
Subject: Statutory Public Meeting for a Regional Official Plan Amendment
Application (Proposed Uppers Quarry, City of Niagara Falls)

Report to: Planning and Economic Development Committee

Report date: Wednesday, October 11, 2023

Recommendations

1. That this Report **BE RECEIVED** for information; and
2. That this Report **BE CIRCULATED** to the City of Niagara Falls and the Niagara Peninsula Conservation Authority.

Key Facts

- The purpose of this report is to provide information for a Regional Official Plan Amendment (ROPA) application Statutory Public Meeting, which is being held in accordance with the prescribed requirements of Section 17 of the Planning Act.
- The purpose of the statutory meeting is to receive comments from the public with respect to the ROPA application submitted by Walkers Aggregate Inc. for a proposed quarry (Uppers Quarry) in the City of Niagara Falls. Staff are not making a recommendation, and no decision or approvals are sought from Council at this time.
- In addition to the ROPA, applications have also been submitted to amend the City of Niagara Falls Official Plan and Zoning By-Law. These applications are being reviewed concurrently.
- This Statutory Public Meeting was advertised by posting notices on the subject lands, mailing notice to residents within 240 metres of the subject lands, e-mailing notice to agencies and utilities and to those who had submitted comments or expressed an interest in being notified. In addition, notice was placed in local newspapers, and posted on the Region's website and social media pages.
- The City of Niagara Falls will hold a separate Statutory Public Meeting for the Local Official Plan and Zoning By-Law Amendment applications.

Financial Considerations

There are no financial considerations arising from this report as the cost of work associated with application processing and review is recovered through planning fees in accordance with the Council-approved Schedule of Rates and Fees. Costs of advertising for open houses and public meetings are paid by the applicant, and the Region has entered into a Cost Acknowledgement Agreement with the applicant to cover other costs associated with the application (i.e., aggregate advisor and peer reviews).

Analysis

Background

An application for a Regional Official Plan Amendment (ROPA) to permit the Uppers Quarry operation was received on November 22, 2021. The application was deemed complete on December 21, 2021. A virtual public open house for the application was held jointly with the City of Niagara Falls on March 23, 2022.

Regional Official Plan Policies

The 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. As noted above the ROPA application was deemed complete on December 21, 2021, and is therefore being processed under the 2014 ROP. A Draft Regional Official Plan amendment is included as Appendix 2.

Site Location

The proposed ROPA is for lands legally described as Part of Lots 119, 120, 136 and 137, City of Niagara Falls, and located along the western boundary of the City of Niagara Falls, between Thorold Townline Road and Beechwood Road, north of a Hydro One corridor and generally north of Lundy's Lane. A Location Map is included as Appendix 1.

JART Process

To coordinate the technical review of the applications, a Joint Agency Review Team (JART) was formed. The JART consists of planning staff from the Region, the City, and the Niagara Peninsula Conservation Authority (NPCA). The purpose of JART is to share information, resources, and expertise so that the application and the associated studies are reviewed in a streamlined and coordinated manner. Staff from applicable provincial ministries are being engaged through the JART process as well.

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;
- coordinate the 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.

The JART report will be used independently by planning staff at the Region and the City as the technical basis to develop their respective recommendation reports.

Material Submitted in Support of the Applications

In support of the ROPA application the following technical studies have been submitted:

- Planning Justification Report and ARA Summary Statement
- Alternative Site Analysis
- Agricultural Impact Assessment
- Archaeological Assessments
- Acoustic (Noise) Assessment Report
- Blasting (Vibration) Impact Assessment
- Air Quality Impact Assessment
- Economic Benefits Analysis
- Level 1 & 2 Water Resources Study
- Natural Environment Level 1 & 2 Report
- Visual Impact Assessment

- Traffic Impact Study

The Region, on behalf of the Joint Agency Review Team (JART) has retained an Aggregate Advisor and consulting teams to assist with the review and peer review of many of the individual technical studies.

In addition, the Aggregate Resources Act (ARA) Site Plan drawings are being reviewed as part of the ROPA process. The ARA Site Plans outline the proposed operating conditions of the quarry and are the primary tool used by the Province for enforcement. All of the proposed mitigation measures for each of the individual technical studies are noted and included as part of the Site Plans.

