July 15, 2021

# INITIAL STAFF REPORT

**RE: PROPOSED Niagara Escarpment Plan Amendment PH 221 21**

 **4000 Campbellville Rd (former Campbellville Sand and Gravel South Pit)**

 **Part Lot 5 Concession 5 (Nassagaweya)**

 **Town of Milton, Region of Halton**

APPLICANT: 4000 Campbellville Rd Inc. (c/o Herbert Arnold, Foster, Arnold, LLP)

OWNER: 2647857 Ontario Inc (new owner March 2021)

AGENT:MHBC Planning Ltd.

RECEIVED: March 29, 2021

NEP DESIGNATION:Mineral Resource ExtractionArea

## PROPOSAL SUMMARY:

To undertake an amendment to the Niagara Escarpment Plan (NEP) to allow for a site specific change to the Land Use Designation from Mineral Resource Extraction Area (MREA) to Escarpment Natural Area and Escarpment Protection Area; as it relates to the surrender of the *Aggregate Resource Act* (ARA) licence (# 5478), on the former gravel pit operated by Campbellville Sand and Gravel.

## PURPOSE OF THIS REPORT

The purpose of this report is for the Niagara Escarpment Commission (NEC) to determine whether the application for amendment to the NEP should be initiated and circulated under Section 7 and Section 10 of the Niagara Escarpment Planning and Development Act (NEPDA), or, under Section 6.1(3) of the NEPDA, whether the NEC should recommend to the Minister that the application not be considered on the basis that the proposal does not disclose a planning justification for the amendment and/or is not in the public interest.

## STAFF SUMMARY RECOMMENDATION:

That the Niagara Escarpment Commission instruct staff to process the proposed Amendment PH 221 21 (4000 Campbellville South Pit) for circulation and notification pursuant to Section 6.1(2) of the *Niagara Escarpment Planning and Development Act.*

### **BACKGROUND/OVERVIEW**

The approximately 17.8 ha (44 ac) subject lands are currently designated MREA in the NEP, in conjunction with a sand and gravel pit extraction operation that was established in the 1960’s (pre-dating the NEP and Development Control). The extraction activities have ceased, and the licence has been surrendered, as confirmed by the Integrated Aggregates Operations Section of the former Ministry of Natural Resources and Forestry (MNRF, now Ministry of Northern Development, Mines, Natural Resources and Forestry (MNDMNRF).

The primary restoration of the site involved the backfilling of the pit, which included a large pond. Sand and gravel were excavated at the site to the point that the water table had been exposed. The original ARA site plan contemplated the deposit of inert fill in the pit. The backfilling was contested by the (former) MNRF, who sought an amendment to the site plan which would have left the pond exposed. The matter was subject to an Ontario Municipal Board (OMB) hearing and subsequent decision in 2006 that resulted in permitting the ongoing backfilling of the site consistent with the dated ARA site plan. It is NEC Staff’s understanding that the large amounts of fill accepted onto the property to achieve the rehabilitation was overseen by the Ministry of Environment Conservation and Parks (MECP), and was required to meet the requirements of the Ministry’s Off-Site Fill Acceptance Control Protocol (dated June 22, 2011). Additionally, annual ground water monitoring well testing was required.

Staff is aware that there has been some history of non-compliance on the site (under both the ARA and NEP), related to the progressive rehabilitation. However, it is Staff’s understanding that all compliance matters have been resolved and there are no known outstanding occurrence files.

Proposed NEP Amendment PH 222 21 for the adjacent subject lands at 3475 Campbellville Rd (North Pit) is being processed concurrently with the amendment application for 4000 Campbellville Rd (South Pit). While related, the proposed amendments for the two MREAs are being processed as separate amendment files, given that the parcels operated under separate licences, and are now under separate ownership. Amendment PH 222 21 is proposed to be initiated by the NEC, while the application for amendment at 4000 Campbellville (South Pit) has been made by the landowner. The planning analysis for both proposed amendments are similar, given the proximity of the sites to each other on the landscape and that they are both seeking re-designations of former MREA.

### **B. SITE DESCRIPTION AND SURROUNDING LAND USES**

The subject property described municipally as Lot 5, Concession 5 in the Town of Milton is approximately 17.8 ha (44 ac) and located on, and accessed from, the south side of Campbellville Road, just west of Appleby Line. The property backs onto Highway No. 401 along the southern boundary of the parcel.

The lands are currently designated MREA in the NEP (Map 1), in conjunction with a sand and gravel pit extraction operation that was established in the 1960’s (pre- NEP/Development Control). The extraction activities have ceased, and the licence has been surrendered, as confirmed by the Integrated Aggregates Operations Section of the MNDMNRF.

The subject property has been rehabilitated to the satisfaction of the MNDMNRF (MNRF at the time of licence surrender) and is current in agricultural production (corn crop). The most westerly portion of the lands contains a pond and is traversed by a tributary of Sixteen Mile Creek (also designated MREA but was located outside of the extraction area boundary). The subject lands are well screened from Campbellville Road and the 401 with heavily vegetated berms. Surrounding land uses include rural residential, agricultural and conservation lands. The Halton Forest South Life Science Area of Natural and Scientific Interest (ANSI) is situated to the north of the subject lands and includes the Halton Escarpment Provincially Significant Wetland Complex and Hilton Falls. The boundary of the ANSI is largely coincident with the boundary of the Hilton Falls Environmentally Sensitive Area (ESA). The Guelph Junction Provincially Significant Wetland complex is situated to the south and west of the subject lands.

