

HALTON CONSOLIDATED MINERAL AGGREGATE REVIEW PROTOCOL ("Joint Agency Review Team Protocol")

Introduction

The Halton Consolidated – Streamlined Mineral Aggregate Review Protocol was originally developed through an extensive, consultative process between Halton Region, Niagara Escarpment Commission (NEC), Local Municipalities, Conservation Authorities, Ministry of Natural Resources and Forestry (MNRF) and Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA). The Protocol was first approved by Regional Council on January 31, 2001 and revised in September 2004, and again in March 2007. The February 2020 update is intended to incorporate feedback and lessons learned from these recent reviews into the Protocol alongside a number of necessary administrative edits to reflect other updated processes.

The Protocol applies to applications for new or expanding mineral aggregate sites in Halton, submitted under the *Aggregate Resources Act (ARA)*, *Planning Act* and, where applicable, *Niagara Escarpment Planning and Development Act (NEPDA)*. The objectives are to:

- provide clarity on the agencies' technical review process for the public, government bodies and aggregate industry
- direct the aggregate industry in providing all required information in a coordinated and comprehensive manner needed to consider aggregate and/or aggregate related applications;
- co-ordinate and streamline all applicable agency staff actions including processing, circulating, consulting and commenting on aggregate applications;
- facilitate effective review and comment by the public by providing information early in the process and responding to questions and issues;
- support decision-making by Municipal Councils, Provincial Ministries, special purpose bodies, Conservation Authority Boards, the Local Planning Appeal Tribunal (LPAT), Joint Board (JB), and Cabinet; and
- reduce the length of time, duplication of effort, and resources required to consider proposals for new or expanding pits and quarries.

The major focus of the Protocol is to consolidate and streamline all mineral aggregate application processing as dictated by the three legislative instruments governing the processing of most mineral aggregate applications in Halton: *ARA*, *Planning Act* and *NEPDA*. The Parkway Belt West Plan, Greenbelt Plan, *Ontario Water Resources Act*, *Environmental Protection Act*, federal *Fisheries Act*, *Consolidated Hearings Act*, and any other relevant legislation may also be considered in the review of aggregate applications.

The Protocol is adaptable, meant to be flexible rather than prescriptive. It is based upon agreement by agency staff to work together as much as possible. The processing of each application will vary depending on the type and scale of the application under consideration as well as its location and predicted impact.

While the Protocol helps to improve coordination and communication among all agencies, it does not bind any of the participating government agencies to a predetermined position. The independent authority of each government decision-making body is enshrined in the pertinent legislation they are governed by. Likewise, the JART agencies may have their own individual requirements to be satisfied as part of their respective processes beyond those of the JART Protocol.

Explanation of the Protocol Flow Chart and Major Initiatives

The Halton Consolidated Mineral Aggregate Review Protocol extends from first consideration of a new or expanded aggregate operation to approval or denial of the various amendment applications and the ARA licence.

The four major stages are:

1. Pre-consultation
2. Formal Submission, Circulation and Review
3. Detailed JART Review and Agency Decision Making
4. Provincial Review, Decision Making and Approval / Refusal

Ten key initiatives occur during the four stages of the Protocol:

1. Extensive Pre-consultation Process
2. Establishment of a Joint Agency Review Team (JART)
3. Develop a JART Work Plan
4. Formal Submission, Determination of a Complete Application, Circulation and Initial Review
5. Holding of Statutory Public Meeting(s)
6. JART Review and Analysis of Agency and Public Comments
7. Niagara Escarpment Commission Decision Making, if applicable
8. Local & Regional Council Decision Making
9. LPAT or Joint Board (JB) Appeals and Hearings / Decisions
10. Provincial Decision Making and/or MNRF Approvals / Refusal

1. Extensive Pre-consultation Process

The following will generally be undertaken during pre-consultation:

- All agencies will be contacted by the agency first notified of the intent to establish an aggregate proposal that is subject to the Protocol to form a Joint Agency Review Team (JART), as described in #2. The agencies will identify approval

- requirements, applicable policies and guidelines, potential issues, and specific agency study requirements applicable to the intended aggregate proposal.
- A pre-consultation meeting will be held with the applicant, the applicant's consultants and members of the JART to discuss the process.
 1. Where a pre-consultation meeting is not held, the applicant will be encouraged to undertake these steps.
 - The JART agencies may make studies/reports or other documents obtained throughout the pre-consultation process available to the general public through their respective websites
 - The proponent should provide JART with:
 1. An overview of the proposal and key issues.
 2. A draft work program with milestones and timelines for JART consideration.
 - The JART will:
 1. Come prepared to discuss the proposal and complete application requirements.
 2. Indicate any additional costs that will be billed directly to the proponent.
 3. Provide comments or notes of the pre-consultation meeting.
 4. Develop a tracking system for comments received on the application(s)

Following the pre-consultation meeting, the applicant will prepare draft detailed Terms of References for the appropriate studies, as identified at the pre-consultation meeting, for review by JART agency staff. Review of and agreement upon those Terms of Reference will occur following the pre-consultation meeting.