An index of all technical material that have been submitted to date is included as Appendix 3, and can be accessed on the [Region's website](https://www.niagararegion.ca/official-plan/amendments.aspx):
(<https://www.niagararegion.ca/official-plan/amendments.aspx>) [under ROPA 22]

Associated Applications

A separate Statutory Public Meeting regarding the Local Official Plan Amendment and Zoning By-law Amendment will be held by the City of Niagara Falls at a later date. Separate notice of this meeting will be distributed by the City of Niagara Falls.

In addition, the applicant has also filed an application to the Ministry of Natural Resources and Forestry for a licence under the Aggregate Resources Act. The Aggregate Resources Act application process includes a separate public consultation and notification process. Any comments submitted to Niagara Region or City of Niagara Falls regarding the Planning Act applications should also be submitted in response to the Aggregate Resources Act notices.

Next Steps

The review of the application and supporting technical information is ongoing. Regional staff, supported by other members of the JART, the Aggregate Advisor, and Peer Reviewers are analyzing the applications and supporting studies relative to Regional and Provincial planning documents. All comments submitted on this application, including those received through this Statutory Public Meeting will be responded to by staff through a future recommendations report.

Alternatives Reviewed

The Planning Act (R.S.O. 1990) requires that all complete applications be processed and that public consultation be conducted as part of all proposed amendments to municipal official plans. Notice has been provided for this Statutory Public Meeting as required by the legislation.

As this report is for information, and the Public Meeting is a statutory requirement, there are no alternatives to review.

Relationship to Council Strategic Priorities

The information in this report relates to the following Regional Council's Strategic Priority: "Effective Region: Remaining an employer of choice by transforming service delivery in a way that is innovative, collaborative and fiscally responsible."

By utilizing the JART process to coordinate the review of the application the Region is working with the City of Niagara Falls Planning Department in an innovative and collaborative way. The JART process allows for an improvement in service delivery and a sharing of resources and expertise.

Other Pertinent Reports

CWCD 465-2019	Proposed Uppers Quarry (Niagara Falls)
PDS 35-2021	Uppers Quarry Regional Official Plan Amendment 22
CWCD 2023-10	Update – Proposed Uppers Quarry (Niagara Falls)
CWCD 2023-24	Proposed Uppers Quarry (Niagara Falls) – Aggregate Resources Act Public Information Centre

Prepared by:

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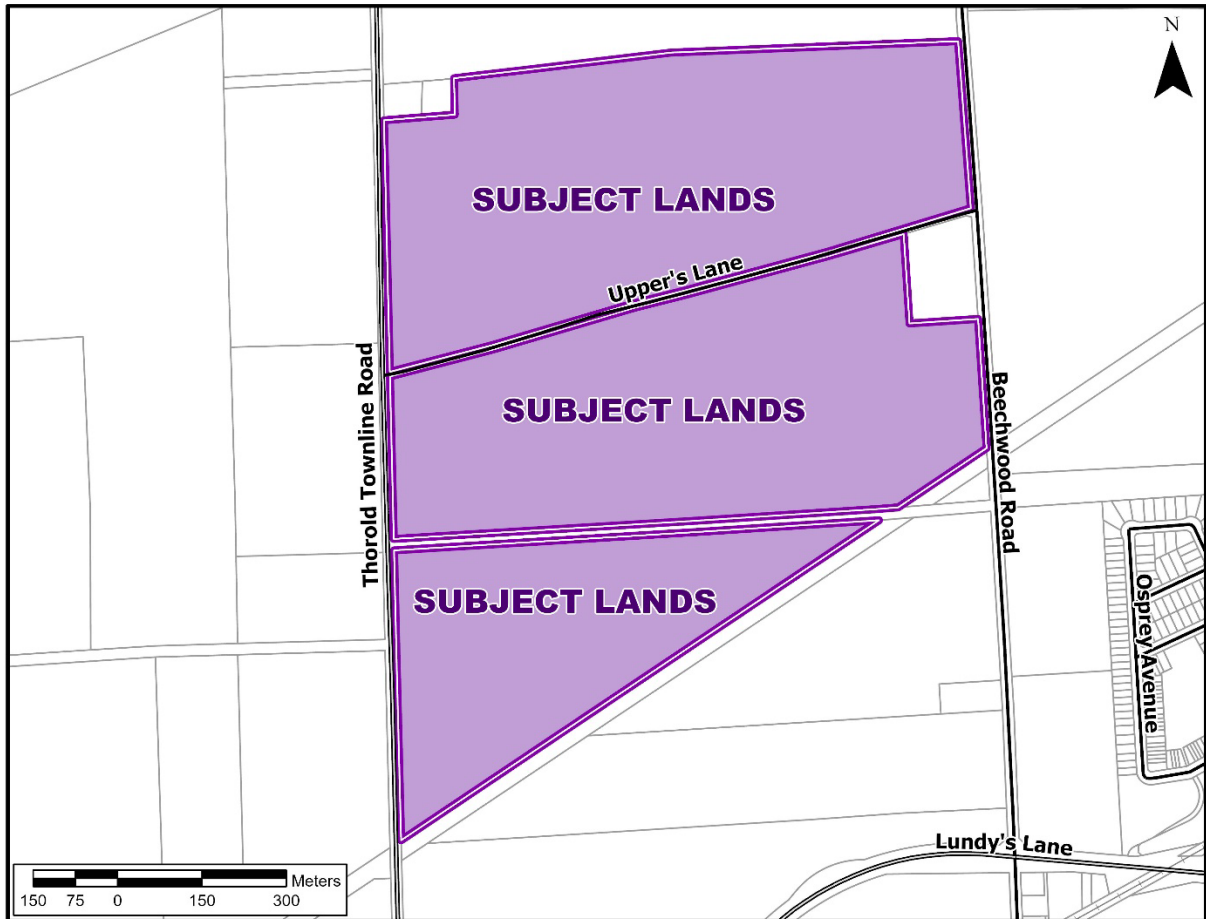
This report was reviewed by Erik Acs, MCIP, RPP, Manager of Community Planning and Angela Stea, MCIP, RPP, Director of Community and Long-Range Planning.

