. The berms will be graded and seeded and the public-facing side of the berms will be maintained with regular grass cutting.

During the start-up phase, a tree screen will be planted along the Highway 3 and Miller Road frontage to create a long-term shade canopy. The Site Plans notes indicate that a mixture of native deciduous and coniferous trees will be planted including red maple, sugar maple, elm, black oak, white pine, black walnut and black spruce.

A copy of the Site Plans including the site plan conditions is attached as **Appendix F**.

5.5 Primary Approvals Required

The following primary approvals are required to permit the proposed Pit 3 extension:

5.5.1 Planning Act

Region of Niagara Official Plan Amendment (ROPA)

- add to Section 8.8 (Port Colborne Site Specific policies), a new policy to permit the Port Colborne Quarry – Pit 3 Extension.
- add the subject lands on Schedule H – “Known Deposits of Mineral Aggregate Resources and Mineral Aggregate Operations” as “Licensed Aggregate Operations”.
- add on Schedule C1 – “Natural Environment System Overlay and Provincial Natural Heritage Systems” the refined limits of the evaluated, non-significant wetland and 30 metre buffer, significant woodland and 10 metre buffer, and habitat of endangered and

threatened species (0.6 hectare Blanding's Turtle habitat compensation area) as "Natural Environment System Overlay".

- add on Schedule C2 – "Natural Environment System: Individual Components and Features":
 - the refined limits of the evaluated, non-significant wetlands and 30 metre buffer as "Other Wetlands and Non Provincially Significant Wetlands"
 - the significant woodland and 10 metre buffer as "Significant Woodlands"
- revise on Appendix 1 – "Agricultural Hydrology Infrastructure" the realigned Wignell Drain as "Municipal Drain". Appendix 1 would be updated following any associated approvals under the Drainage Act.

City of Port Colborne Official Plan Amendment (D09-02-21)

- Add a special policy to permit the proposed quarry.
- Change the designation from Agricultural to Mineral Aggregate Operation on Schedule A: City-Wide Land Use.
- Add on Schedule A: "City-Wide Land Use":
 - the refined limits of the evaluated, non-significant wetland and 30 metre buffer, significant woodland and 10 metre buffer, and habitat of endangered and threatened species (0.6 hectare Blanding's Turtle habitat compensation area) as ECA (Environmental Conservation Area).
 - Updated final location of the EPA (Environmental Protection Area) following the conclusion of the Wignell Drain realignment report. Any further refinement to the final location of the EPA associated with the natural hazard lands will not require an amendment to the Official Plan.
- Add on Schedule B: "Natural Heritage":
 - the refined limits of the evaluated, non-significant wetland and 30 metre buffer, significant woodland and 10 metre buffer, and habitat of endangered and threatened species (0.6 hectare Blanding's Turtle habitat compensation area) as ECA (Environmental Conservation Area).
- Add on Schedule B1: "Environmental Protection Area":
 - Updated final location of "Streams" and "Natural Hazard Lands" following the conclusion of the Wignell Drain realignment report. Any further refinement to the final location of the "Streams" and "Natural Hazard Lands" will not require an amendment to the Official Plan.
- Add on Schedule B2: "Environmental Conservation Area":

- the refined limits of the evaluated, non-significant wetlands and 30 metre buffer as “Non-Provincially Significant Wetlands”;
 - the significant woodland and 10 metre buffer as “Significant Woodlands”.
 - Updated final location of the “Fish Habitat” and “Streams” following the conclusion of the Wignell Drain realignment report. Any further refinement to the final location of the “Fish Habitat” and “Streams” will not require an amendment to the Official Plan.
- Add the subject lands to Schedule C: Mineral Aggregate and Petroleum Resources as a Mineral Aggregate Operation.

City of Port Colborne Zoning By-law Amendment (D14-09-21)

- On Schedule A4 - Change the zoning from Agriculture (A) to Mineral Aggregate Operation special (MAO-XX) and refine the limits of the Environmental Conservation Overlay to align with the refined limits of the evaluated, non-significant wetland and 30 metre buffer, significant woodland and 10 metre buffer, and habitat of endangered and threatened species (0.6 hectare Blanding’s Turtle habitat compensation area).
- On Schedule A5 - Change the zoning from Agriculture (A) to Mineral Aggregate Operation special (MAO-XX) and refine the limits of the Environmental Conservation Overlay to align with the refined limits of the evaluated, non-significant wetland and 30 metre buffer, significant woodland and 10 metre buffer, and habitat of endangered and threatened species (0.6 hectare Blanding’s Turtle habitat compensation area).
- Amend Section 37 entitled “Special Provisions” of Zoning By-law 6575/30/18, to include:

MAO-XX (Mineral Aggregate Operation – Special)

Notwithstanding the provisions of Section 28.3 of the Zoning By-law 6575/30/18, the following regulations shall apply:

- a) No pit, quarry or excavation shall be made or established within 15 metres of any lot line which does not abut a public street or 30 metres of any lot line which abuts a Provincial Highway or 30 metres of any lot line which abuts any other public street.

5.5.2 Aggregate Resources Act

- Class A - quarry below water license

5.6 Secondary Approvals Required

In addition to the primary approvals required under the Planning Act and ARA as listed above, there are a number of secondary approvals required for the proposed Pit 3 extension.

5.6.1 Environmental Compliance Approval (ECA)

If the Planning Act applications are approved, and a license is issued under the ARA, PCQ will be required to obtain an Environmental Compliance Approval (ECA) amendment application from Ministry of Environment, Conservation and Parks (MECP), for the dewatering. The technical documentation for the ECA application may include a Stormwater Management Plan and Report, an Environmental Impact Assessment (including a receiving watercourse assessment), a Site Plan and detailed description of the dewatering and quarry discharge activities.

5.6.2 Drainage Act

Approvals under the Drainage Act are required for the proposed realignment of the Wignell Drain. The City's drainage superintendent and drainage engineer have been actively involved in the process and assisting JART with the review of the applications. The proposed relocation through the northern portion of the site is the subject of a current Drainage Act application which is in the stages of being finalized at the time of this report. The proposed relocation of the drain through the eastern arm/dogleg of the quarry will require a future Drainage Act approval. Conditions have been included in the ARA Site Plans to outline the process that will be required under the Drainage Act for the relocation of both the sections of the Wignell Drain.

5.6.3 Species at Risk Act (SAR) Permit

There is ongoing consultation between PCQ and the Ministry of Environment, Conservation, and Parks (MECP) regarding an overall benefit permit (OBP) removal of Category 2 and Category 3 habitat for Blanding's Turtle on the site. A 0.6 hectare block has been set aside on the site and the detailed design of the compensation habitat is ongoing.

5.6.4 MTO Permit / Design Approval

In advance of any construction of the proposed Highway 3 access and east-bound left turning lane, PCQ will prepare updated reports and details of geometric improvements required at the intersection and intersection design layout based on future conditions (2034 and 2039). The report and designs will be provided to MTO before construction for the Ministry's review and approval. An MTO permit will be required.

5.6.5 Phase 2 ESA and Final Soil Management Plan

Prior to extraction commencing, further site investigation will be completed to prepare a Phase 2 Environmental Site Assessment (ESA) report for the Site in accordance with O. Reg. 153/04. The ESA will be used to update the Final Soil Management Plan such that it is consistent with the current and any future MECP On-Site and Excess Soil Management Regulations. The updated Soil Management Plan will include preparation of a site characterization report, an excess soil designation assessment report, and a soil tracking system that will be used for movement of on-site and excess soils.

5.6.5 Stage 3 (and possibly Stage 4) Archaeological Assessment

There are 10 archaeological sites identified on the Site Plans that have been recommended to undergo Stage 3 archaeological assessment prior to any intrusive activity that may result in their destruction or disturbance. The Stage 3 archaeology assessments must be conducted in accordance with the Ministry of Heritage, Sport, Tourism and Culture Industries' (MHSTCI) Standards and Guidelines for Consultant Archaeologists to define the extent of each site, gather a representative sample of artifacts, and aid in determining the need for Stage 4 mitigation of impacts.

Until such time that the identified archaeology locations can undergo the recommended Stage 3 assessments, these areas shall be avoided and protected with a 70 metre buffer as shown on the Site Plans. Any site alteration is prohibited within the limits of the protected areas of the sites until such time that the MHSTCI has entered a report(s) in the Ontario Public Register of Archaeological Reports where the report(s) recommends that the archaeological site is of no further cultural heritage value or interest.

Should the Stage 3 archaeological assessments result in a recommendation for Stage 4 mitigation of impacts, the site in question will require the development and implementation of either a long-term avoidance and protection plan to preserve the site intact, or development and implementation of an archaeological excavation plan to recover and document the portion of the site to be impacted. The development of any Stage 4 mitigation strategy must involve the engagement of interested Indigenous communities.

5.6.6 MNR Permit to Collect Fish (Humberstone ponds)

The ponds within the former Humberstone Speedway lands may contain fish, and if present, they shall be removed prior to dewatering and/or destruction of the ponds. This will require a MNR permit to collect fish and it shall be obtained prior to relocation to avoid contravention of the federal Fisheries Act. Any native fish present are to be relocated to suitable nearby habitat and non-native fish are to be euthanized.

