

## MEMORANDUM

**TO: Hopewell Creek Ratepayers Association**

**FROM: Margaret Walton**

**DATE: March 2, 2021**

**SUBJECT: Review of Agricultural Impact Assessment  
Shantz Station Pit, Township of Woolwich**

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Planscape has been retained by the Hopewell Creek Ratepayers Association (HCRA) to provide comments on the agricultural analysis submitted in support of an application by Capital Paving to establish a Class A, Category 3 pit on lands located in Part of Lots 81 & 82, German Company Tract, (Geographic Township of Waterloo), Township of Woolwich, Region of Waterloo. The agricultural analysis was summarized in an Agricultural Impact Assessment (AIA) report, prepared by MacNaughton Hermsen Britton Clarkson Planning Ltd., (MHBC), dated March 2019. The Region of Waterloo subsequently retained Colville Consulting Inc. to conduct a peer review of this AIA. The Colville review was released on February 5<sup>th</sup>, 2020 and contained 29 recommendations to address shortcomings of the initial MHBC, AIA. MHBC responded to the peer review on May 4<sup>th</sup>, 2020. According to a letter from Colville Consulting to the Region dated July 17<sup>th</sup>, 2020, this response satisfied all but 6 of the issues raised. The remaining issues were addressed in emails and discussions between MHBC and Colville between May and July 2020. The outcome of those discussions, outlined in the chart attached to the July 17, 2020 letter, satisfied all of Colville's concern.

The following steps were taken by Planscape to complete an analysis of this agricultural work:

- Reviewed the MHBC reports and subsequent analysis by Colville;
- Conducted a "drive by" site inspection of the subject property and surrounding area;
- Based on input from the HCRA, reviewed surrounding uses within 1 km and 1.5 km of the proposed extraction;
- Reviewed relevant policies in the Provincial Policy Statement (PPS), Region of Waterloo Official Plan (ROP), Township of Woolwich Official Plan (TOP);
- Reviewed online material associated with the application and posted on the Township of Woolwich website;
- Spoke with the Township planner;

- Spoke with the Region of Waterloo planner;
- Spoke with peer reviewer, Sean Colville.

The AIA done in support of the Shantz Station Pit was completed in March 2019. At that time, the 2014 PPS and the 2017 Growth Plan for the Greater Golden Horseshoe were in effect. The guidelines referred to in completing the AIA were draft guidelines released for comment by the Province in 2018.

The 2017 Growth Plan was replaced by the updated A Place to Grow, Growth Plan for the Greater Golden Horseshoe (the Growth Plan) in May 2019, that was subsequently amended in August 2020. An updated PPS was released in May 2020. The final Agricultural Assessment Impact Guidance Document is due to be released within the next few weeks.

Although the policies and regulations in effect on the date when an application is received by and deemed complete by a municipality are generally what continues to be applicable as the application is reviewed, this is not necessarily the case for provincial policy. It takes effect on the date of the Order in Council and decisions from that date forward must confirm to it. This is the case for the 2019 PPS, and arguably for the Growth Plan. The Shantz Pit application should be updated to respond to these policies and to address the final provincial Agricultural Impact Assessment Guidance Document.

## Analysis

The unfortunate reality of dealing with aggregate applications is that in the provincial policy hierarchy, aggregate protection and extraction of aggregate resources tends to take precedence over agriculture. Section 2.4.4 of the PPS permits aggregate extraction in prime agricultural areas provided the site is rehabilitated. Aggregate extraction is characterized as an interim use, with rehabilitation the required tool to return the land to its prime agricultural status. The government has been working to improve the requirements for rehabilitation so arguing that rehabilitation is not effective, is becoming increasingly difficult. However, regardless of the provincial position on rehabilitation, there is still considerable debate as to whether the standard set in Section 2.5.4 of the PPS can be met.