Appendices

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| Appendix 1 | Site Location Map |
| Appendix 2 | Draft Regional Official Plan Amendment |
| Appendix 3 | List of Technical Materials Submitted in Support of the Application |

Site Location Map

Proposed Uppers Quarry, City of Niagara Falls



THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. 2023-XX

A BY-LAW TO PROVIDE FOR THE ADOPTION OF AMENDMENT XX

TO THE OFFICIAL PLAN FOR THE REGIONAL MUNICIPALITY OF NIAGARA

to permit the establishment of the Upper's Quarry (City of Niagara Falls)

WHEREAS the subject lands are currently designated "Prime Agricultural Area" in the Official Plan for the Regional Municipality of Niagara,

WHEREAS the Official Plan for the Regional Municipality of Niagara provides consideration for the establishment of new or expanded mineral aggregate extraction operations on lands designated "Prime Agricultural Area", subject to an assessment of the potential impacts of such a land use in accordance with the policies of the Plan,

WHEREAS the approval of any new or expanded mineral aggregate operations require an amendment to the Official Plan for the Regional Municipality of Niagara and, through that amendment, are to be identified on Schedule H – "Known Deposits of Mineral Aggregate Resources and Mineral Aggregate Operations" as "Licensed Aggregate Operations".

WHEREAS subsection 22 of the Planning Act, 1990 states when the requirements of subsections (15) to (21), as appropriate, have been met and Council is satisfied that the plan as prepared is suitable for adoption,

AND WHEREAS it is deemed appropriate to further amend the Official Plan as adopted by Niagara Region for the Regional Municipality of Niagara,

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

1. That the text attached hereto as Part "B" is hereby approved as Amendment No. ____ to the Official Plan for the Regional Municipality of Niagara.
2. That the Regional Clerk is hereby authorized and directed to give notice of Council's adoption in accordance with Section 17(23) of the Planning Act, 1990.
3. That this By-Law shall come into force and take effect on the day after the last day of appeal provided no appeals have been received.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: [DATE]

DRAFT

Amendment No. XX

To the Official Plan for the Regional Municipality of Niagara

PART “A” – THE PREAMBLE

The preamble provides an explanation of the Amendment including the purpose, location, background, and basis of the policies and implementation, but does not form part of this Amendment.

- Title and Components
- Purpose of the Amendment
- Location of the Amendment
- Background
- Basis for the Amendment
- Implementation

PART “B” – THE AMENDMENT

The Amendment describes the additions and/or modifications to the Official Plan for the Regional Municipality of Niagara, which constitute Official Plan Amendment No. XX.