5.6.7 DFO Authorization (Wignell Drain)

The proposed overflow channel that is required for the Wignell Drain realignment will be designed with input and approval from Department of Fisheries and Ocean (DFO) to address issues related to pond size, capacity, maintenance, and weir design. The Site Plans include a condition which restricts any activities within 100 metres of the drain until the required authorizations are obtained. After any major storm event the settling pond is to be inspected for fish stock and, if observed, the fish will be transferred back to the Wignell Drain downstream of the quarry property.

6.0 Submission and Review Process

This section provides a summary of the submission and review process as well as highlights of the technical reports submitted, and technical and peer review process undertaken coordinated by the JART. This summary includes key dates in both the Planning Act and Aggregate Resource Act review processes.

6.1 Key Dates in Submission and Review Process

- **April 1, 2020** – Preliminary information meeting with the applicant. The purpose of this meeting was for the Region, City, and NPCA to meet with PCQ and representatives of their consulting team to better understand the proposal and to assist in preparing for the formal pre-consultation meeting to follow.
- **April 9, 2020** – Site visit by Regional Planning staff in advance of formal pre-consultation meeting.
- **April 20, 2020** – Site visit by Regional Planning and Environmental Planning staff. The purpose of the site visit was to inspect the woodland and surrounding buffer lands for the purposes of finalizing the scoping checklist for the Environmental Impact Study.
- **April 23, 2020** - A pre-consultation meeting was held at the request of the applicant. Planning staff from the Region, City, and NPCA met with the applicant (PCQ) and their consulting team. The Region and City confirmed the submission requirements including the required technical reports and other information. A Pre-Consultation Meeting Form was signed by all parties and formed part of the complete application package.
- **June 19, 2020** - Regional Staff provided an information memorandum to Regional Council about the pending submission of the PCQ applications (CWCD 166-2020). The memo outlined the various approvals required and indicated that a JART was being formed to coordinate the review of the proposal. A copy of CWCD 166-2020 is included in **Appendix C**.
- **July 27, 2020** – City Staff provide information to City Council regarding the JART process and to recommend the City's commitment to the JART Memorandum of Understanding (MOU). A copy of 2020-93 is included in **Appendix C**.
- **September 29, 2020** – City staff prepared a report (2020-118) to consider the establishment of a Joint Agency Review Team Public Liaison Committee (JARTPLC). A copy of the report is included in **Appendix C**.
- **December 17, 2020** – NPCA staff provide information to the NPCA Board regarding NPCA's role in the JART process (FA-62-20). A copy of the report is included in **Appendix C**.

- **January 2021** – Notice of Application under the ARA circulated to agencies and the public. Region, City, and NPCA individually respond with an objection on the basis that the appropriate land use approvals at both the Regional and Local level are not in place.
- **March 17, 2021** - Planning Act applications were submitted to the Region and the City (i.e. 1st submission of technical materials). A list of all material submitted is included in **Appendix A**.
- **April 15, 2021** – Planning Act applications deemed “incomplete” by Region and City Staff. The required Environmental Site Assessment (ESA) and Conceptual Soil Management Plan were outstanding.
- **April 16, 2021** – Region staff provide an update to Regional Council informing that the PCQ applications have been submitted. A copy of CWCD 2021-87 is included in **Appendix C**.
- **April 20, 2021** – PCQ hosts public information sessions (virtually) as required by the Aggregate Resources Act.
- **April to May 2021** – Individual technical meetings held between the JART peer reviewers and the PCQ consultants. The purpose of these meetings was to clarify technical aspects of the application before formal written comments were prepared.
- **June 4, 2021** – Site visit and tour with PCQ. This site visit included Region and City staff, the Aggregate Advisor, JART peer reviewers, PCQ staff and representatives from their consulting teams. The purpose of the site visit was to tour the site, look at the existing operations, and to view the expansion lands and surrounding land uses. A blast in Pit 3 was also observed during this site visit.
- **July 5, 2021** – Planning Act applications deemed complete by Region and City Staff.
- **July 28, 2021** – JART comment letter on the 1st submission provided to the applicant. A copy of the JART comment letter is included as **Appendix B**.
- **Sept 9, 2021** – City and Region host a public open house (virtually). A copy of the question and answer matrix from the public open house is included as **Appendix E**.
- **September 15, 2021** – Regional staff provided a project initiation report to Regional Council (PDS 35-2021). The purpose of the report was to advise that applications to amend the Regional Official Plan, the City of Port Colborne Official Plan, and the Port Colborne Zoning By-law have been made. The report also provided an update on the JART process. A copy of PDS 35-2021 is included in **Appendix C**.
- **January 31, 2022** – PCQ provides a response to the JART comments from July 2021 (i.e. 2nd submission of technical materials). A list of all materials provided as part of the 2nd submission is included in **Appendix A**.

- **July 4, 2022** – JART comment letter on the 2nd submission provided to the applicant. A copy of the JART comment letter is included as **Appendix B**.
- **October 4, 2022** – PCQ provides a response to the JART comments from July 2022 (i.e. 3rd submission of technical materials). A list of all materials provide as part of the 3rd submission is included in **Appendix A**.
- **October 2022 to June 2023** – Iterative review of the 3rd submission including several submission and resubmissions; partial comments from JART provided by e-mail; phone calls, technical and other meetings; and numerous iterations of the ARA Site Plan drawings. A list of all documents reviewed by the JART as part of the 3rd submission (and subsequent responses and resubmissions) is included as **Appendix A**.
- **January 31, 2023** – Formal 20-day Final Notice Letters under the ARA sent by PCQ to the Region, City, and NPCA. Agencies respond individually with a continued objection on the basis that the appropriate land-use approvals at both the Regional and local level are not in place.
- **March 7, 2023** - Planning Act Statutory Public Meeting – City of Port Colborne. A copy of the City’s Staff Report (2023-42) is included in **Appendix C**.
- **March 8, 2023** – Planning Act Statutory Public Meeting – Niagara Region. A copy of the Region’s Staff Report (PDS 5-2023) is included in **Appendix C**.
- **June 12, 2023** – JART comment letter on the 3rd submission provided to the applicant. A copy of the JART comment letter is included as **Appendix B**.
- **August 2, 2023** – PCQ provides a response to the JART comments from June 12, 2023 (i.e. 4th submission of technical materials). A list of all materials provide as part of the 4th submission is included in **Appendix A**.
- **September 12, 2023** – Revised Site Plan Drawings submitted by PCQ to address minor outstanding technical issues.

6.2 List of Technical Reports and Other Supporting Information

As identified through the Pre-Consultation Meeting Form, and as required by the applicable planning documents (PPS, Growth Plan, Region of Niagara Official Plan, and City of Port Colborne Official Plan), the applications were supported by a number of technical studies. In most cases the technical studies required to support the Planning Act applications are similar to those required to support the Aggregate Resource Act licenses application. The scope of the studies was designed to meet the requirements of both application processes.

In support of the applications, the following studies were submitted:

- Planning Justification Report
- Agricultural Impact Assessment

- Stage 1 and 2 Archaeological Assessment and Supplementary Documentation
- Cultural Heritage Screening Report
- Land Use Compatibility / Sensitive Land Use Study
- Air Quality Impact Assessment
- Best Management Practices Plan for the Control of Fugitive Dust (BMPP)
- Noise (Acoustical) Impact Study
- Blasting (Vibration) Impact Assessment
- Financial Impact Assessment / Economic Benefits
- Hydrological Assessment
- Hydrogeological Assessment, Level 1 / 2 Water Resources Study
- Natural Environment Level 1 & 2 Report (EIS)
- Tree Preservation Plan
- Comprehensive Rehabilitation Strategy
- Social Impact Assessment
- Traffic Impact Study
- Visual Impact Assessment
- Phase One Environmental Site Assessment (ESA) & Conceptual Soil Management Plan
- ARA Site Plans

Through the review and peer review process, a number of revisions were made to the technical documents and ARA Site Plan drawings to address comments from JART as well as provincial ministries through the ARA licence application process. In some cases, this included a revision to original document, in other case a stand-alone addendum or similar document was prepared. A complete list of all technical material submitted for review can be found in **Appendix A**.

A brief synopsis of each of the technical reports is presented below, with highlights of the questions raised through the JART review process and a summary of key revisions and responses provided by PCQ. A complete set of the JART comments are provided in **Appendix B**.

6.3 Planning Justification Report

A Planning Justification Report (PJR) was prepared and submitted as part of the application package. The PJR included a review and analysis of the application in the context of current provincial, regional and local planning policies. The PJR also served as the ARA Summary Statement and included an overall summary and outline of the application.

Through several iterations and resubmission of the PJR and supporting technical studies and analysis Regional and City Planning staff were satisfied that the relevant provincial, regional and local planning policies were adequately addressed by the applicant.