These environmentally significant lands are also included in the Niagara Escarpment Parks and Open Space System (NEPOSS), as the Hilton Falls Conservation Area (Natural Environment Classification) (Maps 1 & 3). Highway 401 is situated to the south of the subject lands, with additional rural residential and agricultural uses to the east, and the Hamlet of Campbellville and the former Campbellville North pit adjacent to the west.

### **C. PLANNING DOCUMENTS**

#### *Niagara Escarpment Planning and Development Act* (NEPDA)

Sections 6.1(2.2) of the NEPDA identifies that no person or public body shall make an application or request to amend the Niagara Escarpment Plan if the application or request relates to land that is within the land use designation of Escarpment Natural Area, Escarpment Protection Area, Mineral Resource Extraction Area or Escarpment Rural Area of the NEP and the application or request seeks to, a) re-designate the land to the land use designation of Minor Urban Centre, Urban Area or Escarpment Recreation Area of the Niagara Escarpment Plan; or b) make any other amendment to permit urban uses, unless it is during the time of a Plan Review.

The proposal to re-designate lands which are no longer licensed, to a more appropriate designation(s) through the application of the NEP Land Use Designation Objectives and Criteria, does not meet the prohibition of urban uses and urban designations under the NEPDA since the lands are not being proposed for designation as Escarpment Urban Area, Escarpment Recreation Area or Minor Urban Centre (the NEPDA specifies these designations to be “urban designations”), nor is the proposal seeking an urban use. Therefore, Section 6.1 (2.2) of the NEPDA allows for the Commission to consider and initiate this proposed amendment to the NEP outside the time of a Plan Review.

#### 2. Niagara Escarpment Plan (NEP)

The NEP Part 1.2.1 identifies that planning policies and land use designations may be changed by amendment to the Plan, provided that the proposed amendment is consistent with the Purpose and Objectives of the NEPDAand the NEP. The Development Criteria set out in Part 2 of the NEP are to be considered in the assessment of any amendment to the NEP. The Part 2 Development Criteria are not applicable in this instance, given that the amendment is only seeking a change to the designation, and is not seeking any associated development or policy exceptions. Permitted Uses on the subject lands will be informed by the new designation(s), once approved, and would require a subsequent Development Permit Application.

The approximately 17.8 ha (44 ac) subject property is currently designated as MREA in accordance with the ARA licence formerly issued for this site. In accordance with Section 19 of the ARA, the Integrated Aggregate Operations Section of the now Ministry of Northern Development, Mines, Natural Resources and Forestry (MNDMNRF), accepted the surrender of Aggregate Licence #5478 in June 2020, concluding that the final rehabilitation (inspection undertaken in October 2019), was satisfactory and in accordance with the rehabilitation requirements of the approved Site Plan.

Licensed aggregate sites in the NEP Area are intended to be interim uses, given that the extraction within approved MREAs will eventually cease. Such sites where extraction has been completed are expected to be rehabilitated and then re-designated to allow for other more compatible uses, which are identified as being permitted under the respective land use designation(s).

NEP Part 1.9.2 Criteria for Designation of a Mineral Resource Extraction Area states:

* Licensed pits and quarries producing more than 20,000 tonnes annually.

This Criterion is no longer applicable to the subject property following the completion of the aggregate extraction activities and surrender of the ARA licence.

The Objectives of NEP Part 1.9 Mineral Resource Extraction Area designation specifically state that after uses and rehabilitation should:

* Encourage rehabilitated mineral aggregate operations to be restored to a state that is of equal or greater ecological or agricultural value than the original characteristics of the site.
* Ensure that, after a licence is surrendered, the land is re-designated to a land use designation that is compatible with the rehabilitation of the site, the designation criteria of adjacent lands, the surrounding Escarpment environment and existing land uses in the area.
* Encourage, wherever possible, the rehabilitated after uses of pits and quarries to be integrated into the Niagara Escarpment Parks and Open Space System.

The Permitted Uses within MREAs are limited, except for those directly related to aggregate extraction and subsequent rehabilitation, and generally reflect the interim nature of pits and quarries.

NEP Part 1.9.5 After Uses identifies that following the surrender of the licence, an amendment is required to change the land use designation of the lot from MREA to a land use designation that has designation criteria consistent with the rehabilitation completed on the property and be processed in accordance with NEP Part 1.2.1.

#### Provincial Policy Statement (2020)

The PPS (2020) is intended to provide direction on matters of provincial interest related to land use and planning. The PPS is issued under Section 3 of the *Planning Act* and the current PPS came into effect May 1, 2020. All land use planning decisions, including those of the NEC, must be consistent with the policies of the PPS; however, the PPS states that Provincial Plans take precedence over policies in the PPS to the extent of conflict. The NEP builds upon the policy foundation provided by the PPS and provides additional land use planning policies in support of the Purpose and Objectives.

The PPS speaks to the relationship with Provincial Plans and provides that Provincial Plans are to be read in conjunction with the PPS. The Provincial Plans take precedence over the policies of the PPS to the extent of any conflict, except where the relevant legislation provides otherwise.

The PPS provides direction for the rehabilitation and after use of mineral aggregate resource sites in Section 2.5.3 Rehabilitation. Section 2.5.3.1 states that progressive and final rehabilitation shall be required to accommodate subsequent land uses, to promote land use compatibility, to recognize the interim nature of extraction, and to mitigate negative impacts to the extent possible. Final rehabilitation shall take surrounding land use and approved land use designations into consideration. Further, Part 2.5.3.2 identifies that comprehensive rehabilitation planning is encouraged where there is a concentration of mineral aggregate operations

Section 2.0 of the PPS identifies the Province’s objectives respecting the long-term protection of natural heritage, water resources and cultural heritage and archaeological resources for their economic, environmental and social benefits. Part 2.1 requires that natural features and areas shall be protected for the long-term and Part 2.1.2 identifies that the diversity and connectivity of natural features in an area, and the long-term ecological function and biodiversity of natural heritage systems, should be maintained, restored or, where possible, improved, recognizing linkages between and among natural heritage features and areas, surface water features and ground water features.