This pre-consultation process does not establish or guarantee a particular agency position on the respective application(s). The agency review may be limited by missing information, studies or processing fees. Any pre-consultation staff comments will likely be preliminary in nature and qualified since the agency's final position will be determined by those with the decision-making authority. While the pre-consultation process may be extensive, it can eliminate delays down the road, duplication of effort, and possibly costly LPAT/Joint Board appeals.

The various Commissions, Councils, and Boards, as applicable, will be notified when pre-consultation begins on any new aggregate proposal that is subject to the Protocol. Pre-consultation with Halton Region and the Local Municipalities are required on applications for mineral aggregate extraction in accordance with *Planning Act* and their specific Official Plan requirements.

Where an applicant has not yet filed a planning application, the applicant shall be encouraged to request and attend a pre-consultation meeting with the appropriate conservation authority and the local and regional municipalities.

Pre-consultation also includes Items 2 and 3 described below.

2. Establishment of a Joint Agency Review Team (JART)

A JART will be established for any application for new or expanding mineral aggregate sites in Halton. This includes instances where no concurrent application under the *Planning Act* is active.

The JART is typically composed of a Chair and agency-appointed staff and/or experts from the Niagara Escarpment Commission (when applicable), the local municipality(ies), and the applicable conservation authority(ies). This coordination is critical when considering the multiple approvals potentially required and the range and complexity of issues for new or expanding pits or quarries. The Ministry of Natural Resources and Forestry, Ministry of the Environment, Conservation, and Parks (or successor ministries), and other pertinent ministries will be invited to participate. Should an agency choose not to participate in the JART, the remaining agencies shall continue within the JART framework. Ministries not participating within the JART framework will still be invited to attend meetings as applicable.

The JART agencies, in initial meetings, shall nominate an agency to Chair the process. The role of the Chair is to coordinate JART comments and track and respond to public and agency input on the proposed undertaking.

Subcommittees of the JART may be established to deal with specific areas of concern. For example, surface and ground water impacts could involve a subcommittee comprised of Regional, Conservation Authority, and Provincial Ministry staff.

At the initiation of an aggregate application, or at any time during the process, the agencies can determine that an application, by reason of its size and scope, will not require a full JART process review. This position will be reported to the respective Municipal Councils, Conservation Authority Boards, and the Niagara Escarpment Commission (NEC) where applicable, for consideration and endorsement.

3. Establish a JART Work Plan

During pre-consultation and taking into consideration the Protocol, JART should establish a work plan and timetable to ensure effective and efficient processing of the application. The work plan should consider the joint processing, public notification and advertisement, agency review, comment and final decision-making on all necessary applications for mineral aggregate extraction. As an example, a conceptual work plan with expected timelines for Regional Official Plan Amendments for mineral aggregate extraction applications is shown in Figure 1, on the following page.

The applicant and applicant's consultants should be in regular contact with the JART since the applicant is expected to provide the information needed for decision-making.