6.4 Agricultural Impact Assessment

Provincial and Regional policies recognize that agricultural land is a valuable asset that must be properly managed and protected. The proposed Pit 3 extension lands are located within a Prime Agricultural Area as defined under the Provincial Policy Statement (PPS) and are designated as Good General Agricultural Area in the Regional Official Plan (ROP).

The PPS requires that impacts from any new or expanding non-agricultural uses on surrounding agricultural operations and lands be mitigated to the extent feasible. Policy 6.C.5 of the ROP also requires that applications for new pits or quarries or expansions of existing licensed pits or quarries give consideration to compatibility with surrounding land uses. An Agricultural Impact Assessment (AIA) was prepared and submitted to satisfy the provincial and municipal planning policy requirements for new, non-agricultural land uses in agricultural areas, using the methodology outlined by OMAFRA.

The AIA notes that the majority of the expansion lands are currently in common field crop production. There are no farm operations on the subject lands. There are some active poultry operations located within the AIA study area as well as some small hobby farms and retired farm operations. The lack of agricultural infrastructure and land improvements on the subject lands, the level of fragmentation of agricultural lands and investments in agricultural land uses lower the agricultural priority of the area in comparison to other areas in Port Colborne and the broader Niagara Region. The AIA reports that there will be a permanent loss of approximately 50 hectares of CLI class 2 and 3 lands as a result of the below water excavation, however, provincial and local planning policies allow for this where there is a significant amount of aggregate below the water table and where alternatives have been considered.

The JART is satisfied with the conclusions and recommendations of the AIA.

6.5 Stage 1 and 2 Archaeological Assessment and Supplementary Documentation

The PPS, Growth Plan, and Region and City of Port Colborne Official Plan provide direction for the conservation of significant cultural heritage and archaeological resources. Specifically, development and site alteration (activities, such as grading, excavation and the placement of fill that would change the landform and natural vegetative characteristics of the site) are not permitted on lands containing archaeological resources or areas of archaeological potential, unless significant archaeological resources have been conserved.

Stage 1 and 2 Archaeological Assessments were submitted with the applications, and recommended further work for several archaeological sites within the subject lands. There are Site Plan conditions which require Stage 3 (and possibly Stage 4) Archaeological Assessments to be completed before disturbance can occur in any areas of archaeological potential. There is also the requirement for a 70 metre buffer and fencing around the areas of archaeological potential.

A letter from the MHSTCI's has been received indicating the Stage 1 and 2 Archaeological Assessments are compliant with the Ministry's technical standards for archaeology. PCQ will be required to obtain further clearance letters from the MHSTCI as the State 3 (and possibly Stage 4) Archaeological Assessments proceed. Ongoing consultation with Indigenous communities is required.

6.6 Cultural Heritage Screening Report

According to the PPS, Growth Plan and Regional Official Plan, significant built heritage resources and significant cultural heritage landscapes shall be conserved. Heritage resources include buildings, structures, monuments, installations or any manufactured or constructed parts or remnants that contribute to a property's cultural heritage value or interest. Cultural heritage landscape refers to geographical areas that may have been modified by human activity and are identified as having cultural heritage value or interest. These landscape features may include buildings, structures, spaces, views, archaeological sites, or natural elements that are valued together for their interrelationship, meaning, or association.

A Cultural Heritage Screening Report was submitted with the applications. The JART has no concerns with the report, which concluded that no further Heritage Impact Assessment was required.

6.7 Land Use Compatibility / Sensitive Land Use Study

The PPS calls for a coordinated, integrated, and comprehensive approach to land-use planning matters. Specifically, sensitive land uses and major facilities are to be planned to "ensure they are appropriately designed, buffered and/or separated from each other to prevent or mitigate adverse effects from odour, noise and other contaminants, minimize risk to public health and safety..." Policy 6.C.5 of the Regional Official Plan also requires that applications for new or expansions to existing pits and quarries give consideration to compatibility with surround land uses. Further, Section 10.2.2 a) i) of the City of Port Colborne Official Plan requires that compatibility with adjacent, existing and planned land uses with respect to noise, dust, blasting, vibration and truck traffic be evaluated based on submitted studies in considering applications to amend the plan pursuant to Section 10.2 (a-d).

A Land Use Compatibility/Sensitive Land Use Study was prepared and submitted as part of the complete application requirements for the Planning Act applications and was informed by provincial guidelines. The report essentially summarizes the conclusions and recommendations of the air quality, noise and blasting impact assessments, and the mitigation measures that have been outlined in the reports and as Site Plan conditions to address issues related to land use compatibility.

JART has no outstanding concerns with this report. Detailed comments were primarily provided and addressed as part of the individual technical studies (e.g. air quality, noise, blasting, etc.). As part of the iterative review process, further revisions and updates were made

to the ARA Site Plans in regards to land use compatibility, which is the primary tool for implementation.

6.8 Air Quality Impact Assessment

An Air Quality Impact Assessment (AQIA) was prepared and submitted with the applications. The AQIA report characterizes the existing air quality in the area and predicts the cumulative impact of the quarry expansion through dispersion modelling. Indicator compounds considered in the assessment include particulate matter, crystalline silica, and combustion gases. The predicted emissions are measured against the provincial air quality guidelines provided by MECP. The report concludes that with the implementation of the recommended Dust Best Management Practices Plan (BMPP) the predicted air quality will be maintained below the limits set out in provincial air quality guidelines through the life of the proposed Pit 3 extension.

The AQIA was peer reviewed, through resubmission of the study, outstanding comments, questions, and concerns were resolved. The BMPP outlines preventative procedures and reactive controls to manage dust from the pit operations. These measures include watering off roadways, limiting truck speed through the site, control equipment for drill and blasting and reduced activity where warranted. Compliance with the BMPP is a Site Plan condition and enforced by the Province through the Aggregate Resources Act.

6.9 Noise (Acoustical) Impact Study

A Noise Impact Assessment (NIA) was prepared and submitted with applications. The NIA evaluated the potential impacts of the proposed expansion on neighbouring land users, using the guidelines provided by the MECP (NPC 300: Environmental Noise Guideline, Stationery and Transportation Sources). The noise sources from the proposed Pit 3 extension include processing equipment, drill and blasting equipment, and haul trucks.

The report assessed the impacts at 48 homes (referred to as “Points of Reception” or POIs) located around the perimeter of the entire PCQ operation (i.e., including the existing quarry operations in Pit 1, Pit 2 and Pit 3).

Through an iterative submission and review process the peer review process concluded that the report and associated addenda will meet the noise impact assessment requirements of the MECP.

Based on the recommendations of the NIA, in order to mitigate noise from the operations, a 4-metre-high berm is required along the south property line and a minimum 2-metre-high berm is required along the east and north property lines prior to extraction. The Site Plan conditions require all berms to be constructed before any extraction can occur on the site.

6.10 Blasting (Vibration) Impact Assessment

A Blast Impact Assessment (BIA) was prepared and submitted with the applications. The purpose of the BIA was to provide an assessment of the potential effects of the ground and air

vibrations that will be produced by the proposed quarry's blasting operations on adjacent receptors such as residences, structures, bedrock strata, water wells, and fish spawning depressions. The BIA also reviewed the provincial and federal guidelines for the assessment of environmental impacts from blasting.

The recommendations for blasting design and monitoring included in the BIA informed the preparation of Site Plan notes. The BIA Site Plan notes are included on Sheet 4 of 10. Associated with the BIA are the provincial standards associated with flyrock, which is addressed by the Site Plan notes included on Sheet 5 of 10.

The blasting peer review concluded that in the context of the requirements of blasting impact assessment the proponent has satisfied the requirements of the Aggregate Resources Act as it applies to the effects of blast induced vibration and overpressure (noise) on sensitive receptors, provided the proponent implements all the recommendations of the BIA.

6.11 Financial Impact Assessment / Economic Benefits

Section 14.D.5 of the Regional Official Plan includes criteria that are to be considered when there is a proposed amendment to the plan, including “the effect of the proposed change on the financial, health, safety, and economic sustainability of the Region.” In order to assess this impact, a Financial Impact Assessment and Economic Benefits Study (FIA) was prepared and submitted with the application.

The stated purpose of this FIA is to demonstrate that the proposed Pit 3 Extension will have “minimal negative financial impact” on Niagara Region/the City of Port Colborne or their taxpayers, and to illustrate any direct or indirect financial benefits/costs to the affected municipalities. Key conclusions of the study included:

- The proposed quarry use is anticipated to increase the tax revenue generated from the Pit 3 Extension lands when compared to the existing uses.
- The existing and proposed quarry uses are not anticipated to have any impact on the Region's or City's capital programs. If any construction or upgrades are required through further study, PCQ is committed to enter into an agreement with the Region and/or City to cover the necessary costs.
- Annual production of 1 million tonnes is expected to generate \$31,200 for the Region and \$126,880 for the City in TOARC (The Ontario Aggregate Resource Corporation) fees.

Through an iterative submission and peer review process all of the outstanding comments, questions, and concerns were addressed. It was concluded that the analysis and study were completed in accordance with the terms of reference.