The proposed re-designation of the lands is consistent with the PPS (2020). As noted previously, any future development of the lands would be required to be assessed through subsequent NEC Development Permit Applications.

#### Greenbelt Plan (2017)

The *Greenbelt Act* authorized the preparation of the Greenbelt Plan, which was approved in February 2005 and updated in 2017 through the 2015 Co-ordinated Land Use Plan Review. The Greenbelt Plan Area includes all the NEP Area. The policies of the NEP are the policies of the Greenbelt Plan for the NEP Area with the exception of the Open Space and Trails Policies set out in Section 3.3 of the Greenbelt Plan. The planning, construction, and maintenance of parkland, open space, and trails in the NEP Area must also comply with the policies in Section 3.3 of the Greenbelt Plan. Further, Section 5.6 identifies that amendments to the NEP remain governed by, and are to be dealt in accordance with, the provisions of the NEPDA.

#### 5. Growth Plan for the Greater Golden Horseshoe (2020)

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Office Consolidation, 2020) (the “Growth Plan”) applies to lands within the Greater Golden Horseshoe (GGH), which includes the Town of Milton, and provides direction on how to manage growth. Emphasis is placed on intensification and redevelopment in existing settlements and built-up areas rather than sprawl or haphazard expansion that requires new municipal services (e.g., sewers and water). The Growth Plan on its Map Schedules also identifies Urban Growth Centres within existing built-up areas. The subject lands are not identified as being part of an Urban Growth Centre or Built-up Area as designated in the Growth Plan (downtown Milton is identified as such).

The Growth Plan and Greenbelt Plan are intended to work together. Areas to be protected in the GGH were established first (in the Greenbelt Plan) and then areas where development could be considered were identified second (the Growth Plan). Both the Growth Plan (Section 1.4) and its enabling legislation (*Places to Grow Act, 2005*), indicate that in considering the Growth Plan in relation to other Provincial Plans and Policies (e.g., the NEP), the planning direction to be followed is the one that “provides more protection to the natural environment or human health”. In considering the hierarchy of Provincial Plans and policies governing this area and the provisions within those documents, the greatest protection to the natural environment and human health (particularly the natural environment), is accomplished most effectively through the policies and appropriate land use designations of the NEP.

The Natural Heritage System of the Growth Plan is not identified in the area of the NEP.

The subject lands are included within the broader area identified as being “Candidate Area” within the identified Prime Agricultural Area of the Growth Plan.

#### 6. Regional and Local Planning Context

##### Region of Halton Official Plan

The subject lands are designated as Mineral Resource Extraction Area on Map 1 Regional Structure, of the Halton Regional Official Plan (HROP, Office Consolidation, 2018). The Regional Structure, as shown on Map 1, represents Halton's basic position on the use of land and natural resources within its planning area and is the framework within which Local Official Plans, amendments and by-laws shall be prepared. Section 51 describes that the Regional Structure consists of a number of mutually exclusive land use designations including subsection (2.3) Mineral Resource Extraction Areas, where a valid licence has been issued under the Aggregate Resources Act, and (3) Regional Natural Heritage System, a system of connected natural areas and open space to preserve and enhance the biological diversity and ecological functions within Halton

Map 1G Key Features within the Greenbelt and Regional Natural Heritage System identify the lands directly to the north of the subject property as “Key Features” and “Enhancement Areas, Linkages and Buffers”

Section 110(6) identifies that it is the policy of the Region to consider mineral aggregate resource extraction as an interim use and require the rehabilitation of all such sites to form part of the Greenbelt or Regional Natural Heritage System or the Agricultural Area, with the proposed after-uses being in conformity with the applicable policies of that land use designation. Further, Section (6.2) provides that any after use not permitted in Section 109 of the OP shall require an amendment to the Regional Plan and where applicable, the Niagara Escarpment Plan.

The proposed amendment is consistent with the Regional OP. If approved, the Regional OP would be required to be updated to reflect the new designation(s), and be brought into conformity with the NEP. Staff notes that the Region is currently undertaking a Regional OP Review, and that if the timing aligned, the conformity exercise could take place as part of the OP Review.

##### Town of Milton Official Plan

The subject lands are identified as MREA and “Greenlands A” Area in the area of the pond and watercourse features, in Schedule A (Land Use Plan), to the Town of Milton Official Plan (2008). Staff notes that the area identified as “Greenlands A” in the Town OP is not consistent with the current NEP land use designations for the subject lands, which includes the entirety of the property within the MREA designation. The Town OP appears to have taken the former licence boundary vs. limit of extraction into consideration in designating the lands, while the NEP has included all the former licenced boundary in the MREA designation.

