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File No. 1984

April 4, 2025

By Email

City Council
Burlington City Hall
426 Brant Street, PO Box 5013,
Burlington, Ontario L7R 3Z6

Dear Mayor Ward and Members of Council:

**Re: Item 12.1 Heritage response to Bill 23 – Evaluation of shortlist of
designation candidates (DGM-10-25)
2280 No. 2 Side Road, City of Burlington
Potential Cultural Heritage Designation**

We represent Nelson Aggregate Co. ("**Nelson**"), the owner and operator of the Burlington Quarry (the "**Quarry**"), which is located north of No. 2 Side Road and west of Guelph Line within the City of Burlington (the "**City**"). The Quarry has been in operation since 1953; Nelson has owned and operated it since 1983.

We understand that at its meeting on April 7, 2025, the Committee of the Whole, followed by Council at its meeting on April 15, 2025, will consider the designation of the property municipally known as 2280 No. 2 Side Road (the "**Subject Property**") pursuant to Section 29 of the *Ontario Heritage Act*, R.S.O. 1990, c. O. 18. The Subject Property is owned by our client and is the subject of active *Planning Act*, R.S.O. 1990, c. P.13 and *Aggregate Resource Act*, R.S.O. 1990, c. A.8 applications to permit the extension of the Quarry (the "**Extension Applications**"). The Extension Applications have been appealed to the Ontario Land Tribunal and are the subject of an ongoing hearing that is anticipated to conclude this summer (the "**Hearing**").

We write to request that Council defer its consideration of the potential designation of the Subject Property until the Hearing is completed.

The reasons for the request are as follows:

1. Proceeding with a NOID for the Subject Property prior to the completion of the Hearing is premature. There is no question that the house and barn on the Subject Property are not proposed to be demolished or altered. The Hearing, for which

considerable resources have already been expended by the City and Nelson, may serve to focus on the appropriateness of a potential designation by-law. Proceeding in advance of the Hearing process concluding will only result in duplication and an inefficient use of public resources.

2. Further study beyond the Hearing may need to be completed to determine the appropriate geographic extent of a potential designation by-law. Since the possible heritage attributes that have been identified on the Subject Property, by both MHBC and Stantec, are limited to the house and the barn, further consideration needs to be given to the appropriate extent of a designation by-law, if one is to be passed. As such, it is premature to issue a NOID, which must include the geographic extent of the land to be designated.
3. Given the extension of the statutory deadline to January 1, 2027 to issue the NOID, there is no prejudice in delaying the issuance of a NOID, if appropriate, to a later date once the Hearing has concluded and further study regarding the scope of potential designation has been completed.

We enclose a copy of letter we filed with the Burlington Heritage Advisory Committee dated January 28, 2025 seeking this deferral, for your information.

Yours very truly,

WOOD BULL LLP



Johanna Shapira
JRS
Enclosures

cc: Client



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File No. 1984

January 28, 2025

By Email

Heritage Burlington Advisory Committee
Burlington City Hall
426 Brant Street
Burlington, Ontario L7R SZ6

Dear Committee Members:

Re: 2280 No. 2 Side Road, City of Burlington Potential Cultural Heritage Designation

We represent Nelson Aggregate Co. ("**Nelson**"), the owner and operator of the Burlington Quarry (the "**Quarry**"), which is located north of No. 2 Sideroad and west of Guelph Line within the City of Burlington (the "**City**"). The Quarry has been in operation since 1953; Nelson has owned and operated it since 1983.

We understand that, at its meeting scheduled for January 29, 2025, this Committee will be considering the potential designation of the property municipally known as 2280 No. 2 Side Road (the "**Subject Property**") pursuant to section 29 of the *Ontario Heritage Act*, R.S.O. 1990, c. O. 18 (the "**OHA**"). The Subject Property is owned by our client and is the subject of active *Planning Act*, R.S.O. 1990, c.P.13 and *Aggregate Resources Act*, R.S.O. 1990, c. A.8 applications to permit the extension of the Quarry (the "**Extension Applications**"). The Extension Applications have been appealed to the Ontario Land Tribunal (the "**Tribunal**").