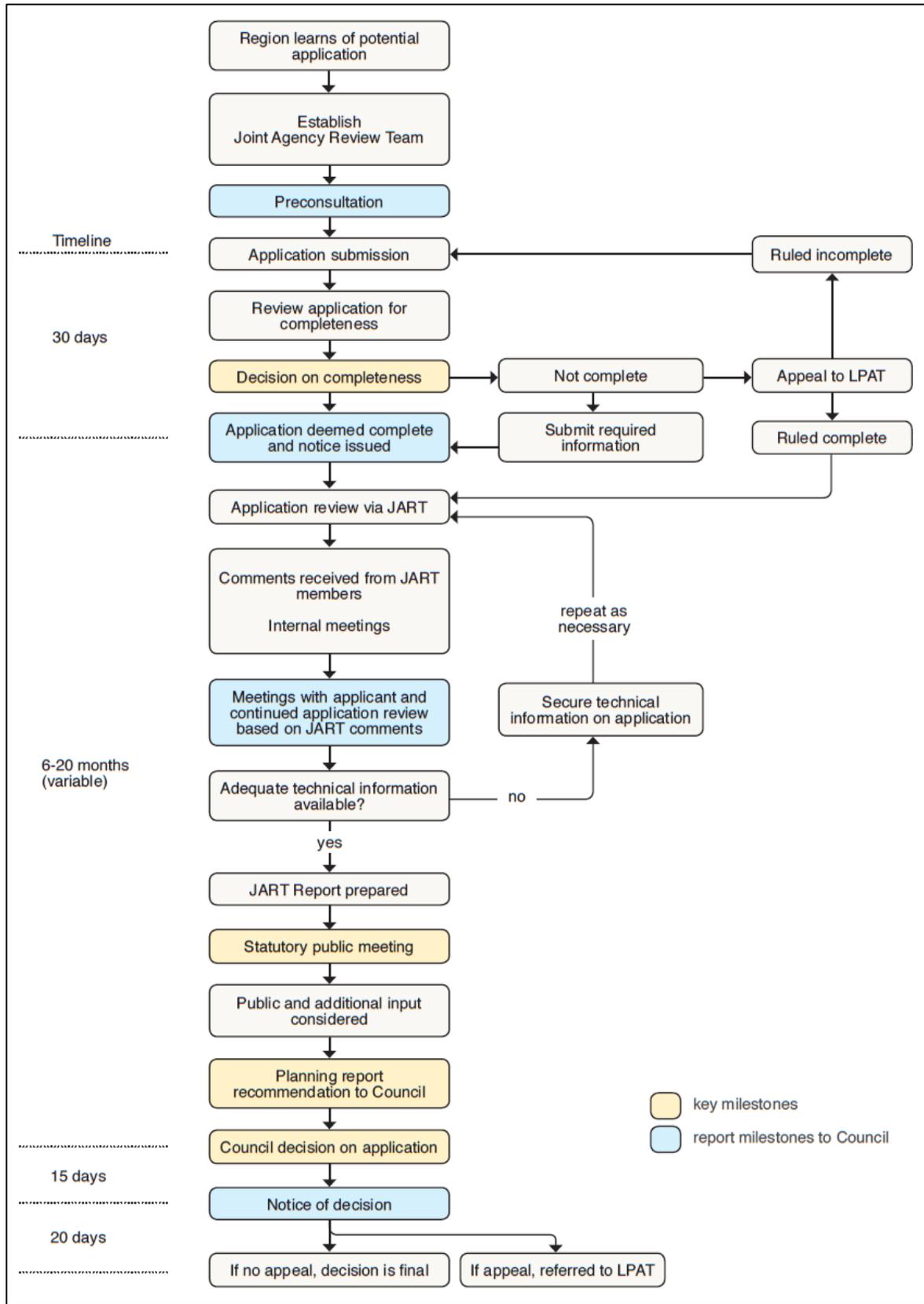


Figure 1. A conceptual work plan for a Regional Official Plan Amendment process for aggregate extraction applications. This conceptual work plan would be adjusted when a Niagara Escarpment Plan Amendment is required to ensure a decision on that application comes first.

4. Formal Submission, Determination of a Complete Application, Circulation and Initial Review

The applicant is encouraged to file all required amendment applications and supporting technical reports simultaneously to all review and approval bodies (i.e., MNR, Halton Region, Local Municipality(ies), Conservation Authority(ies), and if necessary, the NEC). The application forms and required background reports should be packaged so that each approval authority has the same information.

After submission of the application and supporting material, the JART Chair will call a meeting. The JART will discuss whether the applications are complete. If the individual agencies, as appropriate, deem the applications to be complete based on each agency's review and in accordance with their respective policies and guidelines, the JART Chair will prepare a circulation letter describing the review process, and undertake a joint (external agency/organization) circulation. The external agencies/organizations may include such organizations as utility companies, school boards, etc. As a result, the JART Chair will require additional application packages for circulation.

The proponent should create a website related to the proposal where all documentation originating from the proponent and links to other agencies' sites are available. The website should always include the most up-to-date information that has been provided on the application. To maximize accessibility to web based information, it is preferable for users to be able to access, download, search within the document, and print information that is part of the public record without registering on the site. The posting of documents in pdf format is strongly encouraged. All agencies will make their own documentation available on their respective websites along with links to other government websites with information on the proposed application.

Decisions on the completeness of an application under the *Planning Act* reside with each municipality with an application. Recommendations are not made by JART in this regard. However, JART will work to coordinate each municipality's and agency's review and ensure the overall review program is coordinated to the best extent possible.

Each JART agency will report on the merits of the applications to their respective Council, Board or Commission. The applicant and all JART agencies will be made aware of the staff reports and dates of Council, Board or Commission consideration. All attempts will be made to produce a consolidated set of comments from all agencies (acknowledging that all agencies may not share all comments and/or have different issues).