- Text Changes
- Schedule Changes

PART “C” – THE APPENDICES

The Appendices provide information regarding public comments relevant to the Amendment, but do not form part of this Amendment.

PART “A” – THE PREAMBLE

TITLE AND COMPONENTS:

This document, when approved in accordance with Section 17 of the Planning Act, 1990, shall be known as Amendment XX to the Official Plan of the Regional Municipality of Niagara.

- Part “A” – The Preamble, contains background information and does not constitute part of this Amendment.
- Part “B” – The Amendment, consisting of text, schedule, and appendix changes, constitutes Amendment XX to the Official Plan of the Regional Municipality of Niagara.
- Part “C” – Does not constitute part of the Amendment. This appendix is a list of all public comments received.

PURPOSE OF THE AMENDMENT:

The purpose of this Amendment is to:

- add to Section 8.5 (Niagara Falls site specific policies), a new policy to permit the proposed Uppers Quarry.
- add the subject lands on Schedule H – “Known Deposits of Mineral Aggregate Resources and Mineral Aggregate Operations” as “Licensed Aggregate Operations”.

LOCATION OF THE AMENDMENT:

The amendment area is within the City of Niagara Falls and on lands described as Part Lots 119, 120, 136 and 137, including Upper’s Lane between Thorold Townline Road and Beechwood Road, and Part of Road Allowance between Lots 120 and 136, in the former Township of Stamford, now in the City of Niagara Falls, in the Regional Municipality of Niagara.

BACKGROUND:

The subject lands are identified by the Niagara Official Plan as being within a Stone Resource Area.

The applicant (Walkers Aggregate Inc.) participated in pre-submission consultation and subsequently submitted an application to amend the Regional Official Plan, which was received November 22, 2021. The requested and prescribed material,

including planning justification and technical reports to satisfy numerous planning instruments including the Provincial Policy Statement (2020), Growth Plan for the Greater Golden Horseshoe (2020), Regional Official Plan, and the City of Niagara Falls Official Plan were submitted and the application was deemed complete by Niagara Region on December 21, 2021.

A new Niagara Official Plan 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 new plan states that development applications deemed complete prior to the date of the approval shall be permitted to be processed and a decision made under the 2014 Regional Official Plan (ROP) policies. The application was deemed complete on December 21, 2021, and is therefore being processed under the policies of the 2014 ROP.

The site-specific policy to permit the proposed Uppers Quarry and all required updates to the schedules and appendices will be reflected in the new Niagara Official Plan.

BASIS FOR THE AMENDMENT:

- a) Policy 6.C.13 of the 2014 Regional Official Plan requires an amendment to the plan for expansions of existing mineral aggregate operations outside of a “possible aggregate area”. The proposed Uppers Quarry is not within a “possible aggregate area”, and therefore a Regional Official Plan amendment is required.
- b) The Amendment was the subject of a Public Open House held on March 23, 2022 and was the subject of a Statutory Public Meeting held under the Planning Act, 1990 on October 11, 2023. Public and agency comments were addressed as part of the preparation of this Amendment.
- c) The Amendment will allow for the proper conservation and management of source of high quality aggregate resource.
- d) The Amendment will support provincial policy that aims to protect a long term supply of mineral aggregate resources by making available as much mineral aggregate resource as is realistically possible as close to markets as possible.
- e) The Regional Official Plan Amendment will allow the Council of the City of Niagara Falls to make a decision on a Local Official Plan Amendment and on the proposed rezoning of the subject lands. The rezoning of the lands will allow the Minister of Natural Resources and Forestry to make a decision to issue a quarry licence under the Aggregate Resources Act.

- f) Based on the Region's review of the Planning Act, 1990, the Provincial Policy Statement (2020), the Growth Plan for the Greater Golden Horseshoe (2020), the Regional Official Plan, and public and agency consultation, Regional staff is of the opinion that the Amendment has appropriate regard for matters of Provincial Interest as set out in S. 2 of the Planning Act; is consistent with the Provincial Policy Statement; conforms, or does not conflict, with Provincial Plans; conforms to the intent of the Regional Official Plan; represents good planning; and, is in the public interest.

IMPLEMENTATION:

Section 7, Implementation, of the Official Plan for the Regional Municipality of Niagara, shall apply where applicable.

