



**SUBJECT: CEAA Panel Review of the Proposed CN Milton Logistics Hub.**

**TO: Mayor and Members of Council**

**FROM: Legal Department**

Report Number: L-17-19

Wards Affected: All

File Numbers: 775-01

Date to Committee: Select date

Date to Council: June 17, 2019

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**Recommendation:**

That the City of Burlington supports the May 29, 2019 submissions of the Halton Municipalities to the Review Panel established under the *Canadian Environmental Assessment Act, 2012* ("CEAA") including, in particular, the findings that the Proposed CN Milton Logistics Hub Project is likely to cause significant adverse environmental effects, as further outlined in Report No. LPS78-19 re "CEAA Panel Review of the Proposed CN Milton Logistics Hub", attached as Appendix A ("Regional Report No. LPS78-19");

That the City of Burlington supports the May 29, 2019 submissions for setting out the "interests of the localities" relevant to CEAA and section 98 of the *Canada Transportation Act* ("CTA"), as further outlined in Regional Report No. LPS78-19;

That the City of Burlington supports the future submission to the Canadian Environmental Assessment Review Panel for the Proposed CN Milton Logistics Hub by the Halton Municipalities of such further information, including oral and written presentations and remarks, as advances the May 29, 2019 submissions and matters relevant to the CEAA and section 98 of the CTA, as further outlined in Regional Report No. LPS78-19;

That the City Clerk forward a copy of this report to the Canadian Environmental Assessment Review Panel for the Proposed CN Milton Logistics Hub;

That the City Clerk forward a copy of this report to the Region of Halton, the Town of Oakville, the Town of Milton, the Town of Halton Hills, Halton MP's and MPP's, the

Federation of Canadian Municipalities, and the Ontario Ministry of Municipal Affairs and Housing, for their information.

### **Purpose:**

This report furthers the following elements of the City's Strategic Plan:

A City that Moves

- Increased Transportation Flows and Connectivity

A Healthy and Greener City

- Environmental and Energy Leadership

An Engaging City

- Good Governance

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### **Background and Discussion:**

The purpose of this report is to transmit to Burlington City Council a report prepared by the Region of Halton LPS78-19 – CEAA Panel Review of the Proposed CN Milton Logistics Hub. This Region report is attached as Appendix A <http://sirepub.halton.ca/agdocs.aspx?doctype=agenda&itemid=37519> (complete with appendices) was considered and endorsed by Regional Council on June 12, 2019. The present city report recommends Council's continued support and participation in the proceedings to before the Canadian Environmental Assessment Review Panel of the Proposed CN Milton Logistics Hub

As members of Council are aware the City of Burlington has been working cooperatively with the Region of Halton, and the Towns of Milton, Oakville and Halton Hills to provide a coordinated municipal approach to assessing the CN Logistics Hub proposed in the Town of Milton (Project). This matter was last reported out in a public report CM-2-18 which went to Council on January 29, 2018 along with a confidential legal report L-5-18. The matter is also summarily reported out as part of the routine confidential litigation report. The background to this matter can be summarized by the following key facts taken from an earlier Region of Halton Report LPS69-19 – Proposed CN Milton Logistics Hub presented to Regional Council on May 22, 2019 attached as Appendix B:

- CN owns approximately 500 hectares of land in south Milton.

- CN has made several proposals with regard to developing these lands, beginning in 2001 with a proposal to develop an intermodal road to rail facility for containers.
- CN has changed the nature and scope of its intended development with representations made during the Sustainable Halton Official Plan for the development of a rail-serviced industrial park and not an intermodal facility.
- In early 2015 CN made its current proposal for an intermodal facility.
- In 2015 the Canadian Environmental Assessment Agency triggered a Federal Environmental Assessment resulting in the appointment of a Federal Canadian Environmental Assessment Act Review Panel.
- In April 2019 the Review Panel determined that the information it has received to date contains sufficient information to proceed to a public hearing.
- The Review Panel's public hearing is presently scheduled to take place over an approximate one-month period beginning on June 19, 2019.
- The deadline to provide the Review Panel with a position on the merits of the CN project is May 29, 2019.
- To address the merits of the Project under Federal Environmental Assessment, the Halton Municipalities must address two fundamental issues at the Review:
  - Is the Project likely to cause any significant adverse environmental effects, taking into account mitigation and cumulative effects?
  - If the Project is likely to cause any significant adverse environmental effects are they justified in the circumstances?
- The Halton Municipalities must also address CN's requirement for railway line approval under the Canadian Transportation Agency that requires consideration of the "interests of the localities that will be affected by the new railway line." The CTA approval expands the scope of the "environmental effects" that must be considered and assessed for "significance" under the Federal EA process.