5. Holding of Statutory Public Meetings

Statutory public meetings required under the *Planning Act* (where applicable) and the *Aggregate Resources Act* will be held by each approval agency mandated to hold such meetings as part of their approval process. Notification of these meetings will be provided in accordance with the applicable *Act*. The applicant will have the opportunity to make a presentation and respond to questions at these public meetings.

While the *NEPDA* does not require a statutory public meeting, NEC staff may attend the Local and Regional meetings to advise of the NEC processing requirements and Niagara Escarpment Plan (NEP) policies and issues. As an administrative procedure when processing a NEP amendment application, NEC staff also distributes a copy of the application to property owners near the proposed aggregate site and invites comments pursuant to the NEP amendment process in the *NEPDA*. The NEC will post a public notice of the amendment application in accordance with its policies and legislative requirements. At certain intervals in the NEP amendment process, information is also posted by the Province on the Environmental Registry.

Opportunities to potentially consolidate public meetings, either as joint events or in close proximity to each other on the calendar, shall be explored by JART.

If MNRF deems the application to be complete for *ARA* approval purposes, additional requirements for notification and consultation apply in accordance with the *ARA* process.

6. JART Review and Analysis of Agency and Public Comments

Agency comments on the proponent's application package and public and agency comments will be shared amongst JART agencies. It may be necessary for the JART to arrange for third party reviews of some of the proponent's technical studies (e.g., noise, dust, air quality, blasting) that are outside of the expertise of the review agencies. The costs for third party reviews will be billed directly to the proponent. The JART Chair will co-ordinate agency comments where possible and, with JART member assistance, produce a JART Report or Reports, if required. Where there are differences of opinion, the reasons for those differences will be documented in the report. The applicant and MNRF will be provided a copy of this Report and afforded an opportunity to address any outstanding issues and concerns. The Report will also be posted on JART agency websites for review by the public.

Analysis generated through the JART review process can be used by the JART agencies for the filing, confirmation, or resolution of objections under their individual inputs into the *ARA* approval process.

7. Niagara Escarpment Commission Decision Making

Where the subject property is located within the NEP area, the NEC shall participate in the JART process. As the senior policy document, the NEP takes precedence over the Regional and Local planning documents.

Prior to the statutory public meetings under the *Planning Act*, NEC staff will provide an initial report together with the request for comments on the NEP Amendment and Development Permit application to the Region, Local Municipalities and other outside agencies so that any issues of relevance can be acknowledged in their review of the *Planning Act* applications.

Where the NEC makes a decision to endorse the NEPA and Development Permit applications, and where there is no public or agency opposition, the NEC will forward the

NEPA application to the Minister of Natural Resources for approval. Where there is opposition, the NEC will request that Hearing Officers be appointed. Once Hearing Officers have made a recommendation, the applications come back to the NEC to adopt the position. The final decision rests with either the Joint Board or Cabinet (see #9 below). However, before the Joint Board or Cabinet makes a decision, a hearing is held.

8. Local & Regional Council Decision Making

For Official Plan Amendments, the senior plan (Regional Official Plan Amendment - ROPA) is dealt with first since the Local Official Plan (LOPA) and Zoning By-law (ZBLA) Amendments must be in conformity with the Regional Official Plan. If the proposal is in the NEP area, the Niagara Escarpment Plan Amendment process must be completed and a Development Permit issued first.

Should the ROPA, LOPA, and ZBLA be approved and passed without appeal (after the 20-day appeal periods), the Region will advise the MNRF that the Minister or Cabinet can make a decision on the approval of the ARA Licence application. Regional Council will request that where the Province decides to approve the NEP Amendment and associated Development Permit, the Regional and Local Official Plans shall also be amended.

Where no *Planning Act* application is made, agency Councils and Boards may still receive reports from staff outlining next steps and strategies related to the proposal.

9. Local Planning Appeal Tribunal (LPAT) or Joint Board (JB) Hearings

Should there be an appeal of the ROPA, LOPA, and ZBLA and/or a referral of the ARA application to LPAT, the file material, reports and recommendations will be sent to the LPAT for a Hearing. The applicant is provided with the opportunity to resolve any objections. If satisfied, the appellants may withdraw their appeal. For appeals that are not withdrawn, where the subject lands are outside of the NEP area, the LPAT will consider appeals. Where the NEP is involved, a hearing of the Joint Board (JB) under the *Consolidated Hearings Act* could be convened to hear all outstanding objections.

10. Provincial Decision Making and/or MNRF Approvals

Where the NEC is involved, the Minister of MNRF will exercise ministerial authority in accordance with the decision-making process outlined in the *NEPDA*. The Provincial Cabinet may ultimately be responsible for making the final decision.

Conclusion

This Protocol is intended to be followed by government review agencies processing mineral aggregate applications within Halton Region, with the cooperation of the applicant.