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PART “B” – THE AMENDMENT

Amendment XX

To the Official Plan for the Regional Municipality of Niagara

The Official Plan for the Regional Municipality of Niagara is amended as follows:

Text Changes:

1. Add a new Policy 8.5.11 to the Niagara Falls site specific policies in Chapter 8 to permit the proposed Uppers Quarry:

Notwithstanding any other policy to the contrary in this Plan, a mineral aggregate operation (quarry) and ancillary uses and facilities are permitted in accordance with approval under the Aggregate Resource Act on lands described as Part Lots 119, 120, 136 and 137, including Upper’s Lane between Thorold Townline Road and Beechwood Road, and Part of Road Allowance between Lots 120 and 136 between Thorold Townline Road and Beechwood Road, in the former Township of Stamford, now in the City of Niagara Falls, in the Regional Municipality of Niagara.

2. A site-specific location map will be added to Chapter 8 following the new Policy 8.5.11 showing the subject lands as follows:



Schedule Changes:

1. Schedule H – “Known Deposits of Mineral Aggregate Resources and Mineral Aggregate Operations” is amended to add the subject lands as “Licensed Aggregate Operations” as per the corresponding legend.

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Proposed Uppers Quarry (Niagara Falls)

ROPA, LOPA, ZBLA Applications – List of Technical Material Submitted.

Material can be accessed on the [Region's website](https://www.niagararegion.ca/official-plan/amendments.aspx): (https://www.niagararegion.ca/official-plan/amendments.aspx) [under ROPA 22]

Item	Date Submitted
1st Submission	
1. Cover Letter to Niagara Region, prepared by MHBC, dated November 22, 2021	• November 22, 2021
2. Cover Letter to City of Niagara Falls, prepared by MHBC, dated November 22, 2021	• November 22, 2021
3. Cover Letter to NPCA, prepared by MHBC, dated November 22, 2021	• November 22, 2021
4. Cover Letter to City of Thorold, prepared by MHBC, dated November 22, 2021	• November 22, 2021
5. Completed Application to Amend the Regional Official Plan	• November 22, 2021
6. Completed City of Niagara Falls Application Form	• November 22, 2021
7. Planning Justification Report and ARA Summary Statement, prepared by MHBC, dated October 2021	• November 22, 2021
8. Aggregate Resource Act Site Plan drawings, prepared by MHBC, dated October 29, 2021	• November 22, 2021
9. Alternative Site Analysis, prepared by MHBC, dated October 2021	• November 22, 2021

Proposed Uppers Quarry

List of Technical Materials Submitted

Updated September 18, 2023

Item	Date Submitted
10. Level 2 Water Study Report, prepared by WSP, dated October 2021	• November 22, 2021
11. Maximum Predicted Water Table Report, prepared by WSP, dated October 2021	• November 22, 2021
12. Level 1 and Level 2 Natural Environment Technical Report and Environmental Impact Study, prepared by Stantec, dated October 2021	• November 22, 2021
13. Agricultural Impact Assessment, prepared by Colville Consulting, dated October 2021	• November 22, 2021
14. Acoustic Assessment Report, prepared by RWDI, dated October 2021	• November 22, 2021
15. Air Quality Assessment Report, prepared by RWDI, dated October	• November 22, 2021
16. Blasting Impact Assessment, prepared by Explotech Engineering Ltd., dated October 2021	• November 22, 2021
17. Traffic Impact Study, prepared by TMIG, dated October 2021	• November 22, 2021
18. Cultural Heritage Impact Assessment, prepared by MHBC, dated October 2021	• November 22, 2021
19. Visual Impact Assessment, prepared by MHBC, dated October 2021	• November 22, 2021
20. Economic Benefits Analysis, prepared by Prism, dated October 2021	• November 22, 2021
21. Stage 1 Archaeological Resource Assessment of Walker Aggregates Proposed South Niagara Quarry, Part of Lots 102, 119, 120, 136 & 137, prepared by Archaeological Research Associates Ltd., dated December 2008 [available by request]	• November 22, 2021

