



Planning and Development Committee

Post-Meeting Agenda

Date: April 6, 2021

Time: 7:00 p.m.

Location: Council Members (in Chambers or MS Teams) | Members of the Public (MS Teams)

Inquiries & Accommodations: For inquiries about this agenda, or to make arrangements for accessibility accommodations for persons attending, please contact: Lindsey Patenaude, Committee Coordinator, at 905-623-3379, ext. 2106 or by email at lpatenaude@clarington.net.

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***Late Item added or a change to an existing item** after the Agenda was published.

1. **Call to Order**
2. **Land Acknowledgment Statement**
3. **New Business – Introduction**
 As outlined in Corporate Policy F-11 Transparency and Accountability, the Municipality of Clarington is committed to ensuring that it is accountable to the public for its actions, through responsible and transparent behaviours and the manner in which the municipality will try to ensure that its actions are transparent to the public. Accordingly, Members of Council will endeavour to provide New Business resolutions in advance of the meeting.
4. **Adopt the Agenda**
5. **Declaration of Interest**
6. **Announcements**
7. **Adoption of Minutes of Previous Meeting**

7.1. Minutes of a Regular Meeting of March 15, 2021 5

8. **Public Meetings**

9. **Delegations**

*9.1. Wendy Bracken, Regarding Staff Comments/Responses at Works Committee and Report 2021-WR-5 DYEC Operations, Long-Term Sampling System Update for Dioxins and Furans 12

*9.2. Linda Gasser, Regarding Staff Comments/Responses at Works Committee and Report 2021-WR-5 DYEC Operations, Long-Term Sampling System Update for Dioxins and Furans 29
 (Revised Order)

*9.3. Kerry Meydam, Regarding Staff Comments/Responses at Works Committee and Report 2021-WR-5 DYEC Operations, Long-Term Sampling System Update for Dioxins and Furans 69
 (Revised Order)

| | | |
|------------|--|-----|
| *9.4. | Karrie Lynn Dymond and Jonathan Cocker, Regarding Staff Comments/Responses at Works Committee and Report 2021-WR-5 DYEC Operations, Long-Term Sampling System Update for Dioxins and Furans (Correspondence Attached) | 78 |
| *9.5. | Jeff Mitchell, Port Darlington Community Association, Regarding Unfinished Business Item 15.1, Report PDS-007-21 Cedar Crest Beach - Property Loss Study | 80 |
| *9.6. | Tom Kara, Regarding Unfinished Business Item 15.1, Report PDS-007-21 Cedar Crest Beach - Property Loss Study | |
| *9.7. | Wendy Bracken, Regarding St. Marys Cement Alternative Low Carbon Fuels Approval | |
| 10. | Communications – Receive for Information | |
| 10.1. | Chris Jones, MCIP, RPP, Director of Planning and Regulation, Regarding CLOCA Comments for Proposed Changes to Ministers' Zoning Orders and the Planning Act (Schedule 3 to Bill 257) | 90 |
| 10.2. | Ralph Walton, Regional Clerk/Director of Legislative Services, Region of Durham, Regarding Resolution Adopted by Regional Council on February 24, 2021 about Lake Simcoe | 117 |
| *10.3. | Debbie France, Resident of Norfolk County, Regarding Health Canada Cannabis Consultation Open for Comments until May 7, 2021 | 119 |
| 11. | Communications – Direction | |
| 12. | Presentations | |
| 12.1. | Pete Zuzek, MES, CFM ,P. Geo., President, Zuzek Inc., Regarding Unfinished Business Item 15.1, Report PDS-007-21 Cedar Crest Beach – Property Loss Study | 121 |
| *12.2. | Gioseph Anello, M.Eng., P.Eng., PMP, Director, Waste Management Services and Susan Sipois, P. Eng., Commissioner of Works, The Regional Municipality of Durham, Regarding Durham York Energy Centre Operations Long-Term Sampling System Update (Correspondence Attached) | 151 |

13. Planning and Development Department Reports

- 13.1. PDS-022-21 Graham and Wilmot Creek Flood Plain Mapping Update Study 166

14. New Business – Consideration

- *14.1. Start Time for May 17, 2021 Planning and Development Committee Meeting (Mayor Foster) 173

15. Unfinished Business

- 15.1. PDS-007-21 Cedar Crest Beach – Property Loss Study

[Link to Report PDS-007-21](#)

- 15.2. Resolution #GG-113-20, Regarding, Report EGD-006-20 - Cedar Crest Beach Rd and West Beach Rd Berm Review and Estimates (Referred from the January 4, 2021 General Government Committee Meeting) 174

[Link to Report EGD-006-20](#)

- *15.3. Item 9.4, Karrie Lynn Dymond and Jonathan Cocker, Regarding Staff Comments/Responses at Works Committee and Report 2021-WR-5 DYEC Operations, Long-Term Sampling System Update for Dioxins and Furans

16. Confidential Reports

- 16.1. PDS-012-21 Confidential Land Acquisition Matter
(Distributed Under Separate Cover)

- *16.2. Memo from Rob Maciver, Director of Legislative Services/ Municipal Solicitor, Regarding Anaerobic Digester – Host Community Agreement Dispute 175

17. Adjournment



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Planning and Development Committee

Minutes

Date: March 15, 2021
Time: 7:00 p.m.
Location: Council Members (in Chambers or MS Teams) | Members of the Public (MS Teams)

Members Present: Mayor A. Foster, Councillor G. Anderson, Councillor R. Hooper, Councillor J. Jones, Councillor J. Neal, Councillor M. Zwart

Regrets: Councillor C. Traill

Staff Present: A. Allison, J. Newman, L. Patenaude, R. Windle, R. Maciver, F. Langmaid, K. Richardson

1. Call to Order

Councillor Anderson called the meeting to order at 7:00 p.m.

2. Land Acknowledgment Statement

Councillor Zwart led the meeting in the Land Acknowledgement Statement.

3. New Business – Introduction

Councillor Neal asked that a new business item, regarding Region of Durham's Municipal Comprehensive Review, be added to the New Business – Consideration section of the agenda.

4. Adopt the Agenda

Alter the Agenda

Resolution # PD-084-21

Moved by Mayor Foster

Seconded by Councillor Hooper

That the Agenda be altered to consider Item 12.1 Presentation from Pam Lancaster, Stewardship Technician, Source Water Protection Technician, Ganaraska Region Conservation Authority Regarding Clean Water Healthy Lands Financial Assistance Program, after Item 9.1.

Carried

Resolution # PD-085-21

Moved by Councillor Jones

Seconded by Councillor Zwart

That the Agenda for the Planning and Development Committee meeting of March 15, 2021, be adopted with the addition of a New Business Item Regarding the Region of Durham's Municipal Comprehensive Review.

Carried

5. Declaration of Interest

Councillor Jones declared a direct interest in Item 10.1, Memo from Ryan Windle, Director of Planning and Development Services, Regarding an Update on Lakeridge Health Bowmanville Helipad.

6. Announcements

Members of Committee announced upcoming community events and matters of community interest.

7. Adoption of Minutes of Previous Meeting

7.1 Minutes of a Regular Meeting of February 22, 2021

Resolution # PD-086-21

Moved by Mayor Foster

Seconded by Councillor Hooper

That the minutes of the regular meeting of the Planning and Development Committee meeting held on February 22, 2021, be adopted.