*2.5.4.1 In prime agricultural areas, on prime agricultural land, extraction of mineral aggregate resources is permitted as an interim use provided that the site will be rehabilitated back to an agricultural condition.*

In its 2020 submission to the Ministry of Natural Resources and Forestry (MNRF) regarding proposed amendments to the Aggregate Resources Act, the National Farmer Union – Ontario stated:

*The proposed approach perpetuates the assumption that aggregate extraction can be an 'interim use' of land and that once the aggregate is removed, the land can be rehabilitated back to the same agricultural condition.*



*Farmers, who work land on a daily basis, know this is simply not true. The aggregates under the soil contribute to the 'soil capability' of the specific piece of land and increase the value of the land for growing crops. Removing huge quantities of rock and gravel results in permanent changes to hydrology and soils, and thus to the conditions which support particular crops and plant and animal life.*

*Humans are simply unable to fully recover the agricultural and biodiversity values and ecological functions, formed over the centuries, that are lost when aggregates extraction proceeds.*

*Rehabilitation must not be used to justify aggregates extraction in prime farmland and significant natural features. It is truly disingenuous to term aggregates extraction an 'interim usage.' The loss of food-producing lands and natural heritage features is long-term, if not permanent.<sup>1</sup>*

As a planner I do not have the technical expertise to comment on the details of the proposed rehabilitation plan for the Shantz Station Pit. I do, however, believe it is an issue worth pursuing with the appropriate experts. Based on my experience in working with agricultural land use, I am skeptical of the ability to meet the test in 2.5.4.1 *"that the site be rehabilitated back to an **agricultural condition**"*.

Irrespective of the argument regarding rehabilitation, there are components of the work that has been done both by both the proponent and the peer reviewer that can be questioned. These components include:

- Consideration of alternatives;
- Justification of need;
- Consultation process with neighbouring landowners;
- Inadequate inventory of existing land uses in proximity to the proposed pit;
- Impact on local character;
- Analysis of impact on local agricultural sector;
- Impact on the provincial agricultural system;
- Timing of the phasing.

## **Alternatives**

There is no consideration of alternative sites in the AIA.

In a response to this criticism in the peer review, MHBC responded that Section 2.3.6.1 of the PPA which requires consideration of alternatives does not apply to mineral aggregate resources.

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<sup>1</sup> <https://nfontario.ca/new/news-policy/page/3/>



### 2.3.6.1

*Planning authorities may only permit non-agricultural uses in prime agricultural areas for:*

- a) extraction of minerals, petroleum resources and mineral aggregate resources; or*
- b) limited non-residential uses, provided that all of the following are demonstrated:*
  - 1. the land does not comprise a specialty crop area;*
  - 2. the proposed use complies with the minimum distance separation formulae;*
  - 3. there is an identified need within the planning horizon provided for in policy 1.1.2 for additional land to accommodate the proposed use; and*
  - 4. Alternative locations have been evaluated, and*
    - i. there are no reasonable alternative locations which avoid prime agricultural areas; and*
    - ii. there are no reasonable alternative locations in prime agricultural areas with lower priority agricultural lands.*

However, Section 2.5.1 of the PPS directs that “*where provincial information is available, deposits of mineral aggregate resources shall be identified*”. This information is available in Waterloo Region and the ROP maps Mineral Aggregate Resource Areas (MARA) on Schedule 8 of the ROP. The ROP policies direct mineral aggregate resource extraction to those areas. The proponent should have considered areas mapped in the ROP as alternatives and justified why the Shantz Station site was chosen over these other identified sites.

Although the ROP is consistent with the PPS in that it does not preclude extraction in other areas if appropriate justification is provided, extraction is generally directed to the identified areas. There is no identified MARA on the Shantz Station property. There is a MARA to the south of the property closer to Hwy 7 and numerous other identified MARA’s in other areas of the Township. There is no explanation in the AIA as to if, or why, other identified MARA’s were not considered.

The TOP also directs mineral aggregate resource extraction to identified sites.

*11.3.1 This Plan adopts the Mineral Aggregate Resource Areas as illustrated on Map Number 5 (now Schedule 8) of the Regional Official Policies Plan entitled Mineral Aggregate Resource Areas and adopts as general policy that the Township will favour, with the co-operation of the Regional Municipality, the extraction of sand and gravel from locations within Mineral Aggregate Resource Areas subject to controls contained in this Plan, the Regional Official Policies Plan and the Zoning By-law of the Township.*

*11.3.2 It shall be the policy of this Plan that amendment may be made to the Zoning By-law to permit the making or establishing of pits and quarries within the areas defined as*



*Mineral Aggregate Resource Areas on Map Number 5 (now Schedule 8) of the Regional Official Policies without amendment to this plan.*

In considering an application for MARA land uses the policies of Section 11.1 of the TOP apply.