Section 4.7.1.1 of the OP identifies that the purpose of the MREA designation is: *a) to protect legally existing pits and quarries, being those that are licensed under the Aggregate Resources Act, from incompatible land uses; b) to minimize the impact of mineral resource extraction operations on the Greenlands System, the Escarpment Natural, Escarpment Protection and Escarpment Rural Areas; c) to provide policies and criteria for new licence applications for pits and quarries; d) to ensure the progressive rehabilitation of pits and quarries to appropriate after use in accordance with the rehabilitation plan within the time frame of the license, which is compatible with the permitted uses of this designation, the surrounding environment and existing uses; and, e) to encourage, where possible, the rehabilitated after-uses of pits and quarries to be integrated into the Niagara Escarpment Parks and Open Space System or the Greenlands A or B Area designations or for agricultural use.*

Section 4.8 of the Town OP relates to the Greenlands A designation. Generally, the Greenlands A designation provides for the protection of the underlying environmental features. The Greenlands A designation includes land and water areas that meet one or more of the following criteria:

1. *Areas included in the Regulatory Flood Plains, as determined and mapped by the appropriate Conservation Authority, and refined from time to time, as shown on Schedule "B" of this Plan;*
2. *Provincially Significant Wetland, as determined by the Ministry of Natural Resources and refined from time to time; and,*
3. *Significant valley lands or significant portions of the habitat of endangered and threatened species, as determined by the Town, the Region, the appropriate Conservation Authority and the Ministry of Natural Resources, as refined from time to time.*

Staff suggests it is likely that the portion of the subject lands identified as Greenlands A (the water feature and watercourse), may be a result of criterion a) the area being included within the conservation authority regulatory flood plain mapping, and/or b) habitat of endangered and threatened species (associated with Sixteen Mile Creek).

Similar to the permitted uses of the NEP Escarpment Natural Area designation, permitted uses in the Greenlands A designation are limited to a) existing agricultural operations; b) non-intensive recreation uses such as nature viewing and pedestrian trail activities only on publicly owned lands or on the Bruce Trail; c) forest, wildlife and fisheries management; d) archaeological activities; e) essential transportation and utility facilities; f) uses permitted in Park or Open Space Master or Management Plans which are not in conflict with the Niagara Escarpment Plan if the subject land is located within the Niagara Escarpment Plan Area; and, g) essential watershed management and flood and erosion control projects carried out or supervised by a public authority.

#### 7. Conservation Authority Regulation

The subject property is traversed by a tributary of Sixteen Mile Creek and contains the flooding and erosion hazards associated with this watercourse. As such, a portion of the property is regulated by Conservation Halton pursuant to Ontario Regulation 162/06. Given that there is no development associated with the proposed amendment to re-designate the subject lands, there are no concerns anticipated with respect to impacts to the regulated area. Should the Commission endorse circulation and notification of the proposed amendment, the conservation authority would be circulated with a request to comment on the proposal.

#### D. RELATED FILES (Development Permit Applications and Amendments)

**H/E/2014-2015/171 Development Permit 10884** was issued in June 2015 To recognize placement of a 1 storey, ± 10.0 sq. m. (± 108 sq. ft.) temporary portable trailer (office/shelter), having a maximum height of ± 4.0 m (± 13.0 ft), on a 17.60 ha (43.5 ac) lot. The subject trailer (shelter/office) was placed on the property in August 2014 without a Development Permit.

The files listed below are previous NEP amendments which were processed for re-designation of former Mineral Resource Extraction Areas where the licence had been surrendered. In addition to the files identified below, there are various other amendment files pertaining to re-designations which were dealt with as housekeeping items through the 1990 and 1999 Plan Reviews.

**28/H/87 J.C. Duff Ltd.** – The amendment proposed a re-designation from MREA on another property, to Escarpment Natural and Escarpment Protection as well as an exception to the New Lots Policy of the Escarpment Protection Area. The additional lot creation was refused by Cabinet, but the re-designation was approved.

**PH 191 11 Former Lafarge Pit Lands** – In January 2014, the Minister approved the amendment re-designating the MREA designation on the former Lafarge Pit lands to Escarpment Natural Area and Escarpment Protection Area, to reflect the surrender of the ARA licence which once covered the 81.66 hectare (204.15 acre) property.

**PH 186 10** – **Milton and Hanson Brick Quarries**- In March 2013, the Minister approved the amendment to the NEP to re-designate portions of the Milton Limestone/Kelso Quarry Park (71.6 hectares) and Hanson Brick properties (90.1 hectares) from MREA to Escarpment Natural Area and Escarpment Protection Area to reflect the surrender of the ARAlicences on these lands.

**PW 195 12 Coverdale** – In September 2014, the Minister approved the amendment to the NEP to re-designate lands from MREA on the former gravel pit portion (“Coverdale Pit”) to a combination of Escarpment Natural Area and Escarpment Rural Area to reflect the surrender of the ARA licence which once covered portions of the 36.9 hectare (91.2 acre) property.

**PS 198 13 MacDonald** – In September 2014, the Minister approved the amendment to the NEP to re-designate lands from MREA on a former gravel pit in Clearview Township to Escarpment Protection Area to reflect the surrender of the ARA licence which once covered a 1.8 hectare portion of the 31 hectare (77 acre) property.

**PH 192 11 J.C. Duff Pit Lands** – In February 2012, the Minister approved the amendment to the NEP to re-designate lands from MREA to Escarpment Natural, Escarpment Protection and Escarpment Rural Area; as it relates to the surrender of the ARA licence on the former J.C. Duff Limited pit. The Escarpment Rural Area and Escarpment Protection Area designations on the subject property were also amended to Escarpment Natural Area, in order to reflect the natural features consistent with the appropriate NEP Land Use Designation criteria and objectives.

**PD 204 14 Doug’s Haulage** – In April 2017, the Minister approved the amendment to the NEP to re-designate the subject lands from MREA to Escarpment Protection Area; as it relates to the surrender of the ARA licence on the former gravel pit.