Carried

8. Public Meetings

9. Delegations

9.1 Peter Vogel, Vice-Chair, Clarington Heritage Committee, Regarding Report PDS-019-21 Addition of Properties to the Municipal Heritage Register and Heritage Committee Update

Peter Vogel, Vice-Chair, Clarington Heritage Committee, was present via electronic means regarding Report PDS-019-21 Addition of Properties to the Municipal Heritage Register and Heritage Committee Update. Mr. Vogel made a verbal presentation to accompany an electronic presentation. He provided an overview of the Clarington Heritage Committee and their accomplishments in 2020. Mr. Vogel explained the Municipal Heritage Register and provided a background on 172 Liberty Street North, 192 Liberty Street North, Law, Medicine and Gospel Trio, 77 Scugog Street, and 75 Wellington Street.

He concluded by stating they are involved in promoting awareness of cultural heritage and will be celebrating Clarington's cultural heritage resources through a Heritage Information Pole project using QR codes. Mr. Vogel answered questions from Members of Committee.

Resolution # PD-087-21

Moved by Mayor Foster

Seconded by Councillor Hooper

That the Delegation of Peter Vogel, Vice-Chair, Clarington Heritage Committee regarding Report PDS-012-21 Addition of Properties to the Municipal Heritage Register and Heritage Committee Update, be received with thanks.

Carried

12. Presentations

12.1 Pam Lancaster, Stewardship Technician, Source Water Protection Technician, Ganaraska Region Conservation Authority, Regarding Clean Water Healthy Lands Financial Assistance Program

Pam Lancaster, Stewardship Technician, Source Water Protection Technician, Ganaraska Region Conservation Authority, was present via electronic means regarding Clean Water Healthy Lands Financial Assistance Program. Ms. Lancaster made a verbal presentation to accompany an electronic presentation. She provided an overview of the program's goals and funding amounts and caps. Ms. Lancaster stated that there is a review Committee to evaluate the projects and approve funding and listed the Committee members. She provided an overview of the accomplishments of Clarington's program and outlined their popular project types, 2020 projects, and the trees for rural roads program. Ms. Lancaster highlighted that the stewardship has benefits to a natural environment and answered questions from Members of Committee.

Resolution # PD-088-21

Moved by Councillor Zwart

Seconded by Mayor Foster

That the Presentation of Pam Lancaster, Stewardship Technician, Source Water Protection Technician, Ganaraska Region Conservation Authority, regarding Clean Water Healthy Lands Financial Assistance Program, be received with thanks.

Carried

10. Communications – Receive for Information

Resolution # PD-089-21
Moved by Mayor Foster
Seconded by Councillor Hooper

That Communication Items 10.1 and 10.2, be received for information.

Carried

10.1 Memo from Ryan Windle, Director of Planning and Development Services, Regarding an Update on Lakeridge Health Bowmanville Helipad

Councillor Jones declared a direct interest in Item 10.1, as she is an employee of Lakeridge Health. Councillor Jones muted her audio and video and refrained from discussion and voting on this matter.

Resolution # PD-090-21
Moved by Mayor Foster
Seconded by Councillor Hooper

That Communication Item 10.1, Memo from Ryan Windle, Director of Planning and Development, Regarding Update on Lakeridge Health Bowmanville Helipad, be received for information.

Carried

10.2 Steve Clark, Minister of Municipal Affairs, Ontario Regulation 167-21 Zoning Order - Municipality of Clarington, for 2423 Rundle Road for Home Hardware

Resolution # PD-091-2

That Communication Item 10.2, Steve Clark, Minister of Municipal Affairs, Regarding Ontario Regulation 167-21 Zoning Order - Municipality of Clarington, for 2423 Rundle Road for Home Hardware, be received for information.

11. Communications – Direction

11.1 Brian Bridgeman, MCIP, RPP, Commissioner of Planning and Economic Development, Region of Durham, Regarding C.P. Railway Traffic Information and Data Arising from Resolution #C-028-21

Resolution # PD-092-21
Moved by Mayor Foster
Seconded by Councillor Zwart

That the following resolution from Brian Bridgeman, Commissioner of Planning and Economic Development, regarding C.P. Railway Traffic Information and Data Arising from Resolution #C-028-21, be endorsed by the Municipality of Clarington:

Whereas sound is considered by the Environmental Protection Act to be a contaminant which causes negative effects on human health;

Whereas the Provincial Policy Statement (PPS) states that planning for land uses in the vicinity of rail facilities should be undertaken in a manner that ensures that rail facilities and sensitive land uses are appropriately designed, buffered and/or separated from each other;

Whereas the PPS also directs municipalities to avoid land use patterns and development which may cause environmental or public health and safety concerns;

Whereas, Environmental Noise Assessment Studies, prepared in accordance with Ministry of Environment, Conservation and Parks guidelines require accurate and up-to date data to accurately assess the impacts of railway noise on new development and identify appropriate mitigation measures;

Now therefore, be it resolved that the Region of Durham is requesting that CP Rail reconsider its decision to cease providing railway traffic information to the noise consultants; and

That a copy of this motion be forwarded to CP Rail; the area municipalities; the Association of Municipalities Ontario (AMO); and the Federation of Canadian Municipalities (FCM).

Carried

Item 12.1, Presentation from Pam Lancaster, Stewardship Technician, Source Water Protection Technician, Ganaraska Region Conservation Authority, Regarding Clean Water Healthy Lands Financial Assistance Program, was considered earlier in the meeting after Item 9.1.

13. Planning and Development Department Reports

13.1 PDS-019-21 Addition of Properties to the Municipal Heritage Register

Resolution # PD-093-21

Moved by Councillor Hooper

Seconded by Councillor Zwart

That Report PDS-019-21 be received;

That 172 Liberty Street North, Bowmanville be added to the Municipal Register;

That 192 Liberty Street North, Bowmanville be added to the Municipal Register;

That 77 Scugog Street, Bowmanville be added to the Municipal Register;

That 75 Wellington Street, Bowmanville be added to the Municipal Register; and

That all interested parties listed in Report PDS-019-21 and any delegations be advised of Council's decision.

Carried

14. New Business – Consideration

14.1 Amendments to Zoning for Agricultural Uses and Other Permitted Uses (Councillor Neal)

Resolution # PD-094-21

Moved by Councillor Neal

Seconded by Councillor Jones

That Staff be directed to report back on what amendments should be made to "as of right" zoning for agricultural uses and other permitted uses that are compatible on prime agricultural areas.

Motion Withdrawn

14.2 Region of Durham's Municipal Comprehensive Review

Resolution # PD-095-21

Moved by Councillor Neal

Seconded by Councillor Jones

That the position of Clarington on the Region of Durham's Municipal Comprehensive Review be presented to and endorsed by Council.

Carried

15. Unfinished Business

16. Confidential Reports

16.1 Confidential Verbal Update from Faye Langmaid, Manager of Special Projects, Regarding a Property Matter

Closed Session

Resolution # PD-096-21

Moved by Councillor Hooper

Seconded by Mayor Foster

That, in accordance with Section 239 (2) of the *Municipal Act, 2001*, as amended, the meeting be closed for the purpose of discussing a matter that deals with the following matters:

- personal matters about an identifiable individual, including municipal or local board employees; and

- a proposed or pending acquisition or disposition of land by the municipality or local board.

Carried

Rise and Report

The meeting resumed in open session at 8:18 p.m.

Councillor Anderson advised that one item was discussed in “closed” session in accordance with Section 239(2) of the *Municipal Act, 2001* and no resolutions were passed.

Resolution # PD-097-21

Moved by Mayor Foster

Seconded by Councillor Neal

That Item 16.1, Confidential Verbal Update from Faye Langmaid, Manager of Special Projects, Regarding a Property Matter, be received for information.