- 11.1 The establishment of a pit or quarry within the areas designated by this Plan, as Rural Land Use shall be considered as an interim use, which may be permitted after consideration and evaluation of the following:*
- a) the need to utilize the resource at the time of application in the interest of the residents of the municipality, the Region and the Province;*
  - b) the overall policies of this Plan and particularly those policies related to preserving lands in the Rural Land Use designation for food production;*
  - c) the policies established in this Chapter;*
  - d) the Policies of the Regional Official Policies Plan;*
  - e) the potential impact of the pit or quarry on the natural habitat network, as per Chapter 13 Environmental Stewardship Policy;*
  - f) the utilization of lands defined in the Regional Official Policies Plan as Prime Agricultural Area for sand and gravel extraction shall only be considered in accordance with the foregoing and after Council is satisfied:*
    - i) that there are no viable alternative sites where the required resource can be obtained in areas not considered to be Prime Agricultural Areas;*
    - ii) that Council has considered the impacts of the proposed pit or quarry on adjacent land uses and has concluded that the need for the use of the specific site for sand and gravel extraction outweighs the impacts associated with it, including its impact on the continued operation of adjacent lands for food production; and*
    - iii) that maximum rehabilitation of the lands for agriculture following extraction is proposed so that they can be used for farming.*

These policies require that alternatives be considered.

In the AIA, MHBC stated that:

*In response to part (i) above it is noted that all agricultural lands in the Township are designated as prime agricultural land. It is further noted that all designated aggregate resourced are also located in prime agricultural land. Therefore, extraction of aggregate resource outside of prime agricultural areas is not possible. <sup>2</sup>*

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<sup>2</sup> MHBC Agricultural Impact Assessment, Capital Paving Inc., Shantz Station Pit. March 2019, pg. 26.



This is disingenuous. Although all the rural land in the Township may be prime agricultural land, some of those lands are also identified as MARA's. According to ROP and TOP policies they should be considered as alternative pit locations. This was not addressed in the AIA.

## Need

Section 11.1a) of the TOP requires that *"the need to utilize the resource at the time of application in the interest of the residents of the municipality, the Region and the Province"* be demonstrated.

The response to this requirement in the AIA is extremely limited. In Section 4.3 of the AIA, MHBC states *"the subject lands were selected based on their proximity to Highway 7, which is to undergo significant road improvements, in the near future requiring significant amounts of aggregate to be available in close proximity<sup>3</sup>".*

This characterization of need could be applied to any property along the length of the Highway 7 corridor and ignores the fact that there are lands in closer proximity to Highway 7 that are identified in the ROP as areas of MARA.

The analysis of need does not satisfy the requirement in the TOP.

## Existing Land Uses

The inventory conducted of existing land uses for the initial AIA was totally inadequate. It did not include many agricultural operations including a multimillion-dollar dairy operation and an active greenhouse business located in close proximity to the pit property. A school located to the south and within a kilometre of the pit property was not identified.

The inadequacy of the land use inventory was partially addressed in MHBC's response to the peer review dated May 2, 2020. However, an inventory of properties within 1 km of the site recently conducted by area residents, identified 16 additional properties on which agricultural crops are produced that were not identified in either the original AIA or in the response to the peer review. Six of these properties house livestock.

The characterization of uses on properties included in the MHBC inventories were in some cases wrong or incomplete. It is unclear how mitigation and minimization of impacts could be adequately addressed when the inventory of potential properties was incomplete.

## Study Area

The primary study area for the AIA was set at 120 m, the secondary study area at 1 km. There is no rationale given for using these distances. In the draft provincial AIA guidelines, it is recommended that 1 km be a **starting** point.

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<sup>3</sup> Ibid., pg. 24.



*It is recommended that a 1 km radius from the proposed licensed area be a starting point for the investigation for the secondary study area. Depending on the scale of the proposed extraction and*

*the potential impacts on agriculture, the study area can then be appropriately increased or decreased.*<sup>4</sup>

No explanation is given as to whether this recommendation was addressed. Regardless, given the inadequacy of the land use inventory, it is questionable whether criteria for selecting the extent of the secondary study area would have been appropriate.

### **Consultation**

Although consultation has occurred, there is a heavy reliance on the owner of the property that is to be developed for insight into the farming community in both the initial AIA and the response to the peer review.