**PB 208 15 Rabicki and the Municipality of Northern Bruce Peninsula** – In September 2020, the Minister approved the amendment to the NEP to allow for a site- specific change to the land use designation from MREA to Escarpment Natural Area and Escarpment Rural Area, as it relates to the surrender of the ARA licence on a former gravel pit that had been operated by the municipality.

**PH 222 21 3475 Campbellville North Pit** – NEC staff prepared an Initial Staff Report to be presented to the Commission at the July 15, 2021 Commission meeting, recommending that the Commission initiate the proposed amendment to re-designate the subject lands from MREA to Escarpment Protection Area, following the surrender of the ARA licence (# 5479).

### **E. ANALYSIS / AMENDMENT CONSIDERATIONS**

#### JUSTIFICATION FOR THE AMENDMENT

Subsection 6.1 (2.1) of the NEPDA requires that justification be given as part of each amendment. However, even if the proposed amendment is justified at this stage, this is not an endorsement of the eventual approval of the amendment in whole or in part.

The Planning Justification Report (MHBC, March 23, 2021) submitted in support of the proposed amendment application provides the following justification:

* The proposed NEPA resulting in the re-designation of the lands from Escarpment MREA supports the purpose and objectives of the NEPA and the NEP, being “to provide for the maintenance of the Niagara Escarpment and land in its vicinity substantially as a continuous natural environment, and to ensure that only such development occurs as is compatible with that natural environment.”
* The extraction activities have ceased and the (former) MNRF has accepted the surrender of the ARA licence, following a determination that the rehabilitation of the site met the conditions of the approved ARA Site Plans.
* The MREA Designation Criterion in the NEP Part 1.5 identifies “existing licensed areas” as criterion for the MREA designation. The aggregate extraction activities on the subject property have now ceased, and as such, a different NEP land use designation is appropriate.
* The re-designation of the undisturbed area (i.e. woodland, watercourse and pond) of the subject property from MREA to Escarpment Natural Area is justified being as that area is in a largely natural state, and represents an opportunity to enhance and better connect components of the Escarpment natural environment. The undisturbed area contains a segment of Sixteen Mile Creek which flows in the subject property from an ANSI immediately north, then flows from the subject property into a PSW to the south.
* The re-designation of the rehabilitated portion of the subject property from Escarpment MREA to Escarpment Protection Area is justified as the subject property is considered land in close proximity to the Escarpment slopes which are visually part of the landscape unit.
* The proposed Amendment is consistent with and supports the municipal Official Plans which are consistent with the NEP and include objectives for the rehabilitation and re-designation of lands that are no longer licensed.
* The proposed Amendment is consistent with the policies of the Provincial Policy Statement (PPS, 2020), which recognizes extractive operations as an interim use and requires that once extraction is complete proper rehabilitation and re-designation to accommodate subsequent land uses following the end of extraction.
* The proposed Amendment is consistent with the overall objectives of the Greenbelt Plan.

#### AMENDMENT CONSIDERATIONS

*Does the amendment satisfy the Purpose and Objectives of the Niagara Escarpment Planning and Development Act (NEPDA)?*

The purpose of the Act is, “*to provide for the maintenance of the Niagara Escarpment and land in its vicinity substantially as a continuous natural environment, and to ensure only such development occurs as is compatible with the natural environment”.*

The objectives of the Act and the Plan are:

* To protect unique ecologic and historic areas;
* To maintain and enhance the quality and character of natural streams and water supplies;
* To provide adequate opportunities for outdoor recreation;
* To maintain and enhance the open landscape character of the Niagara Escarpment in so far as possible, by such means as compatible farming or forestry and by preserving the natural scenery;
* To ensure that all new development is compatible with the purpose of the Act;
* To provide for adequate public access to the Niagara Escarpment; and
* To support municipalities, within the Niagara Escarpment Plan Area, in their exercise of the planning functions conferred upon them by the *Planning Act*.

The subject property, which is already situated within the NEP Area, buffers Escarpment related natural heritage, water resources and scenic landscape components and is therefore environmentally and visually part of the Niagara Escarpment and land in its vicinity. The surrounding lands are ranked as “Average” in the Landscape Evaluation Study (Map 4).

The re-designation of the subject property to the appropriate NEP designations supports the Purpose and Objectives of the NEPDA.

#### The Niagara Escarpment Plan

*Does the Amendment satisfy and reflect the Niagara Escarpment Plan?*

**Purpose and Objectives**

The purpose and objectives of the NEP are those of the *NEPDA*. The maintenance and protection of these lands would reflect the Purpose and Objectives of the Plan and the Act.

***Assessment of the appropriate NEP Land Use Designations that would apply to the subject property***

The subject lands are being proposed to be re-designated by the Applicant to Escarpment Natural Area and Escarpment Protection Area. The NEP has established Designation Criteria for lands within the NEP. The merits of the subject property in meeting the Criteria and Objectives of the relevant NEP Land Use Designations are discussed below.

#### Landscape Evaluation Study (NEC, 1976)

The Landscape Evaluation Study (1976) was prepared as background for the NEP in determining its coverage and associated Land Use Designations. The Landscape Evaluation assigns the lands as being included in the ‘Average’ ranking (Map 4). It should be noted that the rating (which was determined in 1976), while it took in a much larger landscape unit, did factor in the impact of the gravel extraction operation(s) that were present at the time.

#### Land Use Designation and Designation Criteria

Escarpment Natural Area

The Escarpment Natural Area designations include the most significant Escarpment features that are in a relatively natural, undisturbed state. The objective is to maintain and enhance these natural features.