Carried

17. Adjournment

Resolution # PD-098-21

Moved by Mayor Foster

Seconded by Councillor Zwart

That the meeting adjourn at 8:40 p.m.

Carried

**Delegation to Clarington Planning & Development Ctee
April 6, 2021**

**Regarding Correspondence Documenting
Concerns with AMESA LTSS Data Reporting**

Correspondence Provides Details

- Why AMESA sampling is essential
- Why having the monthly results in a timely manner matters
- Why Durham Report #2021-WR-5 is inadequate and concerning

Requested Action

Send a formal request to Durham Region to:

- release all AMESA data from when it was installed to the present, including the underlying reports;
- Post AMESA results as they become available on a monthly (every 28-day period)

AMESA Sampling is Essential; AMESA Data Should Be Public and Posted Monthly

- Dioxins/furans are well known extremely toxic pollutant of concern with incinerators
- History of dioxin/furan exceedances at the incinerator (stack tests, ambient air)
- Continuous monitoring in control room not capable of detecting dioxin/furan exceedances
- Ambient air only 24-h every 21 days and not done at stack

Five Years of AMESA Monthly Data Withheld We Have Been Asking for It Since 2015

- Long Term Sampling Systems are used in many places and results are provided to the public as they come available AMESA sampling and analysis funded by the public; we should have access to the data
- FOI request made in May 2019; process ongoing with no resolution yet
- Various, changing reasons given by Durham for not releasing AMESA data
- modifications to the sampling equipment and to sampling procedures have been made to “correlate” the AMESA to the stack test results, but concerns remain whether that was the correct line of action (trend analysis more important) and whether changes made were appropriate and given proper oversight
- Expert comments raise concerns and questions

BOTTOM LINE:

For transparency, accountability and ability to address issues, the Municipality of Clarington, Regional Council and the public must be informed in a timely and all AMESA data must be made public as it is available.

Durham Staff Previously Indicated They Were NOT Reviewing the Monthly AMESA Results

- At the September 24, 2019 EFW-WMAC meeting Mr. Anello advised that the AMESA monthly cartridge lab results go to Covanta and Durham does not review them as the results are “meaningless”

Durham WR-5 is Grossly Inadequate

Does not Commit to Reporting Critical Data in Timely Manner

- Durham only commits to a “**summary**” of “*validated*” **monthly** data once a year in Annual Report
- Renders AMESA
- Would fail Statistics 101; commits to report only a single data point – a rolling mean **average** of monthly data, but fails to provide commitment to report other essential statistics to understand data (median, standard deviation, high/lows);
- Missing the “checklist” of validation criteria;
- No commitment to provide underlying data reports, as is common practice for other monitoring

New Reports Raise Concerns and Questions

- HDR Memo released March 16, 2021
- Annual Report just released

Dr. Jahnke Document Received Through FOI on Continuous Sampling for Dioxins and Furans



CONTINUOUS SAMPLING AND MONITORING SYSTEMS For POLYCHLORINATED DIBENZODIOXINS And POLYCHLORINATED DIBENZOFURANS

2014 UPDATE

This report updates Source Technology Associates Report #STA:COVANTA:8926 Submitted 18 January 2012. It incorporates corrections to the original report and assesses the current status of dioxin/furan emission sampling and monitoring systems through December 2014.

Prepared for:

COVANTA ENERGY
530 South Cherry St.
Wallingford, CT 06492

Prepared by:

James A. Jahnke, Ph.D.
Source Technology Associates
P.O. Box 12609
Research Triangle Park, NC 277

Jahnke Document (page 11) on AMESA

- Continuous dioxin monitors first required in Belgium in 2000
- since then France, Italy have followed
- a number of AMESA devices are installed in Belgium and “Data taken over 14 or 28 days are required to be made available to the public over the internet.”
- AMESA was developed by German companies and is now a subsidiary of Environnement SA of France; AMESA received a TUV type approval in 1997 and a UK MCERTS certification in 2005

Jahnke Document (pages 25,26) on Common Problem of Correlation Issues

- “Differences in sampling methods, sampling times, and recovery can lead to differences in results obtained between the short-term reference methods and long-term continuous systems. ” (page 25)
- “The problem is that there are no standard procedures for conducting such a comparison, either in Europe or the U.S.”
- cautions “Because many of the reports found in the literature are written by the instrument manufacturers themselves or researchers serving professional objectives and not regulatory agencies, **the method which best presents or best obfuscates the results is used.**”

Jahnke Document (page 26) on Success in Europe for Monitoring Trends

- **“The European experience has shown that long term DF monitors can be used to monitor relative DF emission levels.”**
- “If an agency requires continuous dioxin monitors for compliance purposes, it can be debated whether the data will be credible, since there are no specifications that tie the continuous method to the reference test method.”
- AMESA data is not used for compliance in Durham but could/should be used to monitor relative DF emission levels

DYEC has had MAJOR DIOXIN/FURAN STACK EXCEEDANCES

- **Oct. 1-2, 2015 Stack Tests for Dioxins/Furans:**
Boiler 1 Tests average **229.3 pg TEQ** per cubic metre
Boiler 1 Tests average **103.8 pg TEQ per cubic metre**
- **May 2 – May 11, 2016 Stack Test**
Boiler 1 Tests average **818 pg-TEQ** per cubic metre

Dioxin/Furan Legal Limit

60 pg-TEQ per reference cubic metre

**Yet operational parameters on Continuous Emissions Monitors (CEMs) showed no indication there was a problem-
no one knew**