6.12 Hydrological Assessment

The consideration of impacts on water resources was an important aspect of the review process. A Hydrologic Assessment was prepared and submitted with the application and was

reviewed by staff from the Region, NPCA and the peer review consultant. The JART also reviewed the comments provided by MNRF related to surface water resources and potential impacts on the evaluated, non-significant wetland (assumed to be significant for planning purposes) located in the northern portion of the site.

The initial peer review comments, and the MNRF comments, identified concerns with potential impacts to the wetland in the northwest part of the extension area and the potential for the proposed drain realignment to have negative impacts to the wetland and other natural features on the site.

Because the Wignell Drain intercepts the majority of the wetland inflow, there is a possibility that the wetland's function and habitat could be permanently altered. Additional monitoring of the wetland was recommended by the peer reviewers and also by MNRF and has been incorporated into the revised Site Plan conditions.

The original report recommendation included two surface water monitoring stations located along Highway 3/Main Street East at the southeastern corner of the expansion lands at the East Branch of the Wignell Drain and in existing PCQ Pit 2 at the West Branch of the Wignell Drain. In response to JART comments, two additional surface water monitoring stations have been added, located in the northern portion of the site in the wetland area, for a total of four in the monitoring program.

PCQ will be required to obtain an Environmental Compliance Approval (ECA) amendment application from Ministry of Environment, Conservation and Parks (MECP), to include the proposed Pit 3 extension lands in the quarry dewatering permit. The ECA will require annual reporting of the water levels within the wetland to capture baseline conditions. As such, monthly low water level triggers will be identified and will be updated after each year of monitoring until the Wignell Drain is realigned. At the end of each calendar year of baseline water level monitoring, the range of observed water levels will be documented and submitted to MNRF.

The intent of the recommended mitigation scheme is to quantify typical water levels in the wetland prior to the Wignell Drain re-alignment or quarry expansion and provide timely mitigation to the woodlot in the event of sustained dry conditions. The specific details of the program are included as Site Plan conditions, found under the operating notes "Significant Wetland Area – Water Level Monitoring and Mitigation". The JART is satisfied that all outstanding concerns have been addressed.

6.13 Hydrogeological Assessment, Level 1 / 2 Water Resources Study

A Hydrogeological Assessment, Level 1/2 Water Resources Study was submitted with the application package.

Surface and groundwater resources were a key aspect of the JART review because of the potential impacts that quarrying below the water table may have on groundwater quality and quantity, as well as important natural environmental and aquatic features such as wetlands

and amphibian breeding pools. They are expressed through policy requirements that must be met by the ARA and Planning Act applications. The public also raised these issues as concerns particularly with respect to private well water impacts and groundwater quality in general.

A hydrogeological characterization of the site was initiated in 2017, which included drilling and installation of ten boreholes with monitoring wells, groundwater level monitoring and sampling and a well water impact assessment. The monitoring wells are distributed across the site and are shown on the Site Plans. Groundwater monitoring data has been collected on an ongoing basis through 2023. The study mapped the overburden thickness across the site which ranges from 0.5 metres in the southern portion and thickens northward to a depth of 10 metres or more at the north end of the site.

Key conclusions and recommendations of the hydrogeological assessment and iterative peer review and commenting process include:

- The groundwater elevation across the site has been determined by WSP-Golder to be approximately 178.0 masl.
- A well water monitoring program and private well complaint response protocol are included as conditions on the ARA Site Plans and are intended to address any issues with private well water interference that may arise during the life of the proposed quarrying operations. The Site Plan condition outline, in significant detail, a range of mitigation options that are available should a well interference complaint be received.
- A groundwater monitoring program has been included as part of the site plan conditions. The program includes 20 on-site wells, as shown on the Site Plans, and 3 additional wells which are to be installed prior to any quarry operations within the expansion area. The monitoring program requires recording of water levels monthly throughout the life of the site and water quality sampling every 5 years.
- The results of the Groundwater Quality Monitoring will be used to evaluate potential changes in water quality as the proposed quarry expands. The groundwater level monitoring will be used to assess the groundwater level drawdown associated with quarry dewatering as the quarry expands. The monitoring program will be used to evaluate potential impacts on surrounding wells and used as part of the hydrogeological and ecological disciplines to confirm no unanticipated effects on the natural environment.
- In order to implement appropriate response actions in a timely manner, the PCQ will retain qualified personnel in the areas of hydrogeology and will have water well contractors and a plumbing contractor on retainer in the event that the need for these services arises.

The JART is satisfied that all outstanding concerns have been addressed.

6.14 Natural Environment Level 1 & 2 Report (NER)

A Level 1 and 2 Natural Environment Technical Report (NER) was prepared and submitted with the applications. The NER is a requirement of the ARA and was scoped to also satisfy the JART requirement for an Environmental Impact Study (EIS). The purpose of the NER was to assess potential environmental impacts of the proposed aggregate extraction on the site with respect to the following:

- the environmental features and functions in the study area;
- the influence of extraction on the surrounding natural environment; and
- the rehabilitation potential of the site after extraction.

The NER reflects the requirements of the ARA as well as those outlined in the planning policies of the Region, City and NPCA. MNRFC through their review of the ARA application also provided a series of comments on the NER and other natural heritage aspects of the proposal. The NER includes characterization of the natural environment and surrounding area, the evaluation of impacts of the proposed quarry and design of mitigation measures as appropriate, and rehabilitation of the site.

The Site Plan and Site Plan notes were revised several times to reflect the recommendations of the NER, peer review and JART comments, and MNRFC comments. A key issue of the review process was the appropriate classification of the natural features and appropriate setbacks, as well as planting in several locations across the site to provide habitat enhancement. Through the iterative process it was concluded that the deciduous swamp would be considered a significant wetland for “planning purposes” (although it will continue to be classified as an evaluated, non-significant wetland) and will have a 30 metre buffer. The portion of the natural area to be designated a significant woodland will have a 10 metre buffer.

Additionally, a wetland monitoring program was added to the Site Plan conditions, to monitor any changes in the wetland over time, and will continue through the life of the operation. The results will be reported annually to MNRFC and will be available to the Region, City, and NPCA on request.

Through the peer review and MNRFC commenting process on the NER, several revisions were also made to the rehabilitation plans including the requirement for native and non-invasive plantings.

The JART is satisfied that all outstanding concerns have been addressed.

6.15 Comprehensive Rehabilitation Strategy

The PPS requires progressive and final rehabilitation to accommodate subsequent land uses, promote land use compatibility, recognize the interim nature of extraction and mitigate negative impacts to the extent possible. The Regional Official Plan (ROP) also requires that rehabilitation plans be suitable before licenses are issued or changed, and encourages progressive rehabilitation of operating pits and quarries to achieve compatibility with

surrounding land uses (policy 6.C.6 and 6.C.7 of the ROP). Final rehabilitation plans must take surrounding land use and approved land use designations into consideration, in accordance with the PPS. The PPS also states that comprehensive rehabilitation planning is encouraged where there is a concentration of mineral aggregate operations.

The City of Port Colborne Official Plan states that sites within prime agricultural land will be progressively rehabilitated to agriculture, unless: there is substantial quantity of aggregate resources below the water table warranting extraction; the depth of planned extraction makes restoration of pre-extraction agricultural capacity unfeasible and other alternatives have been considered by the applicant and found unsuitable; and agricultural rehabilitation in remaining areas will be maximized.

To satisfy these provincial and municipal planning requirements, a Comprehensive Rehabilitation Strategy (CRS) was submitted with the applications. The CRS includes a Rehabilitation Plan/End Use Plan, Long-Term Monitoring and Comprehensive Rehabilitation Plan.

The CRS was revised in December 2021 in response to the JART comments to include greater clarity related to the timing and sequence of rehabilitation, expected number of years for the quarry lake to fill, and contemplated end use for Pit 1 and the licenced quarry operations. The revised report outlined milestone activities for progressive and final rehabilitation and indicate that the remaining reserves in Pit 2 and 3 will be exhausted within approximately 6-9 years with the proposed Pit 3 extension having a predicted life expectancy of 45 years. Once the dewatering pumps are removed, it is predicted that it may take 30 to 40 years for the groundwater to reach equilibrium (i.e., for the quarry lake to fill) for both Pit 2 and Pit 3.

The JART has no outstanding concerns in regards to the CRS and are satisfied that appropriate drawings and conditions have been included as part of the ARA Site Plans.

6.16 Social Impact Assessment

A Social Impact Assessment (SIA) was required by the City of Port Colborne to address Port Colborne Official Plan policies.

Following a review of a 2nd submission of the Social Impact Assessment, City of Port Colborne Staff indicated no outstanding concerns.

6.17 Traffic Impact Study

Provincial and Regional policies require that transportation systems be provided that are safe, energy efficient, facilitate the movement of people and goods, and are appropriate to address projected needs. Specific to proposed new or expansions to existing pits and quarries, the Regional Official Plan states that consideration be given to the proposed haulage roads and the possible effect on the roads and on adjacent development (policy 6.C.5e). In this regard, a Traffic Impact Study, was prepared submitted with the applications to address transportation

impacts on the local and Regional roads and Provincial highway. The TIS was reviewed by the Ministry of Transportation (MTO), Regional, and City transportation staff.