NEP Part 1.3 includes the following Objectives for the Escarpment Natural Areas:

1. To recognize, protect and where possible enhance the natural heritage and hydrological systems associated with the Niagara Escarpment Plan area.
2. To protect the most natural Escarpment features, valleylands, wetlands and related significant natural areas.
3. To conserve cultural heritage resources, including features and areas of interest to First Nations and Métis communities.
4. To encourage compatible recreation, conservation and educational activities.
5. To maintain and enhance the scenic resources and open landscape character of the Escarpment.

Part 1.3.2 Criteria for Designation:

1. Escarpment slopes and Escarpment related landforms associated with the underlying bedrock that are in a relatively natural state.
2. Where woodlands abut the Escarpment, the designation includes the woodlands 300 metres back from the brow of the Escarpment slopes.
3. Provincially Significant Areas of Natural and Scientific Interest (Life Science).
4. Significant Valleylands, provincially significant wetlands and wetlands greater than 20 ha in size.

The applicant is proposing that the Escarpment Natural Area designation be applied to the portion of the lands that contains of the tributary of Sixteen Mile Creek, which is considered a key hydrologic feature with the context of the NEP (in accordance with Part 2.6.1). The applicant provides the rationale that the Escarpment Natural Area is appropriate given that this area remains relatively undisturbed and contains natural features, providing a connection to the ANSI and PSW features. Additionally, this portion of the subject lands (approximately 1.1 ha or 2.7 ac), offers an enhancement opportunity to the Escarpment natural heritage system and meets Escarpment Natural Area.

*Staff comment:* Staff notes that the tributary and pond situated in the relatively undisturbed portion of the subject lands are not natural heritage features or areas that meet the related Criteria for designation as Escarpment Natural Area (e.g., provincially significant wetland or ANSI as per Criteria 3 and 4, or woodlands as per Criterion 2). The adjacent Escarpment Natural Area to the north is designated as such because of the Provincially Significant Life Science ANSI designation (Criterion 3).

However, Staff observes that the consideration for designation as Escarpment Natural Area on the ±1.1 ha (± 2.7 ac) portion of the subject lands containing the tributary of Sixteen Mile Creek and the pond is consistent with the Town of Milton OP Greenlands A designation, and supports the Escarpment Natural Area Designation Objective 1: to recognize, protect and where possible enhance the natural heritage and hydrological systems associated with the NEP area; and Objective 5: to maintain and enhance the scenic resources and open landscape character of the Escarpment. Therefore, Staff finds some merit for the consideration of these the application of the Escarpment Natural Area on this small portion of the subject property.

The final recommendation respecting the appropriate land use designation(s) for the subject lands should be undertaken following the notification and commenting period, to allow for the consideration of any comments received.

Escarpment Protection Area

Escarpment Protection Areas are important for their visual prominence and form a key part of the open landscape character of the Escarpment. Escarpment Protection Areas also provide a buffer to the more sensitive Escarpment lands and/or add to the open landscape and cultural heritage associated with Escarpment features.

1.4.1 Objectives of Escarpment Protection Area:

1. To maintain and enhance the scenic resources and open landscape character of the Escarpment.
2. To provide a buffer to prominent Escarpment features.
3. To recognize, protect and where possible enhance the natural heritage system associated with the Niagara Escarpment Plan area and protect natural areas of regional significance.
4. To conserve cultural heritage resources, including features and areas of interest to First Nation and Métis communities.
5. To encourage forest management, compatible recreation, conservation and educational activities.
6. To encourage agriculture and protect agricultural lands and prime agricultural areas.

Part 1.4.2 Criteria for Designation:

1. Escarpment slopes and Escarpment Related Landforms where existing land uses have significantly altered the natural environment (e.g., agricultural lands or residential development).
2. Areas in close proximity to Escarpment slopes that are visually part of the landscape unit.
3. Areas of Natural and Scientific Interest (Life Science), or environmentally sensitive or environmentally significant areas identified by municipalities or conservation authorities.

The Planning Justification Report (MHBC March 23, 2020) concludes that the subject property meets Escarpment Protection Area Criterion 1: an Escarpment related landform where an existing use has significantly altered the natural environment and that the subject lands also identify under Criterion 2, given that the subject property is below, and in close proximity to the Escarpment brow and related Escarpment slopes (Map 6). The applicant contends that the lands form part of the same landscape evaluation unit as the surrounding properties, which provide a view towards the Escarpment brow and slopes and are also currently designated Escarpment Protection Area. Designation of the subject lands as Escarpment Protection Area also offers a good opportunity to serve Has a buffer for the adjacent prominent Escarpment features, consistent with the Objectives of the Escarpment Protection Area designation.

*Staff comment:* Staff is generally in agreement with the analysis provided by the applicant respecting the application of the Escarpment Protection Area Designation Criteria. The subject lands themselves largely do not contain any significant natural heritage features (with the exception of the tributary), nor would they in isolation be considered a natural landscape that is aesthetically important or a scenic resource in the context of the NEP objectives, given the nature of extractive operations and the type of rehabilitation that has been undertaken (significant filling). However, it is anticipated that over time, the lands may continue to undergo succession and, from a landscape perspective, will contribute to the maintenance and enhancement of the open landscape character of the broader area. Staff has observed that even over the short-term that the lands have undergone a progression in terms of contributing to the scenic quality of the area. The current agricultural use is The proposed Escarpment Protection Area designation also considers the surrounding land uses and application of the Escarpment Protection Area would be consistent with the abutting designations and, as mentioned above, will act serve to act as a buffer to the more significant sensitive surrounding lands.