From Chandler Memo to Durham Staff: Fall 2016 Testing at DYEC

November 22 2016

Preliminary Results of Fall Regulatory Tests

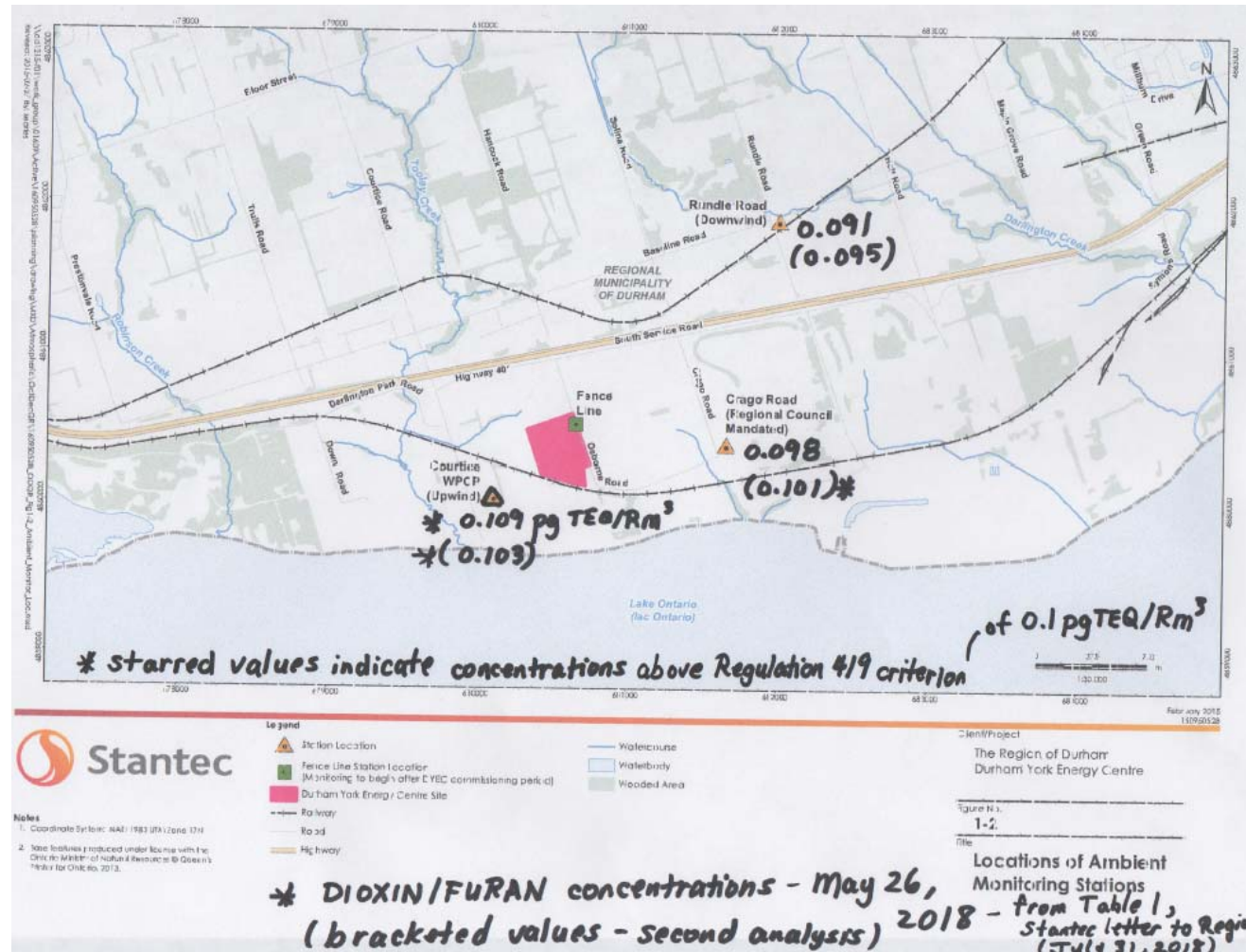
The author has reviewed the preliminary results of the test series. The numbers are well below the required levels of the Approval. It is my opinion that there should be no attempt to interpret the data either as it relates to between tests on either unit, or between the units. It needs to be stated that Environment Canada have stated that the level of quantification, 32 pg TEQ/Rm³, represents the lowest level that can reasonably be reported with conventional sampling and analytical methods. Moreover the ASME ReMAP study has suggested that there is considerable statistical variation in sample results at this level.

I await the AMESA data.

Dioxin/Furan Ambient Air Exceedance May 26, 2018

Questions and Concerns Still Remain; Very Calm Day

(note: handwriting in marker is my own)



Ministry Review Was Limited

Did Not Review AMESA Data, nor Profiles

Below are the responses I received to questions I submitted to the MECP for the June 7, 2019 MECP session at the DYEC

Did the MECP look at the dioxin/furan congener profiles and, if so, what did they show?

No, the ministry has not reviewed the dioxin/furan congener profiles.

Did the MECP review the AMESA cartridge results to see how the sample for that month compared and, if so, what was found?

The AMESA data collected during the month of May 2018 was not reviewed and assessed by the ministry as part of the review of the May 26 elevated concentration.

Requested Action

Send a formal request to Durham Region to:

- release all AMESA data from when it was installed to the present, including the underlying reports;
- Post AMESA results as they become available on a monthly (every 28-day period)

March 17, 2021.

Chair John Henry and Members of Council
Regional Municipality of Durham
605 Rossland Road East,
Whitby ON L1N 6A3

Re: Staff Comments/Responses at Works Committee & Report 2021-WR-5 DYEC Operations, Long-Term Sampling System Update (for Dioxins and Furans)

Chair Henry and Members of Council:

On March 3rd, Works Committee received Report 2021 WR 5 “for information”.

Our Requests to Council:

- 1) That Council NOT accept/support the Works Committee Recommendation to receive Report 2021-WR-5 for information.
- 2) That Council refer Report WR-5 - together with our letter - to staff, directing staff to respond in writing to the concerns raised and specifically to the request that AMESA data be provided as we have described below near the end of our letter in Bullet Points 1 – 4.

Introductory Comments.

First, please note this letter is a joint submission from Linda Gasser, Wendy Bracken and Kerry Meydam. We have been actively engaged around incinerator issues from when we first learned about Durham’s plans in spring 2006 (Linda and Kerry) and Wendy became involved in early 2007.

Rather than each of us writing to Council individually, a joint submission summarizes our shared ongoing concerns with multiple issues around AMESA data.

Over the years of our involvement, we have made multiple submissions over the course of the Environmental Assessment (EA) and Certificate of Approval (ECA) phases via delegations and formal submissions to both Durham and the Province. Since EA and ECA approvals were granted, we submitted formal comments on many aspects of incinerator operations including around monitoring plans.

With others, we hosted multiple citizen information events across Durham during periods when Durham had stopped consulting with the public during key phases of the EA.

We also organized a Council Information session at Ajax Town Hall in March 2011, primarily for the benefit of new councillors, so they could better understand what had transpired over the previous five years leading up to EA Approval.

We continue to sit on the Energy from Waste Advisory Committee since 2011. Wendy and Kerry were appointed repeatedly by Clarington Council as their members on the Energy from Waste, Waste Management Advisory Committee (EFW WMAC).

Second, we write to Durham Council, because Durham Region is the majority owner of the DYEC and as such has multiple responsibilities as a DYEC Owner.

Third, it might not be clear for the average reader or anyone searching for information pertaining to Dioxins monitoring, from the Report 2021-WR-5 title, that this report is about the **long term sampling of Dioxins and Furans**.

Fourth, our letter also addresses some staff comments to Works Committee at the March 3rd meeting.

Fifth, to understand Durham's obligations as Owner - around Long Term Sampling of Dioxins and Furans in particular, see below the complete text of ECA Condition 7(3). As concerns Report WR-5, note the obligations of "The Owner" under subsection (b).

Sixth, since Report WR-5 was received for information, it may not appear on your Council agenda.

Report at: https://icreate7.esolutionsgroup.ca/11111068_DurhamRegion/en/regional-government/resources/Documents/Council/Reports/2021-Committee-Reports/Works/2021-WR-5.pdf

March 3 Works Committee Minutes, starting Page 3:

<https://calendar.durham.ca/meetings/Detail/2021-03-03-0930-Works-Committee-Meeting/a40833af-7ab6-42e2-ab51-aced0096e1ee>

You can view the March 3 Works meeting segment with staff comments starting from the 6 minute mark of the meeting to 18:10 at:

<https://www.eventstream.ca/events/durham-region>

DYEC ECA Condition 7(3) states:

Long-Term Sampling for Dioxins and Furans

- (3) (a) The Owner shall develop, install, maintain and update as necessary a long-term sampling system, with a minimum monthly sampling frequency, to measure the concentration of Dioxins and Furans in the Undiluted Gases leaving the APC Equipment associated with each Boiler. The performance of this sampling system will be evaluated during the annual Source Testing programs in accordance with the principles outlined by 40 CFR 60, Appendix B, Specification 4.
- (b) The Owner shall evaluate the performance of the long-term sampling system in determining Dioxins and Furans emission trends and/or fluctuations as well as demonstrating the ongoing performance of the APC Equipment associated with the Boilers.

What are Dioxins and Furans?