Proposed Uppers Quarry

List of Technical Materials Submitted

Updated September 18, 2023

Item	Date Submitted
22. Stage 1-2 Archaeological Assessment of Part 9764 Uppers Lane, Part of Lots 119 & 120, prepared by Archaeological Research Associates Ltd., dated November 3, 2005 [available by request]	<ul style="list-style-type: none"> November 22, 2021
23. Stage 2-3 Archaeological Assessment, Part of Lots 102, 119, 120, 136 & 137, prepared by Archaeological Research Associates Ltd., dated November 21, 2012 [available by request]	<ul style="list-style-type: none"> November 22, 2021
24. Stage 1-2 Archaeological Assessments, Upper's Quarry Additional Lands, Part of Lots 119 & 120*, prepared by Archaeological Research Associates Ltd., dated April 20, 2020 [available by request]	<ul style="list-style-type: none"> November 22, 2021
25. Stage 3 Mitigation of Development Impacts, Final Excavation Report, Walker XI (AgGt-411), Upper's Quarry, prepared by Archaeological Research Associates Ltd., dated May 26, 2021 [available by request]	<ul style="list-style-type: none"> November 22, 2021
26. Stage 4 Mitigation of Development Impacts, Final Excavation Report, Walker IX (AgGt-178), Upper's Quarry, prepared by Archaeological Research Associates Ltd., dated July 22, 2021 [available by request]	<ul style="list-style-type: none"> November 22, 2021
27. Archaeological Report and Ministry Approval Letter: Stage 3 Site-Specific Assessment. Walker XI (AgGs-411) [available by request]	<ul style="list-style-type: none"> November 22, 2021
28. Cover Letter for February 2022 Updates, prepared by MHBC, dated February 8, 2022.	<ul style="list-style-type: none"> February 8, 2022
29. Updated ARA Site Plan Drawings (Redline), prepared by MHBC [last updated January 2022]	<ul style="list-style-type: none"> February 8, 2022
30. Updated ARA Site Plan Drawings (Signed), prepared by MHBC [last updated January 2022]	<ul style="list-style-type: none"> February 8, 2022

Proposed Uppers Quarry

List of Technical Materials Submitted

Updated September 18, 2023

Item	Date Submitted
31. Updated Level 1 and 2 Water Study Report, prepared by WSP, dated October 2021	• February 8, 2022
32. Updated Maximum Predicted Water Table Report, prepared by WSP, dated October 2021	• February 8, 2022
33. Addendum 1: Statement of Qualifications (re Level 1 and Level 2 Natural Environment Report and Environmental Impact Study), prepared by Stantec, dated February 3, 2022	• February 8, 2022
34. Cultural Heritage Report Checklists	• February 8, 2022
35. Information Request for Uppers Quarry Natural Environment Report Received from Dougan & Associates March 31, 2022, prepared by Stantec Consulting Ltd., dated June 9, 2022	• June 9, 2022
2nd Submission	
36. 2 nd Submission Cover Letter, prepared by MHBC, dated August 28, 2023	• August 28, 2023
37. Response Matrix to JART Comments, dated August 25, 2023	• August 28, 2023
38. Response Matrix to MNRF Comments, dated August 25, 2023	• August 28, 2023
39. Updated Site Plan Notes, prepared by MHBC, dated August 28, 2023	• August 28, 2023
40. Updated ARA Site Plan Drawings, prepared by MHBC, dated August 28, 2023	• August 28, 2023
41. Updated Planning Justification Report, prepared by MHBC, dated August 2023	• August 28, 2023

Proposed Uppers Quarry

List of Technical Materials Submitted

Updated September 18, 2023

Item	Date Submitted
42. Updated Alternative Site Analysis, prepared by MHBC, dated August 2023	• August 28, 2023
43. Updated Air Quality Assessment, prepared by RWDI, dated July 12, 2023	• August 28, 2023
44. Updated Acoustic Assessment, prepared by RWDI, dated August 3, 2023	• August 28, 2023
45. Updated Blast Impact Assessment, prepared by Explotech, dated August 2023	• August 28, 2023
46. Updated Natural Environment Level 1 & 2 Report, prepared by Stantec, dated August 28, 2023	• August 28, 2023
47. Response to JART Hydrogeology Comments, prepared by WSP, dated October 3, 2022	• August 28, 2023
48. Updated Economics Benefits Study, prepared by Prisim, dated February 2023	• August 28, 2023
49. Transportation Impact Study Addendum, prepared by TYLin, dated March 2023	• August 28, 2023
50. Visual Impact Addendum Letter, prepared by MHBC, dated February 24, 2023	• August 28, 2023