*Does the proposed amendment demonstrate that it is in the public interest?*

In consideration of an amendment application the NEC must decide on one of two processes:

Section 6.1(1) of the *NEPDA* allows an application for amendment to the NEP to be made by any person, Ministry, or municipality. The NEC may, however, refuse to initiate an amendment and send it to the Minister for a determination (i.e., initiate or reject).

Section 6.1(3) provides the opportunity for the Commission to advise the Minister if an application for amendment does not disclose sufficient planning justification, is not in the public interest, is without merit, is frivolous or vexatious, or is made only for the purpose of delay. Historically, this determination has been applied sparingly (see Related Files section), but could be considered, for example, where the justification is insufficient, the application is clearly not in the best interests of the NEP, or the application is deemed unlikely to succeed.

The NEPDA Section 6.1(4) allows the Minister to make a final decision following representation by the Applicant pursuant to Section 6.1(3). The Minister could reject an application or direct that it be initiated and processed by the NEC.

Staff finds that adequate justification has been provided by the applicant and that the proposal is in the public interest. As the agency that administers the NEP, the NEC has the responsibility to ensure that the NEP Objectives are being achieved and that the Plan is kept current and that mapping reflects the most accurate and appropriate land use designations, based on an assessment of the features on the ground against the NEP’s Designation Criteria and Objectives. It is in the public interest to ensure that MREAs be considered interim land uses, and that once the operation has ceased the lands return to more appropriate land use designations to allow for the consideration of compatible future land uses in support of the Purpose and Objectives of the NEPDA and the NEP.

*Is the proposed Amendment consistent with the Provincial Policy Statement (PPS), Greenbelt Plan, Places to Grow, and local planning documents?*

Discussion has been provided earlier in this Report (Section C Planning Documents), with respect to the planning framework and policy that the proposal is required to be assessed against, and the applications consistency with the PPS (2020), Growth Plan, local Official Plans and the Greenbelt Plan. Circulation of the proposal to the affected ministries, municipality and conservation authority would allow for further evaluation of the proposal against the provincial and municipal planning policies.

### **F. CONCLUSIONS**

Staff finds that the proposed amendment for the re-designation of the subject lands from MREA to Escarpment Natural Area and Escarpment Protection Area (as proposed by the applicant), should be circulated for comment and further consideration on the following basis:

* The extraction activities have ceased and the MNDMNRF has accepted the surrender of the ARA licence, determining the rehabilitation of the site to be acceptable in meeting the conditions of the Site Plans applicable at that time.
* The proposed amendment is consistent with the provisions and policies of the NEP that promote the re-designation of MREAs reflective of surrounding land uses and Land Use Designations once the aggregate extraction operation is complete and rehabilitation has taken place.
* The application has provided adequate planning justification through an analysis of how the proposal satisfies the Objectives of the NEPDA and the NEP. Although a full evaluation of the proposed land use designations still needs to occur, it cannot be said that the application is without merit.
* The proposed amendment is consistent with and supports the municipal Official Plans which include objectives for the rehabilitation and re-designation of lands that are no longer licensed.
* The proposed amendment is consistent with the policies of the PPS (2020), which considers extractive operations as an interim use and requires that once extraction is complete proper rehabilitation and re-designation to accommodate subsequent land uses.
* As the agency that administers the NEP, the NEC has the responsibility to ensure that the NEP Objectives are being achieved and that the Plan is kept current and that mapping reflects the most accurate and appropriate land use designations, based on an assessment of the features on the ground against the NEP’s Designation Criteria and Objectives.

## RECOMMENDATION

The Niagara Escarpment Commission instruct staff, in accordance with this Report, to prepare the proposed Amendment **PH 221 21** for circulation and notification pursuant to Subsection 6.1 (2) of the *Niagara Escarpment Planning and Development Act.*

## Attachments

Map 1 Amendment Location Map/Existing NEP Designations

Map 2 Orthophoto

Map 3 Natural Heritage Features

Map 4 Landscape Evaluation Study

Map 5 Soils

Map 6 Slope

Appendix 1 Proposed Amendment Document with Schedule A

Appendix 2 Circulation and Notification

**Prepared By:**  **Approved by:**

Original signed by: Original signed by:

 **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Lisa Grbinicek, RPP, MCIP Debbie Ramsay, RPP, MCIP**

**Senior Strategic Advisor Director**

 Original Signed by:

 **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **Kim Peters, RPP, MCIP A/Manager**

**Maps 1 to 6 available in separate PDF document.**

**Niagara Escarpment Commission**

232 Guelph St.
Georgetown, ON L7G 4B1
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[www.escarpment.org](http://www.escarpment.org)­

July 15, 2021

**AMENDMENT**

**RE: Proposed Niagara Escarpment Plan Amendment PH 221 21**

 **4000 Campbellville Rd (former Campbellville South Pit)**

 **Part Lots 5, Concession 5 (Geographic Township of Nassagaweya)**

 **Town of Milton, Region of Halton**

**Recommendation:**

That the Niagara Escarpment Commission circulate the attached Amendment as the Proposed Amendment for 4000 Campbellville Rd (former Campbellville South Pit), Amendment PH 221 21.