US EPA Fact Sheet

<https://archive.epa.gov/epawaste/hazard/wastemin/web/pdf/dioxfura.pdf>

*Dioxins and furans is the abbreviated or short name for a family of **toxic substances** that all share a similar chemical structure.*

*Dioxins and furans are not made for any specific purpose; however, they are created when products like herbicides are made. They are also created in the pulp and paper industry, from a process that bleaches the wood pulp. **In addition, they can be produced when products are burned.***

***Dioxins and furans can enter your body through breathing contaminated air, drinking contaminated water or eating contaminated food.** About 90% of exposure to dioxins and furans is from eating contaminated food. Dioxins and furans can build up in the fatty tissues of animals.*

There are several sources of exposure to dioxins and furans. If you work in or near a municipal solid waste incinerator, copper smelter, cement kiln or coal fired power plant you can be exposed to dioxins and furans.** Individuals who burn their household waste or burn wood can be exposed as well. Even forest fires can contribute to the creation of small amounts of dioxins and furans. Dioxins and furans have been found in the air, soil, and food. **Dioxins and furans are mainly distributed through the air. However, only a small percentage of exposure is from air. Eating contaminated food is the primary source of exposure.

Health Effects of Dioxins and Furans

Information about the many health effects of dioxins and furans were provided on multiple occasions to Durham staff and council over the course of the EA, ECA and since, including in 2013, during monitoring programs development.

The [International Agency for Research on Cancer \(IARC\)](#) -- part of the World Health Organization -- published their research into [dioxins and furans](#) and announced on February 14, 1997, that the most potent dioxin, 2,3,7,8-TCDD, is now considered a [Group 1](#) carcinogen, meaning that it's a known human carcinogen.

A 2003 re-analysis of the cancer risk from dioxin reaffirmed that there is [no known "safe dose"](#) or "threshold" below which dioxin will not cause cancer

In addition to cancer, exposure to dioxin can also cause severe reproductive and developmental problems (at levels 100 times lower than those associated with its cancer causing effects). Dioxin is well-known for its ability to damage the immune system and interfere with hormonal systems.

Dioxin exposure has been linked to birth defects, inability to maintain pregnancy, decreased fertility, reduced sperm counts, endometriosis, diabetes, learning disabilities, immune system suppression, lung problems, skin disorders, lowered testosterone levels and much more. For a detailed list of health problems related to dioxin, read the [People's Report on Dioxin](#)

Short-term exposure of humans to high levels of dioxins may result in skin lesions, such as chloracne and patchy darkening of the skin, and altered liver function. Long-term exposure is linked to impairment of the immune system, the developing nervous system, the endocrine system and reproductive functions.

<https://www.who.int/en/news-room/fact-sheets/detail/dioxins-and-their-effects-on-human-health>

DYEC Monitoring of Dioxins and Furans (D & F)

Keep in mind that the incinerator operates 24/7/365 except when down for maintenance or other reasons.

Source (aka Stack) Testing – MECP required only ONE source test per year for compliance. In 2013 Durham residents (including us) petitioned the then Council for quarterly stack testing, which staff had promised in their business case in 2008, with Council eventually agreeing to doing one additional stack test per year -often called the Voluntary Source Test – for a total of TWO Source tests per year

Durham staff have reported to council that since Fall 2016, after the previous two dioxins exceedances, that stack test results have been well below the emissions limit. Durham's consultant at the time, John Chandler, wrote the following on page 4 of his **memo to Mr. Anello dated Nov.22-December 1, 2016:**

"Preliminary Results of Fall Regulatory Tests"

*The author has reviewed the preliminary results of the test series. The numbers are well below the required levels of the Approval. It is my opinion there should be no attempt to interpret the data either as it relates to between tests on either unit, or between the units. **It needs to be stated that Environment Canada have stated that the level of quantification, 32 pg TEQ/Rm₃ represents the lowest level that can reasonably be reported with conventional sampling and analytical methods. Moreover, the ASME ReMAP study has suggested that there is considerable statistical variation in sample results at this level.** I await the AMESA data."*

Ambient Air Monitoring Sampling for D & F occurs every 24 days (15 times per year)– sample duration 1440 minutes. There are two Ambient Air monitoring stations.

Soil Monitoring -now only every three years

Long-Term Sampling -AMESA system- continuous sampling over 28 day periods in both boilers. This monitoring is for information, NOT required for compliance.

Dioxins and Furans are NOT monitored via Continuous Emissions Monitoring Systems (CEMS)

DYEC Monitoring Results Reporting

Source (Stack) Test Monitoring: submitted to Durham Region Works Dept. and Covanta. The most recent report posted (hard to find) is from June 15-18, 2020 test, the related Ortech Report dated August 18, 2020 at:
https://www.durhamyorkwaste.ca/en/environmental-monitoring/resources/Documents/AirEmissions/2020/20201013_2020_Spring_Voluntary_Source_Test_RPT.pdf

Ambient Air Monitoring – according to the Cover Page of 2020 Q 4 Ambient Air Report dated February 9, 2021, this is submitted to Regional Clerk or designate at Durham, with copies going to 3 Works/Waste Dept. staff listed.
https://www.durhamyorkwaste.ca/en/environmental-monitoring/resources/Documents/AmbientAir/Ambient%20Air%202020/20210222_RPT_2020_Q4_AA_ACC.pdf

Soil Monitoring – according to cover page of 2020 report submitted to Durham Region lists one Waste staff member, see at:
https://www.durhamyorkwaste.ca/en/environmental-monitoring/resources/Documents/Soil/2020/20201026_ENC_DYEC_2020_Soils_Testing_Report_MECP_ACC.pdf

AMESA Long Term Sampling Results: ZERO data from monthly (28-day) sampling periods posted since AMESA installation in Fall 2015.

A single AMESA number for each boiler (no calculations/underlying data provided) taken over period concurrent with Source Testing campaign has been referenced in past Annual Reports, most recent for 2019 found on page 27 at:
https://www.durhamyorkwaste.ca/en/operations-documents/resources/Documents/2019_DYEC_Facility_Operations_Annual_Report.pdf

ALL monitoring reports, EXCEPT for AMESA sampling data which staff claim goes to Covanta and, which Durham staff have claimed they don't review, ARE provided to Durham Region.

ALL monitoring results from all surveillance systems, must be reviewed and reported in order for Durham to have a picture of DYEC emissions.

Background: DYEC & Dioxins and Furans & AMESA LTSS

During the Environmental Assessment, the public requested, and the Ministry of the Environment ultimately required, installation of a Long Term Sampling System (LTSS) for Dioxins and Furans (D & F). This would ensure there would be monitoring over periods beyond the few hours' duration of semi-annual Source Tests. AMESA was in use by multiple incinerators in Europe since 2000. This was NOT new technology.

Sept-October 2015: "Acceptance Testing "Source Test – failed for D & F, both boilers.
November 2015: Durham hired an external consultant John Chandler to review AMESA sampling – note this AFTER the Acceptance Testing Stack test exceedances. (Chandler memo June 9.16 Attch. 2 to Report 2016.WR 8)

December 2015 and January 2016: Prior to "accepting" Covanta's Acceptance Testing results, the majority of Durham Councillors voted to close TWO council meetings in December 2015 and January 2016. After amending the Project Agreement, and this notwithstanding the Fall 2015 D & F exceedances, Durham Council voted to "accept" and moved Covanta to commercial operations at the end of January 2016.

May 2016: staff reported there had been a massive D & F exceedance in Boiler 1.

Again, the public requested the AMESA results for the sampling periods since AMESA had been installed. These were not provided by Durham.