Following input received during the statutory public meetings, additional revisions to the Site Plans were made to address concerns raised by Councillors and members of the public. This included clearly providing space for the queuing of trucks on the quarry site, and updating the Site Plan notes to clarify that the construction of a deceleration lane, and any other required transportation upgrades would be at the cost of the applicant.

The JART is satisfied that all outstanding concerns have been addressed.

6.18 Visual Impact Assessment

To address land use compatibility matters per Provincial and Regional policy, as well as potential concerns from neighbouring land owners and residents, a Visual Impact Study, was prepared and submitted with the applications.

To mitigate potential visual impacts a range of berms are proposed. Details of the height and location of each of the berms are included as part of the Site Plan notes, which would be enforced through the ARA licence. There are no outstanding concerns related to the Visual Impact Assessment.

6.19 Phase 1 ESA & Conceptual Soil Management Plan

The PPS states that "sites with contaminants in land or water shall be assessed and remediated as necessary prior to any activity on the site associated with the proposed use such that there will be no adverse effects." The PPS defines "adverse effects" to include harm or material discomfort to any person, an adverse effect on the health of any person, and/or impairment of the safety of any person. A portion of the subject lands are currently used as a speedway, and therefore it was assumed that there was a high likelihood of contamination of some type.

Due to potential for groundwater and other contamination from reuse of fill from the property for berm construction, rehabilitation work for Pits 1 to 3, and other site works, a Phase 1 Environmental Site Assessment (ESA) and Conceptual Soil Management Plan (SMP) was required as part of a complete application.

The required analysis and reports were submitted prior to deeming the applications complete. Both the ESA and SMP were prepared in accordance with the Environmental Protection Act and associated regulations. Changes have been made to the Site Plan drawings and a number of conditions added to ensure that all known and potential contamination is adequately remediated.

Further discussion on this issue is included in Section 7 of this report.

The JART is satisfied that the updated Site Plan notes requiring additional investigations prior to extraction occurring are appropriate.

6.20 ARA Site Plans

The ARA Site Plans are the primary tool for implementing and enforcing the conditions of any approved mineral aggregate operation. In addition to reviewing the technical and other supporting studies, a review of the ARA Site Plans was undertaken by the JART and peer review team. A major component of the JART review process was to ensure that the conclusions and recommendations of each of the technical studies was adequately reflected in the design of the site, and that Site Plan notes and conditions were included as appropriate. Much of the latter part of the JART review process was focused on the Site Plans, notes, and conditions. The JART is satisfied that the ARA Site Plan drawings appropriately reflect the conclusion and recommendations of the technical studies submitted in support of the Planning Act applications. Consideration of the Site Plan drawings as it relates to the ARA, regulations, and standards of the Province is the responsibility of the MNRF.

7.0 Key Technical Issues of the Application

The following sections provide a more detailed description of key technical issues that were considered by the JART during the review process:

7.1 Realignment of the Wignell Drain

The realignment of the Wignell Drain (a municipal drain under the Drainage act) was one of the most significant technical issues related to the application. There were a range of issues identified in the first set of technical comments from the JART. This was followed by an iterative process of comments and resubmissions to resolve outstanding concerns. The City of Port Colborne's Drainage Superintendent and Drainage Engineer were heavily involved in the process. Provincial staff were also consulted in attempt to better understand the relationship between the Drainage Act and Aggregate Resources Act.

Through several iterations, the ARA Site Plans have been updated to include the proposed realignment of the drain, and several detailed notes to outline the various conditions. One of the fundamental issues is that any realignment of the drain will require approval under the Drainage Act. There is no certainty of the timing, or if this approval will occur. Phases of extraction marked with an "X" are those which depend on the drain realignment, and would not be extracted should the realignment of the drain not be approved. Detailed sketches and notes are included in the Site Plan regarding the drain realignment and Drainage Act approvals required.

There are two distinct sections of the drain that would require realignment to support the PCQ application. The City is currently preparing a Drainage Report through their consulting Drainage Engineer which would include the northern and north-eastern part of the site and would relocate the drain to the eastern limit of the Pit 3 extension lands, on PCQ owned lands

The second section that would require a realignment in the south part of the site where the PCQ property juts out to meet Miller Road. As proposed, PCQ would temporarily relocate the drain the outer limit of the property as this 'dog-leg' is being extracted. The 'dog-leg' would then be backfilled to grade to accommodate the drain being relocated westerly, near its original alignment. This section of the drain, both the temporary and is not part of the current drainage report and would require a second process and report under the Drainage Act. The Site Plan notes have been updated to reflect this.

The final design and other details for both of the drain realignments would be determined through the Drainage Act process, which is a public process and requires ultimate approval from the City of Port Colborne Council. The JART is satisfied that this technical issue has been resolved to a sufficient level of detail to allow the Planning Act applications to move forward.

7.2 New Quarry Access to Highway 3

Currently, PCQ truck traffic utilizes an entrance/exit onto Highway 140 via 2nd Concession Road. Initially, material extracted from the proposed Pit 3 extension will be hauled westward

through Pit 3, Pit 2, and to the existing processing plant located in Pit 1 (adjacent to Highway 140) and once processed, (crushed, screened, washed, blended), it will be shipped to the market via the existing entrance/exit. This access will continue during the initial extraction of Phase 1 of Pit 3 extension until such time that PCQ constructs a new point of access.

Early in the application process, the appropriate location for a new point of access was subject to significant discussion and coordination between PCQ, the City, Region and MTO. Initially PCQ preferred a point of access directly onto Highway 3, however MTO at first advised that the point of access should not be onto the Provincial Highway, but onto Miller Road. However, Regional transportation advised that significant upgrades to Miller Road would be required to support a quarry entrance, and that with a point of access onto Miller Road there was a much higher likelihood of trucks turning north, and using 2nd Concession to reach Highway 140. Regional staff were involved in additional discussion with MTO and it was agreed that a direct Highway 3 access was preferred, subject to the decommissioning of other points of access (i.e. Humberstone Speedway) and the new quarry driveway being aligned with Weaver Road to the south. The new point of access would be subject to MTO design approvals and a MTO permit.

The Traffic Impact Study submitted with the application recommended the construction of an eastbound deceleration lane into the quarry and the overall quarry entrance will be constructed to meet provincial MTO standards. The report assumed the quarry will generate 154 trucks per day with 15.4 trucks during the a.m. peak hour. Intersection capacity analysis was conducted for both existing and future conditions and all were shown to operate at an acceptable level of service (LOS) during all scenarios. No geometric modifications or traffic signalization will be required at any of the study intersections, except for the Highway 3 access point.

In addition, based on the feedback received during the consultation process, the ARA Site Plan drawings were updated to clearly provide a location for truck queuing on the PCQ site. The entrance gate was moved and the noise berm was extended to accommodate this modification.

PCQ will be responsible for all applicable costs associated with the new entrance including engineering design, legal, any land acquisition (if applicable), land surveying, permits, construction, including letter of credit, and warranties.

7.3 Contamination and Clean-Up of Humberstone Speedway Lands

Through early pre-consultation on the project the potential contamination of the site associated with former and current race track uses on the property was identified as an issue. Both City and Region staff were concerned that if contaminated soil were to be used for berming or rehabilitation on the site there was the potential for environmental impacts including to ground and surface water. Similar concerns were received from the public during early consultation on the project. To address this issue, a Phase 1 Environmental Site Assessment (ESA) and a Conceptual Soil Management Plan (SMP) were required as part of the complete application.

Key conclusions of the ESA and SMP included:

- Based on the Phase 1 ESA, seven areas of potential environmental concern (APEC) were identified, a Phase 2 ESA in accordance with O. Reg. 153/04 is required. Boreholes and soil samples will be completed as part of the Phase 2 ESA.
- A Final Soil Management Plan and Site Characteristic Report consistent with the On-Site and Excess Soil Management Regulation O. Reg. 406/19 is required and will be prepared.
- PCQ is aware that manufactured soil berm materials are present at the Site which require a separate segregation area and environmental quality assessment to determine appropriate off-site disposal or re-use requirements.

Through several iterations, the Site Plan drawings were updated to reflect the conclusion and recommendations of the ESA and SMP including the requirement for the clean-up of contaminated soil and for further investigations to be completed. These requirements are included on the Site Plan drawings and would be enforceable through the ARA licence.

The issue of soil contamination and the potential for environmental impacts was again raised by several councillors and members of the public through the consultation process undertaken as part of the Statutory Public Meetings. A primary point of concern was that there was no firm timeframe associated with the additional work. There was a desire to see this work completed as early as possible, potentially before any extraction were to occur on the Pit 3 extension lands.

The Site Plans were then updated to include a condition which states that extraction will not occur east of the former Carl Road right-of-way until such time that all remediation has occurred on the speedway lands.

However, through the ongoing review by JART conflicting conditions were noted – specifically the requirement for berm construction on portions of the speedway lands prior to any extraction taking place within the expansion area. JART recommended that soil investigations and remediation/clean-up would need to occur first, followed by berm construction, before any extraction could occur on any the Phase 3 extension lands.