*(...) we can advise that extensive consultation has occurred with the landowner who currently owns the property as well as a number of adjacent properties and has farmed the area for decades*<sup>5</sup>

Given that this is a well-established, productive farming community with large valuable operations in close proximity to the proposed pit, it would be reasonable to expect a more robust consultation process. Reliance on the person benefitting financially from the development is not adequate.

Although the application may check all of the boxes in providing the appropriate background reports, there are impacts specific to agriculture that should be considered through discussion with area residents. The Ontario Federation of Agriculture addressed some of the specific concerns related to agriculture that are associated with aggregate operations.

*Residences, hospitals or schools are considered to be “sensitive receptors”. We agree that residences, hospitals or schools should be protected from noises and dusts from aggregate extraction activities through appropriate setbacks. OFA believes that farms with livestock and poultry also deserve to be protected from the impacts from noises and dusts from aggregate extraction activities too. Loud and random noises negatively impact herd and/or flock health, which translates into reduced farm income from meat and/or milk production. If residences, hospitals or schools merit setbacks from a site’s boundary to address noise and dust impacts, OFA requests that these sensitive receptor setbacks also apply to livestock and poultry farms.*

*Dust reduces crop yields and can also damage harvest equipment. In addition, it is not beneficial for livestock to feed on dust-covered crops. The Ministry is proposing to require all license and permit holders to mitigate dust to prevent it from leaving the site. Licence holders would need to mitigate dust regardless of their proximity to a “sensitive receptor”.*

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<sup>4</sup> OMAFRA Draft Agricultural Impact Assessment (AIA) Guidance Document, March 2018, pg. 19.

<sup>5</sup> MHBC Letter to Region of Waterloo, dated May 4, 2020, pg. 12.



*Permit holders would only need to mitigate dust if a sensitive receptor was within 1000 metres of the site boundary. OFA believes that farms should be viewed as “sensitive receptors” when it comes to off-site dust from aggregate operations.<sup>6</sup>*

There are other potential impacts on the agricultural community that could also be identified through consultation with local farmers. Often operators will rely on rented land to augment production of feed for livestock or to increase their returns. Will removal of this large of agricultural land for production purposes impact any of these practices?

### **Local Character**

The area in which this MRA development is proposed is an established rural community. Within the 1 km secondary study area, as illustrated in **Figure 1**, is the majority of a village, a school, a golf course, numerous rural residences and established farms. The balance of the village, many more rural residences and significant farm properties are within 1.5 km. A visit to the area confirms the character as that of an established active rural community. The proposed pit is in the centre of this community and given the topography will be very visible from the surrounding properties and roads. It will essentially become the “hole in the middle” and impact the established character of this community.

### **Phasing**

Although the geographic progression of the phasing of extraction is addressed in the AIA, the timing is not. Timing is an important consideration in assessing the impact on the agricultural community. If the extraction is a relative short period of time, the impact on the integrity of the agricultural area will be less. However, if extraction is to proceed over a long period of time, the impact increases. The ROP address this issue.

### *Section 9*

*The challenge facing the Region and Area Municipalities will be to address the growing demand for aggregates while preventing or minimizing the potential impacts of mineral aggregate operations on surface water and groundwater resources, surrounding communities, cultural heritage resources, environmental features and ecological functions, and agricultural resources and operations. Within the Prime Agricultural Area, Provincial policy generally treats mineral aggregate operations as interim land uses that will return to an agricultural use once the aggregate resources have been extracted. However, the duration of any given aggregate operation will depend on the scale and nature of the operation. Some operations may cease to operate after a few years, while others may continue to exist for several decades. In addition, mineral aggregate operations that extract resources from below the water table result in permanent changes to the landscape as well as surface water and groundwater regimes. For these reasons, this Plan places a high priority on identifying and addressing, in conjunction with Area Municipal official plans, the*

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<sup>6</sup> OFA Submission to MNRF re Aggregate Resources Act, May 5, 2020.



*potential long-term social and environmental effects of mineral aggregate operations throughout the Region.*<sup>7</sup>

Section 9 C of the ROP requires that the lifespan of the operation be addressed.