What is important for Durham councillors to know is that council and the public were told on multiple occasions that if there were operational issues at the incinerator, that these would be picked up by operators. They weren't in May 2016. Council and the public were also told that if something went wrong at the incinerator, MoE would shut it down. After the May 2016 exceedance, MoE did not request Covanta to shut down – they asked them to develop an Abatement Plan. Covanta did not shut down voluntarily.

That massive exceedance went undetected until the source test – none of the continuous monitors indicated any problems. It is unclear how many hours, days, weeks or months went by with the facility emitting in exceedance.

Days later, Boiler 1 was shut down for several months at the request of the Owners, while Durham's consultants and Covanta investigated. There was no "smoking gun". HDR's findings were summarized in Report September 30th 2016 INFO-25 – Abatement Plan Update.

September 2016: after the findings of Closed Meetings Investigator Amberley Gavel, who in his report had determined that portions of those two closed meetings could and should have been held in open session, were made public, Council directed staff to release all documents that were not deemed to be "privileged" and therefore confidential.

May 2018 – Ambient Air exceedance for D & F

May 2019: Wendy Bracken filed two Freedom of Information requests with Durham, both requesting a variety of documents around AMESA, *including "lab analysis showing the sampling results, from the AMESA cartridge samples collected in both boilers, for all sampling periods from start up to April 30, 2019"*.

Some requested documents were released later in 2019. Some of these have raised more questions about Durham's "management" of AMESA sampling. However, NONE of the monthly sampling data or related analyses have been released to date.

There was a stunning revelation at the September 24, 2019 EFW WMAC meeting, when Durham staff responded to Wendy Bracken's questions at that meeting about AMESA.

December 4, 2019 – in her delegation to Works Committee, Ms. Bracken reported that:

“At the September 24, 2019 EFW-WMAC meeting Mr. Anello advised that the AMESA monthly cartridge lab results go to Covanta and Durham does not review them as the results are “meaningless”.

October 23, 2019: at the PIC meeting for the Incinerator throughput expansion to 160,000 tonnes per year (tpy), all three of us were present. Through conversations the three of us had with York, Durham and Covanta staff, we learned that York staff HAD audited AMESA data and Durham staff claimed to have reviewed none, until your Mr. Anello added that he did in fact look at some data around Durham’s Ambient Air Exceedance for D & F. Note - This latter D & F Ambient Air exceedance was not mentioned by Ms. Siopis at the meeting March 3rd – she only recalled AA exceedances for particulate.

If it were true that Durham staff did NOT review the AMESA data, who employed or retained by the majority DYEC Owner i.e. Durham region, did, so that Durham as the owners would be meeting ECA Condition 7(3)b specifically?

There were a series of letters from Durham Legal staff from December 2019 through 2020, to the Information and Privacy Commissioner adjudicator over the course of Wendy Bracken’s appeal of Durham’s denial of some requested documents, including AMESA sampling related data.

Council should review Durham’s submissions to the IPC.

Clarington Council in particular should be concerned as they are the host community and directly impacted by incinerator operations, as would Oshawa residents.

As you read what follows, please keep in mind ECA Conditions 7 (3) as described above, and the OWNERS (Durham and York Regions) obligations.

While AMESA results are not required for COMPLIANCE purposes, they are required to monitor Covanta’s operations AND to meet the OWNERS’ obligations in 7(3)b.

Your former Works Commissioner explained on June 15, 2016 in Report WR-8, after the big May 2016 exceedance:

“The objective for the installation and testing of the AMESA system is to generate additional Dioxins and Furans data to monitor the performance of the plant and its APC system. In addition, the Owners expect that after further investigation the AMESA system will be used to monitor Dioxins and Furans between the scheduled stack tests. This will provide for an additional mechanism to better protect the public”.

Council is Ultimately Responsible

COUNCIL is ultimately responsible for ensuring that ALL monitoring results are reviewed by staff AND reported to both council and the public AND posted on the DYEC website accessible to all, promptly.

Staff and Covanta had almost four years from ECA approval in June 2011 through to start up in 2015 to figure out AMESA. They've had over five years operational experience since AMESA was finally installed in the fall of 2015.

Chair Henry and Councillors –who of you thinks it's a good thing that Durham taxpayers have paid for AMESA equipment, five years' worth of sampling, lab analyses, consultants' reports, flying in manufacturers staff to help troubleshoot, numerous meetings between staff, Covanta, consultants, MoE – yet have NOT been provided with the sampling results for the sampling periods since 2015?

York staff audited some AMESA data and they are a minority owner, whose community is not directly impacted by DYEC emissions.

Can Council think of a single valid reason WHY Durham staff should not review AMESA data, data that was collected for specific purposes as required in ECA Condition 7(3) and for purposes as described by your previous Works Commissioner.

Why has Durham allowed Covanta to control sampling data that monitors their operations?

How much money has been spent to date on AMESA related activities, that Durham staff stated they don't even review?

Not only does Council have an obligation to know about and understand the monitoring results, you should also be aware whether or not your staff carry out their duties in a way that meets Owners' obligations in the ECA.

Council has a duty of oversight, especially relevant here with a private, for profit company operating a facility emitting highly toxic pollutants. Dioxins and furans emission problems have been a major issue for incinerator companies.

When you look at some of the AMESA Work Plans released through the information request, Covanta appears to be running the show as pertains to AMESA data. Though Durham taxpayers are paying the freight, Durham has allowed the fox to be in charge of the hen house.

As some of you know, Covanta has experienced multiple "issues" at their incinerators. Who is monitoring Covanta to ensure that any changes they "recommend" and that may be adopted, would be appropriate and in the public interest?

Recall that Council approved submitting an application for a throughput increase at the incinerator to 160,000 tonnes per year (tpy) and has authorized staff to develop a Terms of Reference for the physical expansion of your incinerator to 250,000 tpy. Council must address the AMESA sampling issues now.

At Works March 3rd a councillor asked whether AMESA was widely used. Staff indicated that there were some in Europe, a few in each country – perhaps leaving the impression with some that it's not widely used.

Durham's consultant at the time wrote a memo to Mr. Anello dated November 22, 2016, "Observations on Sampling", writing on page 3:

*..... noted that there are 60 installations in Belgium with no legal requirement from the EU. In 2006 in Italy the local authorities started to require the units and there are 80 in operation. **As of 2010** France started to require the units and there are 250 installations in that country. There are 60 installations in other European countries, 30 in Asia and 5 in Canada.*

Durham residents knew and know that long term sampling of D & F was widely used, and continues to be, especially in Europe.

Works Commissioner Siopis described the WR -5 report as "a good news story".

This staff report would no doubt be seen as VERY good news by Covanta, the incinerator operator, whose operations AMESA is intended to monitor, and who would be aware that Durham staff claim they are not reviewing it, and would know that the public would in fact be provided with only select data that is under Covanta's control at the present time, according to your staff.

This report is terrible news for Durham taxpayers and residents as well as for the incinerator host community. Durham has multiple obligations to Clarington through the Host Community Agreement.

Durham can't monitor trends over periods (as per condition 7(3)b) and/or take any action that might be warranted, including alerting Council to issues, if not undertaking their own review of the sampling data.

Your monitoring will never be the "best of the best", as a Works Committee member asked staff, if your staff are not reviewing all of it and not making the results and underlying data available to the Owners and general public.

From Works March 3 minutes: *"In response to a question from the Committee with regards to whether the Municipality of Clarington will be made aware of Report #2021-WR-5 of the Commissioner of Works, staff advised that they would summarize the information and forward it to them directly".*

Works Commissioner Siopis responded when Councillor John Neal asked if this information would be communicated to Clarington, that staff had not intended to specifically communicate this information to the incinerator Host Community! She indicated a summary could be provided.