In June 2023, PCQ advised that the appropriate adjustments to the Site Plan drawings and notes would be made, with a full review of the proposed sequencing of extraction for each of the phases to ensure that the issues noted above are addressed.

The August 2023 version of the Site Plan drawings were further updated to address this issue. Site Plan note #33 has now been updated to read that “prior to any extraction occurring, the Licensee shall undertake an intrusive soil investigation related to the Humberstone Speedway lands... This investigation must be a Phase 2 ESA report for the site in accordance with O. Reg. 153/04 which will be used to update the Final Soil Management Plan...”. Note #33 was further updated to reflect the fact that some of the APEC overlapped with areas of

archaeological potential and that these site would need to be cleared from an archaeological perspective prior to the Phase 2 ESA drilling program commencing.

The JART is satisfied with the updated conditions requiring additional investigations in advance of extraction occurring.

7.4 Wetland Water Balance

Through the peer review of both the natural environment report and hydrologic assessment the issue of the wetland water balance was raised. Concerns were raised that when the Wignell Drain was realigned it would impact the wetland water balance (i.e. that overtime the wetland could become too wet or too dry). This potential issue continued to be a concern following the 3rd submission of the technical materials.

As part of the process to resolve this concern a technical meeting was held in January 2023, which included PCQ and their consulting team as well as the JART and the water resource peer review consultant.

Following an iterative process, a solution was developed by PCQ to allow for the management and monitoring of the wetland water balance. A diversion berm and hickenbottom weir structure will be constructed to allow for management of the wetland water balance as per the details on sheet 7 of 10. To support this management, a detailed monitoring and mitigation program has been designed and will be implemented by PCQ. The monitoring program is included as part of the Site Plans and is therefore enforceable through the ARA licence.

7.5 Appropriate Classification of Natural Features

On the northwest portion of the site there is a large natural feature comprised of both wetland and upland areas. An important aspect of both the Planning Act and Aggregate Resource Act application process has been the appropriate classification of these natural features. The appropriate classification of the features ensures that appropriate protections, setbacks, and mitigation measure can be required. The appropriate classification of the features also ensures that they can be appropriately designated and zoned through the Planning Act application processes.

Through the initial review of the application, the JART provided comments regarding the delineation, classification, and proposed setbacks. Additional information and analysis were requested as part of the next submission.

Similarly, the MNRF provided comments in regards the natural features as part of the review of the ARA application and Site Plan drawings. The MNRF comment letter dated May 5, 2023 included the following:

A portion of the Upper Wignell Drain Wetland Complex (current status: “evaluated – other”) overlaps the adjacent lands. In determining the presence of significant wetland(s) on and adjacent the site, consideration must be given to whether information gathered during the site investigations would impact the scoring and

evaluation result for this feature since extraction is proposed within the 120 m adjacent lands. Alternatively, the wetland complex can be assumed significant for planning purposes, identified as such on the site plan and then relevant provincial policies would apply (e.g., the need to demonstrate there will be no negative impacts on the feature or its ecological functions). If the wetlands will be assumed significant for planning purposes, further discussion is required to ensure the wetland size/boundary and certain minimum information requirements are met to adequately inform the impact assessment.

Based on the input and comments received from MNRF, PCQ made the decision to move forward with the option of assuming the identified wetlands were “significant for planning purposes”. The appropriate provincial planning policies, setbacks, and mitigation measures would be applied to the feature. The ARA Site Plan drawings were updated to show the features as ‘significant wetlands’. Based on that information, it was assumed at that time by the JART that the features had been reclassified as Provincially Significant Wetlands (PSWs).

As the review of the Planning Act applications progressed, there were discussions between the JART members on what would be the appropriate official plan designations and zones under the City’s zoning by-law, should the application be approved. PCQ was consulted as part of those discussion.

The August 1, 2023 Natural Environment response memo from WSP, on behalf of PCQ, provided input into these ongoing discussion, included the following excerpt:

“WSP’s position is that although this feature is assumed to be a Provincially Significant Wetland for planning purposes related to the PCQ expansion, and the appropriate setback, mitigation, and monitoring will be implemented, this feature is not currently a Provincially Significant Wetland. This feature is mapped as Evaluated, not Provincially Significant by the MNRF. This feature has not been re-evaluated and re-classified under the Ontario Wetland Evaluation System (OWES). The MNRF is the sole authority with the jurisdiction to designate a wetland a PSW. A wetland can only be designated as a PSW by the MNRF following an OWES evaluation demonstrating that the wetland meets the OWES criteria for Provincial Significance.”

To further understand this discrepancy, the provincial Aggregate Specialist at the MNRF assigned to the file was contacted. The e-mail response from MNRF included in part, the following:

- *“... In 2022, the ministry consulted on changes to the Ontario Wetland Evaluation System (OWES). A decision was posted December 22, 2022 making changes to OWES that came into effect on January 1, 2023. These changes can be found on the Environmental Registry of Ontario, posting number 019-6160. Under the new OWES, wetland evaluation falls on the consultant to conduct and determine significance.*

- *The ministry recommends WSP provide a new rationale to either assume the wetland would likely be significant or likely would remain evaluated not significant, if a new OWES evaluation would be completed based on the new rules set out in the updated OWES process.*
- *It is the Town and Region’s jurisdiction to determine next steps for rezoning of the area based on the consultant’s rationale.”*

PCQ was provided the information from the MNRF Aggregate Specialist, and was asked to advise regarding the status of the wetland as recommended. The response from PCQ, through the ecology team as WSP concluded that:

...based on a review of the existing OWES evaluation, our field data, and the changes to the OWES system, the on-site wetland (SWD3-2) would likely remain evaluated -not significant based on a re-evaluation under the new rules set out in the updated OWES process.

The environmental planning team at Niagara Region was asked to review the analysis of WSP, and agreed with the conclusion.

Therefore, although the wetlands are site are “assumed to be Provincially Significant Wetlands for planning purposes”. They have not been re-evaluated through the OWES process, and thus continue to be officially “evaluated, non-significant” wetlands. Should the application be approved, the wetland features, including 30 metre buffer, would be designated and zoned based on that wetland classification.

The remaining portion of the natural feature, which was identified as an upland vegetation community has been identified as a “significant woodland”. Should the application be approved, this portion of the feature, including 10 m buffer, would be designated and zoned based on that woodland classification.

Similar to the issue of feature classification, through the iterative submission and review process, there were ongoing discussions regarding the inclusion of the features in the application area. Initially the natural features, including wetland areas, were proposed to be included as part of the application (i.e. within the area to be licenced under the ARA - but outside of the limit of extraction). Initial comments from the Province however lead to PCQ removing the natural areas from the application area. This was a concern for the JART, as both restoration and mitigation areas were proposed in the natural areas, if the features were not in the ARA licenced area (but outside of the limit of extraction), the conditions would not be enforceable by the province under the ARA. The final Site Plans represent the preferred option of the JART. The natural areas are included in the ARA licenced area (but outside the limit of extraction) to ensure that the restoration and mitigation requirements can be enforced. The natural features are protected through appropriate overlays in both the regional and local official plan amendments and zoning by-law amendment.