- The impact of the CN Project is likely to be exacerbated as the ultimate capacity of the CN Project has not been put forward by CN to the Review Panel. The Halton Municipalities have, through an international expert in intermodal design, provided the Review Panel with information that demonstrates that the footprint of the CN Project could handle more than 1 million containers annually, compared to the 450,000 that CN has proposed as an annual volume.

## Strategy/process

As noted above, the public hearing regarding this matter will commence before the Review Panel on June 19, 2019. Burlington shares the environmental concerns raised by the Halton municipalities and the experts who have been assessing them. Of particular interest to Burlington are the transportation issues that have been raised. The transportation issues are of regional importance and impact. Work undertaken on behalf of the Halton Municipalities that will be presented to the Review Panel conclude in part that:

*“In summary, there are several key transportation issues related to the design, operation and consequent impacts from the Project to the regional road network.*

*Dealing with the Project as proposed, one key conclusion is that the additional truck trips generated by the Project will impact traffic operations causing additional congestion, queuing and delay. A second key conclusion is that the haul route most likely to be used by trucks accessing and leaving the Project site will impact sensitive land uses in the Halton communities, namely residential and institutional.*

*Further conclusions relate to Mr. Vickerman’s findings that the current proposed container capacity of 450,000 containers per year is not the ultimate capacity of this site, even with its current footprint. Detailed modelling provides the Panel with information on anticipated truck volumes entering and exiting the Project associated with changes in container throughput, and provide predictions of the extent of its greater impacts on the regional transportation network.”*  
(Correspondence dated May 29, 2019 from Lisa De Angelis, Director Infrastructure Planning & Policy, Halton Region Public Works)

It is recommended that the City Council pass a resolution endorsing the recommendations set out in this Report in order to demonstrate that Burlington City Council independently endorses the submissions being made by the Halton Municipalities in this matter to the Review Panel.

### **Options considered**

The City of Burlington could disengage from participating with the other Halton municipalities in this process; however as discussed above, the City shares a number of environmental and socio-economic interests in common with the other Halton Municipalities, so continued participation remains the recommended option.

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### **Financial Matters:**

The Region of Halton has borne all costs associated with legal fees, consultants and environmental experts arising from this matter.

### **Total Financial Impact**

N/A

### **Source of Funding**

N/A

### **Other Resource Impacts**

Periodic attendance by the City Manager and City Solicitor convened at the Region of Halton is required.

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### **Connections:**

The approach taken is a collective, cooperative approach by all Halton municipalities.

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### **Public Engagement Matters:**

The Panel's public hearing is scheduled to be held from June 19, 2019 through July 17, 2019. No registration is required in order to attend. The hearing will be held at the Holiday Inn Express & Suites at 2750 High Point Drive in Milton.

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### **Conclusion:**

Staff recommend that Council approve the recommendations contained in this report and continue to participate in the Review Panel hearing into this matter.

Respectfully submitted,

Nancy Shea Nicol

City Solicitor & Director of Legal Services

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**Appendices:**

- A. Regional Report LPS78-19 – CEAA Panel Review of the Proposed CN Milton Logistics Hub
- B. Regional Report LPS-69-19 – Proposed CN Milton Logistics Hub

**Notifications:**

As identified in the Resolution

**Report Approval:**

All reports are reviewed and/or approved by Department Director, Director of Finance and Director of Legal. Final approval is by the City Manager.