This summary to be provided to Clarington must also be provided to ALL Durham councillors and accessible to the public, whether via information report or memo, so that there is an accessible record of this staff “overview”.

Council seems to have accepted that staff provide you with less information than in the past, about increasingly complex and expensive projects, projects which in the case of the incinerator, directly impacts public health and the natural environment. There are financial impacts to be concerned about as well - Durham reported the highest disposal costs of all municipalities reporting to MBN Canada for 2019.

From Report WR 5 Section 3.2 e) and f)

*e. All AMESA records required by ECA conditions 14(3) through 14(8) will be held at the Facility and will be available for MECP inspection. **Monthly data shall be summarized and presented in the annual ECA report.***

*f. AMESA results for the previous year will be reported as part of the Annual Report as required by ECA Condition 15, commencing with data collected during the 2020 calendar year. **AMESA trends of validated data will be presented as a 12-month rolling average** together with analysis to demonstrate the ongoing performance of the APC Equipment. A summary of non-routine maintenance completed on the AMESA system will be presented as part of the Annual Report.*

Those Annual Reports include little information other than what was explicitly required by MECP.

ONE year's worth of select data, massaged into meaninglessness, when NO monthly sampling data has been reported over the last five years, is completely unacceptable.

It was Covanta who suggested providing the “rolling averages”.

See Extract from November 4, 2018 Work Plan:

“ The improvement of data quality to date and the variability of monthly data suggests that a longer reporting period may be appropriate to review AMESA monthly data moving forward. As a result,

Covanta proposes that a 12 month rolling average begin to be utilized to evaluate the trend of dioxin emissions. “

AMESA data requested

Below find a description of the data that should be made available to Council and the public, posted to DYEC website, going back to when sampling started in 2015 to the present:

1. Data for individual months/collections should be detailed in Annual Report – a rolling average is inappropriate here and virtually useless. Councillors should be asking themselves – why would you accept a rolling average reported once a year, for data that you need monthly (28 days)?
2. The AMESA cartridge data should be posted online and include: the mass of dioxins/furans collected in each monthly sample and their toxic equivalencies, the volume sampled, give the concentration calculated as well as the dates and duration of each sample.
3. The underlying raw data and analysis should be posted online as well as the validated data set. Lab reports must be provided to the public for transparency and accountability. Other publicly funded monitoring reports attach the underlying data and lab analysis – this should not be any different. If any data was invalidated there should be rationale provided for its deletion and that rationale should be publicly available and part of the reporting as it is for other publicly funded monitoring.
4. We request that Council direct staff to review the monthly data as it comes in with copies of all AMESA data going to both Durham and Covanta. Durham should be conducting an objective and a separate review from Covanta. Durham staff should not depend on Covanta to update them, as may currently be the case.

The practices documented and described by staff indicate an inappropriate amount of responsibility and control has been given to the private sector operator, Covanta.

Once-a-year reporting out of a single statistic (“12-month rolling average”) of “validated” AMESA data proposed in the Report would render the information near meaningless for the public, Host Community and Council as it would not be apparent if certain months were worse, or indicated problems, and defeats the stated purpose of informing monthly trends.

Without providing the monthly data it impossible to be aware and react to monthly trends in a timely manner. A primary objective of the AMESA is to provide some information on dioxin and furan emissions over the six months between stack tests.

Furthermore, Report #2021-WR-5 FAILS to align with the two strategic goals the same report alleges to adhere to in Section 4.1 a. and b.

If your staff don't look at the data and don't report out the meaningful **monthly data**, you are not aligning with those strategic goals **of protecting the environment (Goal 1.3)** and of **"continuous quality improvement and communicating results"** (Goal 5.3), but instead are **taking actions contrary to those goals**.

The data requests described above are reasonable, effective and within your authority. **They increase transparency and accountability and provide necessary safeguards.**

Closing Comments

Our concerns relating to AMESA sampling data not being provided, and not being reviewed by Durham staff, were brought forward by Wendy Bracken on December 18th, 2019 to Regional Council, as well as to Works Committee on December 4th, 2019.

Our Requests to Council:

that Council NOT accept/support the Works Committee Recommendation to receive Report 2021-WR-5 for information.

that Council refer Report WR-5 - together with our letter to Council - to staff, directing staff to respond in writing to the concerns raised and specifically to the request that AMESA data be provided as we have described above in Bullet Points 1 – 4.

Thank you for your attention.

Linda Gasser, Whitby,
Email: gasserlinda@gmail.com

Submitted also on behalf of Wendy Bracken, Newcastle, A
Email: wendy-ron@sympatico.ca

Kerry Meydam, Courtice
Email: ksam2@rogers.com

Cc: Clarington Council

Patenaude, Lindsey

From: Patenaude, Lindsey
Sent: Monday, March 29, 2021 10:26 AM
To: Patenaude, Lindsey
Subject: FW: WENDY'S FOI REQUESTs WAS TO DURHAM REGION Requests filed on May 3 2019 Numbers A20-2019 064 and A20-2019-065

From: Don Beaton <Don.Beaton@durham.ca>
Sent: March 24, 2021 12:56 PM
To: Linda Gasser <gasserlinda@gmail.com>; shaun.collier@ajax.ca; Marilyn Crawford <marilyn.crawford@ajax.ca>; Joanne Dies <joanne.dies@ajax.ca>; Sterling Lee <sterling.lee@ajax.ca>; Ted Smith <tsmith@townshipofbrock.ca>; Anderson, Granville <GAnderson@clarington.net>; Neal, Joe <JNeal@clarington.net>; dcarter@oshawa.ca; Bob Chapman <bchapman@oshawa.ca>; Rick Kerr <rkerr@oshawa.ca>; Tito-Dante Marimpietri <tmarimpietri@oshawa.ca>; John Neal <jneal@oshawa.ca>; Brian Nicholson <bnicholson@oshawa.ca>; 'Dave Ryan' <mayor@pickering.ca>; Kevin Ashe <kashe@pickering.ca>; Bill McLean <bmclean@pickering.ca>; David Pickles <dpickles@pickering.ca>; bdrew@scugog.ca; Wilma Wotten <wwotten@scugog.ca>; 'Dave Barton (Mayor of Uxbridge)' <dbarton@town.uxbridge.on.ca>; 'Gord Highet' <gghighet@town.uxbridge.on.ca>; Don Mitchell <mayor@whitby.ca>; Chris Leahy <leahyc@whitby.ca>; Rhonda Mulcahy <mulcahyr@whitby.ca>; Elizabeth Roy <roye@whitby.ca>; Steve Yamada <yamadas@whitby.ca>; Mayor Shared Mailbox <mayor@clarington.net>; john.henry@durham.ca; Clerks <Clerks@durham.ca>; weschummer@townshipofbrock.ca; Clerks <Clerks@durham.ca>; John Grant <jgrant@townshipofbrock.ca>
Cc: Hooper, Ron <rhooper@clarington.net>; Zwart, Margaret <MZwart@clarington.net>; Jones, Janice <JJones@clarington.net>; Traill, Corinna <CTraill@clarington.net>; mail=jomeara@durhamregion.com <jomeara@durhamregion.com>; mail=editor@oshawaexpress.ca <editor@oshawaexpress.ca>; Orono Times <oronotimes@rogers.com>; Susan Siopis <Susan.Siopis@Durham.ca>; Gioseph Anello <Gioseph.Anello@Durham.ca>; Elaine Baxter-Trahair <Elaine.Baxter-Trahair@durham.ca>; ClerksDepartment@clarington.net; Wendy Bracken <wendy-ron@sympatico.ca>; Kerry Meydam <ksam2@rogers.com>; Ralph Walton <Ralph.Walton@durham.ca>
Subject: RE: WENDY'S FOI REQUESTs WAS TO DURHAM REGION Requests filed on May 3 2019 Numbers A20-2019 064 and A20-2019-065

EXTERNAL

Members of Council.