8.0 Public and Stakeholder Consultation

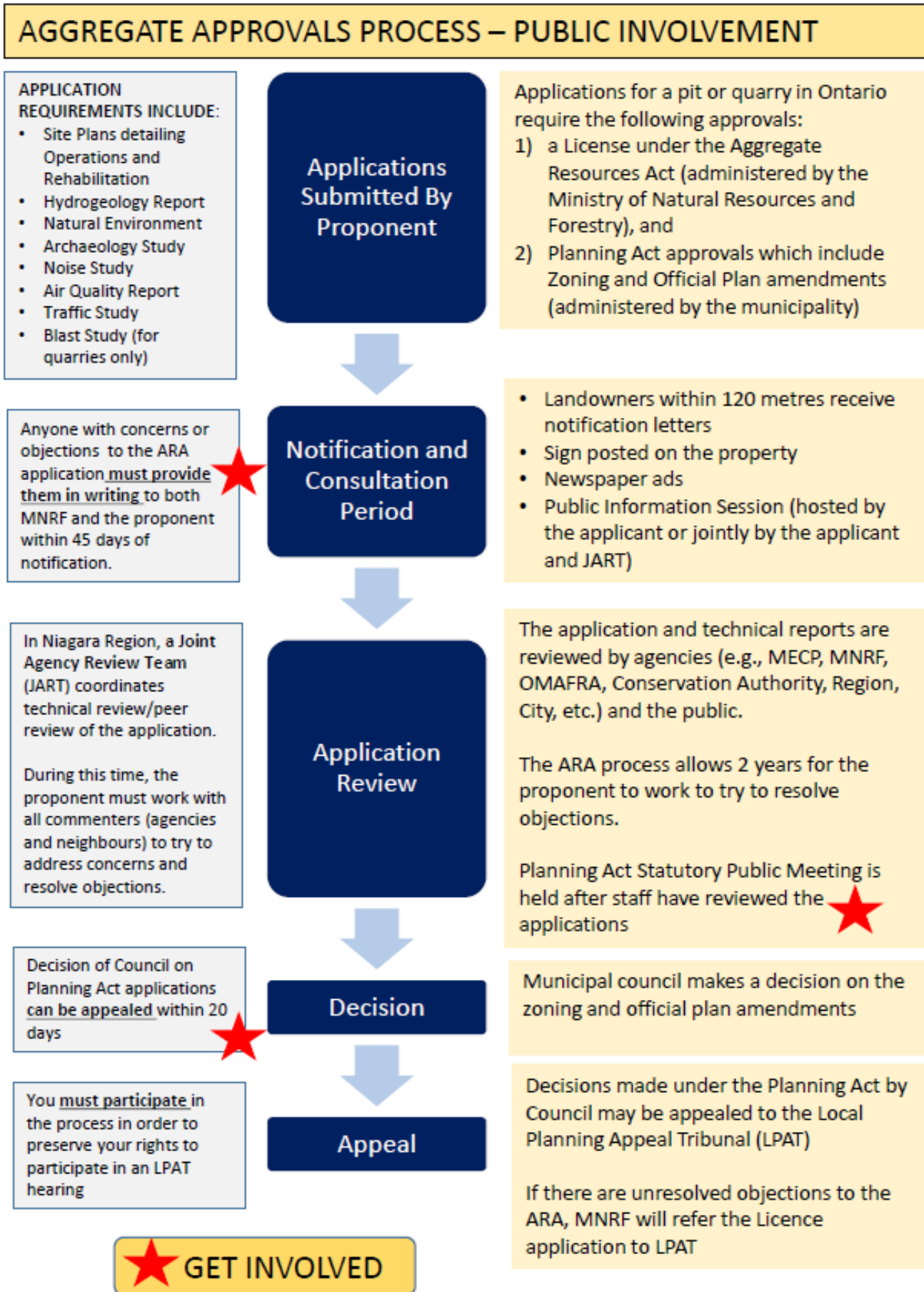
8.1 Overview of Public Consultation Process

Opportunities for public consultation on the proposed Pit 3 extension application were available through both the Aggregate Resources Act (ARA) and Planning Act processes as overviewed in **Figure 2**. The public consultation program included 2 public information sessions (one hosted by the applicant and one hosted jointly by the City and Region) and 2 Statutory Public Meetings as required by the Planning Act.

- April 20, 2021 - ARA Public Information Session (hosted by the applicant)
- September 9, 2021 - Public Open House (hosted jointly by City and Region)
- March 7, 2023 - Statutory Planning Act Public Meeting, City of Port Colborne
- March 8, 2023 - Statutory Planning Act Public Meeting, Region of Niagara

In addition to the public meetings and open houses, written comments were also received through the application process and form part of the consultation record. **Appendix D** includes a copy of all public comments received.

Figure 2: Public Involvement Process



8.2 Integration with Aggregate Resources Act Consultation Process

The ARA and Planning Act application processes have separate timelines and consultation requirements as set out in provincial regulations, and unfortunately there is no formal integration between the two. The ARA consultation process is largely proponent driven, and the applicant is responsible for advertising and providing notice and for organizing a public information session. Public comments or objections must be provided in writing to both the applicant and the MNRF within the 60-day notification and consultation period set out in the ARA regulations. The applicant must provide a response to all written objections and has up to 2 years to attempt to resolve any concerns that have been raised.

The Planning Act process has separate requirements for notice and the official plan and zoning by-law amendment applications are subject to a Statutory Public Meeting of municipal Council. In this case, since Planning Act approvals are required by both the Region and the City, there were separate Statutory Public Meeting requirements.

Where possible, efforts were made to coordinate the public consultation process to the extent possible. The Planning Act Statutory Public Meetings at the Region and City were organized in the same week for example. At the September 2021 public open house, hosted jointly by City and Region planning staff, an overview of the process was provided and it was explained the separate requirements related to notification and advised that public comments should be submitted through both the ARA process (to the applicant and MNRF) and the Planning Act process (to the City and Region).

8.3 Public Liaison Committee

The City of Port Colborne passed a by-law in 2020 to establish a Joint Agency Review Team Public Liaison Committee. The purpose of the committee was to allow members of the public to provide input into the review process. The committee was established with four members of the public (R. Henderson, C. Mitchell, G. Babion and K. Klauck). With some of the Committee members vacating their positions, the City intends to recruit new members in the near future.

Committee meetings have been held at the various stages throughout the application process (e.g. prior to the Open House, prior to the Public Meeting, at times where a new submission has been received etc.).

Throughout the application process, City of Port Colborne Planning staff have provided updates on the PCQ applications and have answered the committee's questions throughout their review of the submission materials. The goal of the committee is to provide comments on the applications to City Council when the applications are brought to Council for a decision.

8.4 Public Open House

A virtual Public Open House, hosted jointly by the Region and the City, was held on September 9, 2021. There were 30 public participants at this meeting and representatives

from PCQ also attended to answer questions about the project. A copy of the question and answer sheet from the open house is attached as **Appendix E**.

8.5 Record of All Comments Received

A record of all comments received by the JART over the course of the application process is attached as **Appendix D**. These comments are primarily those received in response to notification on the Planning Act applications or as submissions from the Statutory Public Meetings. In some cases, the JART was also copied on submission made in response to the ARA notifications. These comments were also considered, and are included in **Appendix D** for the completeness of the record.

8.6 Summary of Comments and JART Response

Table 8-1 summarizes comments that were received throughout the consultation process as well as the response from the JART.

Table 8-1: Summary of Public Comments and JART Response

Comment	JART Response
<p>Concerns were raised that if Babion Road was included as part of the proposed extraction it would further delay the rehabilitation of the existing quarry to a passive lake.</p>	<p>The extraction of Babion Road is not part of the PCQ application. PCQ does not own the Babion Road right-of-way. The initial application provided a conceptual rehabilitation scheme which considered the possible removal of the road, however the Site Plans were revised to remove this option.</p> <p>The JART confirms that the sale and closure or extraction of the Babion Road allowance is not part of the current Planning Act or Aggregate Resource Act applications by PCQ.</p>
<p>Several comments included historical complaints from the public regarding:</p> <ul style="list-style-type: none"> • Blasting • Domestic Wells • Well Interference • Pumping Discharge <p>Comments were received from the public that the quarry operator has a poor track-record addressing complaints from the public relating to operational standards</p>	<p>PCQ acknowledges there were past issues with how the previous quarry owner handled public-relations and how the quarry was operated.</p> <p>However, since Rankin Construction Inc. has owned/operated the quarry (July 2007), PCQ has advised that it has not received any complaints related to an operational issues including, blasting, flyrock or over-pressure property damage, noise, dust or any domestic water well interference. In addition, PCQ has advised that they have not received any formal complaints</p>

Comment	JART Response
<p>including but not limited to blasting, noise, dust, and water discharge.</p>	<p>related to 'chalky discharge' from the quarry pumping.</p>
<p>Numerous comments from the public that the Pit 1 is subject to a 1982 Site Plan Agreement between the quarry operator and the City of Port Colborne. That the conditions of this Site Plan agreement should be enforced as part of the proposed Pit 3 extension.</p>	<p>The proposed application is for the extension of PCQ Pit 3. Pit 2, Pit 3, and the proposed expansion of Pit 3 would be licensed under the Aggregate Resources Act. The 1982 Site Plan Agreement relates to unlicensed Pit 1 and its conditions cannot be enforced through the Pit 3 extension applications. Ongoing discussions with the City will be required regarding the long-term use of the Pit 1 lands.</p>
<p>Many comments noted the need for timely progressive rehabilitation and a commented that there has not been enough progress on rehabilitation in the existing "pits".</p>	<p>The JART agrees that there is a need for timely rehabilitation, especially in regards to PCQ Pit 2. Pit 2 cannot move to 'final rehabilitation' (creation of the lake) since PCQ must continue to transport material from the current Pit 3 through Pit 2 to Pit 1 for processing (crushing, screening, washing, loading) and trucked via their Highway 140 entrance/exit.</p> <p>As specified in the Site Plans, once the processing plant is relocated to Pit 3, and a new entrance/exit constructed onto Highway 3, then the Pit 2 dewatering pumps can be removed, and water will begin to fill the lands and the passive lake/final rehabilitation will occur.</p> <p>PCQ has advised that if the Pit 3 extension is approved, the timeline to open the new Highway 3 entrance and construct the necessary infrastructure to support the new processing plant would be about 5 years after the Pit 3 extension begins operations.</p>
<p>Comments from the public that the proposal is not consistent with the Provincial Policy Statement (PPS) because the subject lands are designated as 'prime agricultural land'.</p>	<p>S. 2.5.4.1 of the PPS allows for the extraction of mineral aggregate resources on Prime Agricultural Land provided that the land is rehabilitated back to an agricultural condition. There is an exemption that does not require rehabilitation to an agricultural condition when</p>