We write to request that the Committee defer its consideration of the potential designation of the Subject Property until the appeals of the Extension Applications are concluded.

Background

In May 2020, Nelson submitted applications to the Ministry of Natural Resources, the City, the Regional Municipality of Halton, and the Niagara Escarpment Commission to permit the westerly and southerly extension of the Quarry (previously defined as the "Extension Applications"). The Subject Property forms part of the proposed southerly extension lands.

The Extension Applications are supported by a cultural heritage impact report prepared by MHBC Planning, which has been updated to November 2024 (the "**CHR**"). The CHR includes an assessment of the Subject Property and concludes that the heritage attributes



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of the Subject Property may possibly include the architectural style of the house, the barn complex to the west of the house, and the orientation of the house. Neither the house nor the barn lie within the proposed extraction area. With respect to the overall impact of the proposed quarry extension on the Subject Property, the CHR concludes that, “the potential for impacts on the subject lands is very low, given that the proposed development will not take place within the area of the identified cultural heritage resources.”

The Extension Applications were appealed to the Tribunal in 2022 and are the subject of a three-month hearing scheduled to begin on March 4, 2025 (the “**Hearing**”). It is expected that, at the Hearing, expert witnesses retained by Nelson and the City will present evidence regarding cultural heritage matters, including the Subject Property.

Municipal Designation Process

We understand that the City has retained Stantec to assess the properties listed on the City’s heritage registry for potential designation, including the Subject Property. We have been provided with an extract of a draft report prepared by Stantec dated January 2025, which appears to outline the potential cultural heritage value of the Subject Property (the “**Stantec Report**”). We note that, as with the CHR, the Stantec Report identifies the house and barn as the potential heritage attributes on the Subject Property. The area around the built structures has not been identified as being of significance.

It is not clear from the extract whether Stantec, in preparing its report, considered the CHR or the appropriate geographic extent of a potential designation given that only the house and barns may have cultural heritage value. It is also not clear if Stantec was aware that the Subject Property is the subject of ongoing appeals at the Tribunal.

We note that the statutory deadline to issue a notice of intention to designate (“**NOID**”) for listed properties, including the Subject Property, has been extended from January 1, 2025 to January 1, 2027.

Request of the Committee

On behalf of Nelson, we hereby request that the Committee defer its consideration of designation of the Subject Property for the following reasons:

- (1) Proceeding with a NOID for the Subject Property prior to the completion of the Hearing is premature. There is no question that the house and barn are not proposed to be demolished or altered. The Hearing, for which considerable resources have already been expended by the City and Nelson, may serve to focus on the appropriateness of a potential designation by-law. Proceeding in advance of the Hearing process concluding will only result in duplication and an inefficient use of public resources.

- (2) Further study beyond the Hearing may need to be completed to determine the appropriate geographic extent of a potential designation by-law. Since the possible heritage attributes that have been identified on the Subject Property, by both MHBC and Stantec, are limited to the house and the barn, further consideration needs to be given to the appropriate extent of a designation by-law, if one is to be passed. As such, it is premature to issue a NOID, which must include the geographic extent of the land to be designated.
- (3) Given the extension of the statutory deadline to January 1, 2027, there is no prejudice in delaying the issuance of a NOID, if appropriate, to a later date once the Hearing has concluded and further study regarding the scope of potential designation has been completed.

Thank you in advance for your consideration of this submission.

Yours very truly,

WOOD BULL LLP

A handwritten signature in blue ink, appearing to read "Jshapira", written in a cursive, flowing style.

Johanna Shapira
JRS/SO

cc: Quinn Moyer & Tecia White, Nelson Aggregate Co.
Brian Zeman, MHBC Planning