*9.C.3 Development applications to permit a new mineral aggregate operation, expand an existing operation, or increase the depth of extraction, will only be permitted where the following studies have been submitted to the satisfaction of the Region or agency with jurisdiction over the issue addressed by the study:*

*f) information on the estimated lifespan of the mineral aggregate operation and demonstration that the final rehabilitation plan is consistent with the policies in this Plan and the Area Municipal official plan;*<sup>8</sup>

This has not been done in the MHBC AIA work. Based on the details provided regarding the volume of and timing of extraction, it is estimated that the life of this operation could range from 12 to 24 years. This is an extensive period of time and could have a negative impact on the agricultural character and function of the area.

*Aggregate extraction is touted as an interim use. While the resource in pits and quarries will eventually be exhausted, meaning that the lifespan is finite, and the site will be rehabilitated to some end use, these uses are not short term. Removing parcels of land from agricultural use impacts not only the farmer who farms the land. The indefinite duration of pits and quarries can also negatively impact neighbouring farm operations, as well as the businesses and services that serve them and rely upon agricultural output. A portion of their supply chain is removed. It may be viewed as only one farm, but where aggregates are found under one farm means they will also be found under others. A number of pits or quarries will open in the area. It will not be one farm, but several. They will be out of farm use for a decade or more; forever in the case of below water table sites.*<sup>9</sup>

This potential impact is not addressed. Reliance on the assertion that areas of the site will continue under production as the extraction proceeds, do not provide sufficient detail to assess this impact.

### **Impact on Agricultural Network**

Section 4.2.8.3 of the provincial Growth Plan directs that applications for MRE be supported by an AIA and that they “seek to maintain or improve connectivity of the **Agricultural System**.”

The **agricultural system** referred to is defined in the 2019 Growth Plan as:

*Agricultural System The system mapped and issued by the Province in accordance with this Plan, comprised of a group of inter-connected elements that collectively create a viable, thriving agricultural sector. It has two components: 1. An agricultural land base comprised of prime agricultural areas, including specialty crop areas, and rural lands that together*

<sup>7</sup> Region of Waterloo Official Plan June 15, 2015, Section 9, pg. 133.

<sup>8</sup> Region of Waterloo Official Plan June 2015, Section 9C, pgs. 137-138.

<sup>9</sup> OFA letter to Minister of Agriculture Food and Rural Affairs, Dec. 2, 2016.



*create a continuous productive land base for agriculture; 2. An agri-food network which includes infrastructure, services, and assets important to the viability of the agri-food sector. (Greenbelt Plan)<sup>10</sup>*

MHBC addresses the agricultural system in Section 4.2 of the AIA. They concede that the subject lands are included in the Provincial Agricultural System but note that the mapping is not in effect until a “Municipal Comprehensive Review” (MCR) is completed and confirms the extent of the provincial system. An MCR is an official plan review and update and is currently underway in Waterloo. Given that the land is currently designated as prime agricultural land in both the ROP and the TOP, it is anticipated that it will be confirmed as part of the Provincial Agricultural System and the AIA, while not commenting on that possibility, does concede that mitigation measures, as required when non-agricultural uses are proposed in the system, must be implemented. MHBC also references the need to maintain or improve the connectivity of the system. However, their response in addressing this requirement is to conclude that since the land will be progressively rehabilitated back to an agricultural condition, connectivity will be maintained in the long term ‘

This response does not address the issues raised in the previous section regarding the timing of the operation. If the phasing of the operation will take between 12 and 24 years as is implied by the restriction on tonnage and the proposed rate of excavation, a more robust response to maintaining the integrity of the agricultural system should be provided.

## **Conclusions**

The agricultural assessment work done to support the Shantz Station Pit application is inadequate. Based on this analysis it is my conclusion that the following issues were not adequately addressed.

- Consideration of alternatives;
- Justification of need;
- Existing land use;
- Consultation process with neighbouring landowners;
- Impact on local character;
- Analysis of impact on local agricultural sector;
- Timing of the phasing; and
- Impact on the provincial agricultural system.

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<sup>10</sup> Growth Plan for the Greater Golden Horseshoe, updated May 2019, amended August 2020. Section 7, pg. 66.



Figure 1



**PROPERTY INFORMATION SKETCH**  
 PART OF LOTS 81 & 82  
 GERMAN COMPANY TRACT  
 GEOGRAPHIC TOWNSHIP OF WATERLOO  
 TOWNSHIP OF WOOLWICH  
 REGION OF WATERLOO

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