Comment	JART Response
	<p>extraction is below the water table provided the policy tests in the PPS are met. The Planning review of the application confirmed that the application meets the tests of the PPS with respect to extraction on prime agricultural lands. It is also important to consider that the policies of the PPS are to be read in their entirety rather than isolating individual sections.</p>
<p>Comments from the public that the proposed Pit 3 extension has the potential to impact the south Niagara aquifer and other important water resources, and that through dewatering, the drawdown or ‘cone of influence’ will result in domestic well interference.</p>	<p>Both a hydrogeological (groundwater) and hydrological (surface water) study were required to be submitted in support of the PCQ applications. Potential impacts to groundwater resources are an important consideration of both the Planning Act and Aggregate Resource Act processes.</p> <p>The hydrogeological and hydrological assessments were both subject to technical peer reviews.</p> <p>Included as part of the Site Plans are a number of conditions regarding groundwater testing and monitoring. As well as a range of other conditions to implement the recommendations of the hydrogeological and hydrological assessments. The conditions also include a Private Well Water Complaint Response protocol.</p>
<p>Comments from the public that the proposed Pit 3 extension has the potential to impact the natural environment.</p>	<p>A Natural Environment Report (NER) / Environmental Impact Study was completed as part of the ARA and Planning Act applications. The purpose of the NER was to evaluate the proposed quarry expansion in consideration of provincial, regional, local, and NPCA environmental policies and other requirements. The report was peer reviewed in addition to being reviewed by the MNRF and MECP Species at Risk Branch and JART.</p> <p>Based on the analysis and conclusions of the NER a range of mitigation measures were developed. These mitigation measures are</p>

Comment	JART Response
	<p>included as part of the ARA Site Plan drawings. If approved, the mitigation measures would be enforced through the Provincial license and other secondary ARA approvals that would be required. Examples of the range of environmental mitigation measures include:</p> <ul style="list-style-type: none"> • All surface water discharge to be regulated by an Environmental Compliance Approval (ECA) prior to any dewatering. • Conditions requiring the avoidance of bird breeding habitat. • Conditions requiring protection of fish habitat and/or relocation of fish species. Additional approvals from the Department of Fisheries and Oceans (DFO) would be required. • A requirement to implement wetland vegetation monitoring program. • A requirement to implement groundwater monitoring program. • A monitoring program for breeding bird and anuran (frog) call count surveys within the deciduous swamp. • Vegetation planting / restoration at several locations across the site. • A requirement to remove invasive shrubs prior to the planting and restoration of the Carl Road allowance through the northern wetland area. • Land set aside and conditions requiring PCQ to provide compensation habitat for Blanding’s Turtle.
<p>Concern / opposition regarding the reduction of the setback along Highway 3 from 90 metres to 30 metres. The need to protect the Highway 3 corridor.</p>	<p>PCQ has advised that they intend to move forward with application for the required zoning by-law amendment for the proposed reduction of the setback of the buffer from 90 metres to 30</p>

Comment	JART Response
	<p>metres. The following was cited by PCQ as the primary justification.</p> <ul style="list-style-type: none"> • S. 2.5.2.1 of the PPS requires “as much of the mineral aggregate resource as is realistically possible shall be made available as close to market as possible. PCQ estimates that there are approximately 1.7 M tonnes in the setback area. The south end of the site adjacent to Highway 3 also represents the deepest portion of the aggregate on the site. • A 30 m setback is the Provincial standard setback for aggregate operations and roads. • A landscape berm along Highway 3 is required.
<p>Concerns related to a new quarry access onto Highway 3 including total number of trucks and queuing of trucks on the public highway.</p>	<p>Since the Statutory Public Meetings in March 2023 updates have been made by PCQ to the Site Plan drawings in attempt address this issue including:</p> <ul style="list-style-type: none"> • Redesigning the new entrance on Highway 3 to accommodate the queuing of up to 11 trucks inside the quarry property, including moving the entrance gate and lengthening the berm. • Updating to Site Plan notes to clarify that any costs for a deceleration lane or other improvements to Highway 3 are at the cost of PCQ.
<p>Questions regarding the status of MTO approvals for the proposed entrance/exit onto Highway 3.</p>	<p>MTO were involved in initial discussions with the Region, City, and PCQ and have expressed support for a new entrance onto Highway 3. MTO’s support was subject to the new entrance being across from Weaver Road, and other points of access to the site from Highway 3 (such as the driveway that serves Humberstone Speedway) being decommissioned.</p>

Comment	JART Response
	<p>If the proposed quarry is approved, PCQ will be required to obtain design approval and a permit from MTO.</p>
<p>Questions from the public asking whether it continues to make sense to extract the ‘northern finger/tab’ (Phase 3) given its ongoing reduction in size and limited width.</p>	<p>PCQ has advised that there is significant volume of material in the northern tab to make the extraction economically viable. Extraction of the northern tab would need to be done in accordance with Provincial standards and any other conditions of potential approval.</p>
<p>The need to protect the northern significant wetland and significant woodland given the proximity of proposed extraction on two sides. Maintaining the wetland water balance.</p>	<p>Through early iterations of the application the north-west natural features on the site did not include environmental buffers. Based on comments received from JART and the Province it has been confirmed that a large portion of the feature has been assumed to be a “significant wetland for planning purposes” and a 30 m buffer would be applied (although the feature will continue to be classified as a evaluated, non-significant wetland). The remainder of the feature has been classified as a significant woodland, to which a 10 m buffer would be applied.</p> <p>Given that the Wignell Drain is proposed to be realigned to accommodate the proposed quarry extension it was necessary to ensure that an appropriate wetland water balance would be maintained (i.e. that the wetland does not become either too wet or too dry).</p> <p>Through several iterations, and ongoing discussions with the JART and peer review consultants PCQ and their consulting team are proposing a diversion berm and weir to allow for management of the water levels. This would be supported by a monitoring and mitigation program which would be enforceable through the ARA license.</p>

Comment	JART Response
<p>Comments from the public that the setbacks between extraction and the wetland / woodland should be increased.</p>	<p>Earlier iterations of the application did not include buffers / setbacks to the natural features. A 30 metres setback to the wetland (which has been assumed to be significant for planning purposes), and a 10 metres setback to the significant woodland is now proposed by PCQ and included as part of the Site Plans. Extraction is excluded from the buffer, and the buffer would be designated and zoned the same as the adjacent natural feature.</p>
<p>Comment from the public inquiring about the need for a spills response plan and about the need for a spill's containment pad for vehicles.</p>	<p>In response to this question, PCQ has highlighted the following proposed conditions:</p> <ul style="list-style-type: none"> • General Operational Note 12: Fuel Storage: Fuel Storage: There will be no on-site fuel storage. Fuel storage will continue to be located in the Port Colborne Quarries Inc. Pit 1. Portable equipment within the quarry (i.e., crushers, screeners, generators, etc.) will be refueled by a mobile fuel truck or equivalent and follow all applicable Liquid Fuels Handling code requirements. • General Operational Note 32 address the need for a Spills Response Plan. <ul style="list-style-type: none"> ○ Spill Response Plan: A Spills Response Plan must be posted on-site at all times in the scale house or administration office/trailer.
<p>Several questions regarding who is financially responsible for the temporary realignment of the Wignell Drain.</p>	<p>PCQ would be responsible for all costs associated with the temporary realignment of the Wignell Drain. Approval through the Drainage Act would be required as noted by conditions on the Site Plan drawings.</p>
<p>Concern about negative impacts on the surrounding properties from noise, dust, traffic, and blasting.</p>	<p>Technical studies for noise, air quality, and blasting were submitted and peer reviewed to ensure that the methodology, analysis, conclusions, and recommendations were</p>

Comment	JART Response
	<p>completed in accordance with industry and provincial standards and the conditions of the ARA license.</p> <p>Through the ARA license the quarry would be required to operate in accordance with Provincial standards. A traffic impact study was also submitted with the application. Since the Statutory Public Meetings, changes have been made to the Site Plans to allow for truck queuing on the quarry property.</p>
<p>Potential impacts from contaminated soils on the speedway lands, use of contaminated material for berm construction, and the need for timely clean-up of known and potential contamination.</p>	<p>Through the pre-consultation process it was identified by JART that potential impacts from contaminated soil needed to be addressed through the application process.</p> <p>A Phase 1 Environmental Site Assessment (ESA) and Conceptual Soil Management Plan were requirements of a complete application.</p> <p>The Phase 1 ESA identified a number of areas of potential environmental concern (APEC) and concluded that additional investigations through a Phase 2 ESA would be required.</p> <p>Condition have been included in the Site Plans to require the completion of the Phase 2 ESA, Final Soil Management Plan, and clean-up of contaminated soils.</p>

9.0 Conclusion and Next Steps

The JART has completed its technical review of the proposed PCQ Pit 3 extension applications. Every attempt has been made to ensure a thorough and comprehensive analysis. The results are documented within this report.

The JART Report will be provided to the JART members to support the making of recommendations to their respective agencies. The Region and the City of Port Colborne will bring forward staff recommendations on the Planning Act applications (ROPA, OPA, and ZBA) for Council's consideration. The conclusion of the JART Report will also help to inform the City, Region, and NPCA in providing comments to the applicant and Province under the Aggregate Resources Act.