**Prepared by: Approved by:**

Original signed by: Original signed by:

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Lisa Grbinicek, RPP, MCIP Debbie Ramsay, RPP, MCIP**

**Senior Strategic Advisor Director**

 Original signed by:

 **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **Kim Peters, RPP, MCIP A/Manager**

**PROPOSED NIAGARA ESCARPMENT PLAN**

**AMENDMENT PH 221 21**

**(Former Campbellville Sand and Gravel “South Pit”)**

**July 15, 2021**

## TABLE OF CONTENTS

**PART A –** The Preamble

**PART B –** The Amendment

**PART C –** Schedule “A”

## Part A – The Preamble

## PURPOSE:

The purpose of the proposed amendment affecting the lands identified on Schedule A, attached hereto, is to amend the Niagara Escarpment Plan (NEP) to re-designate the subject lands (formerly the Campbellville Sand and Gravel South Pit), from Mineral Resource Extraction Area, to Escarpment Natural Area and Escarpment Protection Area, to reflect the surrender of the *Aggregate Resources Act* (ARA) licence.

## AREA:

The lands subject to the proposed Plan amendment consist of an area of approximately 17.8 ha (44 ac).

## LOCATION:

## Part Lot 5, Concession 5 (Geographic Township of Nassagaweya)

Region of Halton, Town of Milton

**APPLICANT/ OWNERSHIP:**

Applicant: 4000 Campbellville Rd Inc. (c/o Herbert Arnold, LLP)

Owner: 2647857 Ontario Inc.

**BASIS:**

Under Section 6.1(2) of the *Niagara Escarpment Planning and Development Act,* an amendment to the Niagara Escarpment Plan “*may be initiated by the Minister or the Commission, and application may be made to the Commission by any person or public body requesting an amendment to the Plan.”*

Part 1.2.1 of the NEP sets out provisions for an amendment to the NEP and this application satisfies Section 1.2.1.

Section 6.1 (2.1) of the Niagara Escarpment Planning and Development Act requires that an application to amend the NEP be supported by a “statement of justification” and Section 8 sets out the objectives to be addressed in consideration of an amendment to the NEP. The applicant has provided a Planning Justification Report (MHBC, March 23, 2021), which satisfies the threshold justification requirements of the *Niagara Escarpment Planning and Development Act.*

The Amendment proposes to change the existing Designation of Mineral Resource Extraction Area to Escarpment Natural Area and Escarpment Protection Area, the Applicant proposes that these designations satisfy the applicable Objectives and Designation Criteria of the NEP.

The subject lands constitute the Escarpment and lands in its vicinity which fulfil the Purpose and Objectives of the NEPDA and therefore such lands should be properly designated within the NEP given that the land is no longer licensed under the ARA. The lands have been rehabilitated to the satisfaction of the Ministry of Northern Development, Mines, Natural Resources and Forestry and the surrender of the license has been accepted.

The Amendment is consistent with the Provincial Policy Statement and supports Municipal Official Plans.

**PART B – The Amendment**

The Niagara Escarpment Plan is modified as follows:

Map 3 of the Niagara Escarpment Plan is amended as shown on Schedule A.



# Text  Description automatically generatedNiagara Escarpment Commission

232 Guelph St.
Georgetown, ON L7G 4B1
Tel: 905-877-5191

July 15, 2021

# CIRCULATION AND NOTICE

**RE: NIAGARA ESCARPMENT PLAN AMENDMENT PH 221 21**

**4000 Campbellville Rd: Proposed Land Use Re-designation of a former Pit**

**Part Lot 5, Concession 5**

**4000 Campbellville Rd**

**Town of Milton, Region of Halton**

## BACKGROUND:

1. Section 7 and 10 (1) of the *Niagara Escarpment Planning and Development Act* (*NEPDA*) require that the Niagara Escarpment Commission (NEC) furnish each affected ministry and municipality, within or partially within the Niagara Escarpment Planning Area, with a copy of the proposed Amendment to the Niagara Escarpment Plan and invite the ministries and municipalities to make comments on the amendment to the Commission.
2. Section 10(1) (b) of the *NEPDA* requires that notice of the proposed Amendment be published in such newspapers having general circulation in the Niagara Escarpment Planning Area as the Commission considers appropriate.
3. The NEC is also required to post the Amendment on the Environmental Bill of Rights Registry (ER) for public notice and comment.
4. Although not legislatively required, the NEC as a matter of practice also circulates to landowners within 120m of the subject property, other public agencies and stakeholders where the Commission believes there may be an interest (e.g., conservation authority).

The notice period under the *NEPDA* is 60 days; however, the NEC may extend the time if, in the Commission’s opinion additional time for commenting becomes necessary.

## PURPOSE:

The purpose of this Report is for the Commission to approve the recommended circulation and notification list for the Niagara Escarpment Plan Amendment PH 221 21

## RECOMMENDATION:

That the NEC instruct staff, pursuant to the NEPDA, to circulate the proposed amendment to ministries and municipalities, provide notice in newspapers and on the NEC web site and have the amendment posted on the Environmental Registry (ER).

Staff will also circulate agencies and stakeholders that may have an interest or have indicated an interest in the amendment, including property owners or their agents. The specified comment period will be 60 days.

Staff will also circulate agencies, and stakeholders who may have an interest or have indicated an interest in the Amendment, including property owners or their agents.

Required circulation and notice follows:

### Municipalities and Ministries

Town of Milton

Region of Halton

Ministry of Northern Development, Mines, Natural Resources and Forestry

Ministry of Transportation

Conservation Halton

### Others

Landowners within 120 metres of the proposed amendment area

### Newspapers

Milton Champion

**Prepared By:**  **Approved by:**

Original signed by: Original signed by:

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Lisa Grbinicek, RPP, MCIP Kim Peters, RPP, MCIP

Senior Strategic Advisor A/Manager

 Original signed by:

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Debbie Ramsay, RPP, MCIP Director