As a follow-up to the meeting of March 24th. Initial information provided related to information that was provided regarding an MECP FOI.

With respect to the two items that Ms. Gasser has outlined below – Regional Staff responded to the FOI requests.

However, the recipient of the material escalated the request to the office of the Information and Privacy Commissioner.

A response was sent to the Information and Privacy Commissioner in September 2020, and no response or request for further information has been received to date.

Regards,



Don Beaton, BCom., M.P.A. | Commissioner of Corporate Services
Corporate Services Department
The Regional Municipality of Durham
Don.Beaton@durham.ca | 905-668-7711 extension 2125 | durham.ca



From: Linda Gasser <gasserlinda@gmail.com>

Sent: March 24, 2021 12:35 PM

To: Shaun Collier <shaun.collier@ajax.ca>; Marilyn Crawford <marilyn.crawford@ajax.ca>; Joanne Dies <joanne.dies@ajax.ca>; Sterling Lee <sterling.lee@ajax.ca>; Ted Smith <tsmith@townshipofbrock.ca>; Granville Anderson <ganderson@clarington.net>; 'Joe Neal' <jneal@clarington.net>; Dan Carter <dcarter@oshawa.ca>; Bob Chapman <bchapman@oshawa.ca>; Rick Kerr <rkerr@oshawa.ca>; Tito-Dante Marimpietri <tmarimpietri@oshawa.ca>; John Neal <jneal@oshawa.ca>; Brian Nicholson <bnicholson@oshawa.ca>; 'Dave Ryan' <mayor@pickering.ca>; Kevin Ashe <kashe@pickering.ca>; Bill McLean <bmclean@pickering.ca>; David Pickles <dpickles@pickering.ca>; Bobbie Drew <bdrew@scugog.ca>; Wilma Wotten <wwotten@scugog.ca>; 'Dave Barton (Mayor of Uxbridge)' <dbarton@town.uxbridge.on.ca>; 'Gord Highet' <gghighet@town.uxbridge.on.ca>; Don Mitchell <mayor@whitby.ca>; Chris Leahy <leahyc@whitby.ca>; Rhonda Mulcahy <mulcahyr@whitby.ca>; Elizabeth Roy <roye@whitby.ca>; Steve Yamada <yamadas@whitby.ca>; Mayor Shared Mailbox <mayor@clarington.net>; John Henry <John.Henry@durham.ca>; Clerks <Clerks@durham.ca>; wschummer@townshipofbrock.ca; Clerks <Clerks@durham.ca>; John Grant <jgrant@townshipofbrock.ca>

Cc: Hooper, Ron <rhooper@clarington.net>; Zwart, Margaret <mzwart@clarington.net>; jjones@clarington.net; ctrail@clarington.net; mail=jomeara@durhamregion.com <jomeara@durhamregion.com>; mail=editor@oshawaexpress.ca <editor@oshawaexpress.ca>; Orono Times <oronotimes@rogers.com>; Susan Siopis <Susan.Siopis@Durham.ca>; Gioseph Anello <Gioseph.Anello@Durham.ca>; Elaine Baxter-Trahair <Elaine.Baxter-Trahair@durham.ca>; Clerks Dept. Clarington <clerks@clarington.net>; Wendy Bracken <wendy-ron@Sympatico.Ca>; Kerry Meydam <ksam2@rogers.com>; Don Beaton <Don.Beaton@durham.ca>

Subject: WENDY'S FOI REQUESTs WAS TO DURHAM REGION Requests filed on May 3 2019 Numbers A20-2019 064 and A20-2019-065

Importance: High

Good afternoon"

Mr. Beaton's statement re Wendy Bracken's FOI request was incorrect. Wendy's TWO FOI Requests were to DURHAM REGION - NOT TO MECP.

Request filed May 3, 2109 - **Requests: A20-2019 064 and A20-2019-065**

Linda Gasser

On 2021-03-17 11:03 a.m., Linda Gasser wrote:

Good morning:

Attn Clerks and Members of Council: **Clerks - please include our correspondence to the next Council agenda.**

I send our letter to all councillors directly as well, because at times correspondence can get redirected. Though Durham's Council page states the Brock Mayor position is "vacant", I read recently that John Grant was appointed Mayor, so send this to him as well. <https://www.townshipofbrock.ca/en/news/john-grant-sworn-in-as-mayor.aspx>

Note I submit our letter on behalf of myself, Wendy Bracken and Kerry Meydam, as one letter responding to the staff comments and Report 2021 WR-5 - DYEC Long Term Sampling System Update (for Dioxins and Furans).

Our letter includes specific requests of Council and we hope you closely review our concerns and requests.

In our letter, we describe and again raise long standing concerns around AMESA sampling, withholding of sampling data.

Some concerns had already been brought to the attention of Works Committee and Council in December 2019 by Wendy Bracken in delegations.

Works Committee received the staff report "for information". In the letter we provide links to both the Works report and March 3rd minutes, as well as a link to the webcast, where a short 12 minute segment would provide an overview of staff comments.

I provide the links here as well:

Report 2021 WR-5: https://icreate7.esolutionsgroup.ca/11111068_DurhamRegion/en/regional-government/resources/Documents/Council/Reports/2021-Committee-Reports/Works/2021-WR-5.pdf

March 3 Works Committee Minutes: <https://calendar.durham.ca/meetings/Detail/2021-03-03-0930-Works-Committee-Meeting/a40833af-7ab6-42e2-ab51-aced0096e1ee>

Thank you for your attention.

Linda Gasser, Whitby

also on behalf of Wendy Bracken, Newcastle and Kerry Meydam, Courtice

cc: Clarington Council

THIS MESSAGE IS FOR THE USE OF THE INTENDED RECIPIENT(S) ONLY AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, PROPRIETARY, CONFIDENTIAL, AND/OR EXEMPT FROM DISCLOSURE UNDER ANY RELEVANT PRIVACY LEGISLATION. No rights to any privilege have been waived. If you are not the intended recipient, you are hereby notified that any review, re-transmission, dissemination, distribution, copying, conversion to hard copy, taking of action in reliance on or other use of this communication is strictly prohibited. If you are not the intended recipient and have received this message in error, please notify me by return e-mail and delete or destroy all copies of this message.

Patenaude, Lindsey

From: Patenaude, Lindsey
Sent: Tuesday, April 6, 2021 10:13 AM
To: Patenaude, Lindsey
Subject: FW: FYI -Durham staff report March 26, 2021 INFO 35 Durham York Energy Centre Source Test Update (Nov. 2020)

From: Linda Gasser <gasserlinda@gmail.com>

Sent: April 6, 2021 9:01 AM

To: Mayor Shared Mailbox <mayor@clarington.net>; Neal, Joe <JNeal@clarington.net>; Anderson, Granville <GAnderson@clarington.net>; Zwart, Margaret <MZwart@clarington.net>; Jones, Janice <JJones@clarington.net>; Hooper, Ron <rhooper@clarington.net>; Traill, Corinna <CTraill@clarington.net>

Cc: Burke, Amy <ABurke@clarington.net>; Langmaid, Faye <flangmaid@clarington.net>; ClerksExternalEmail <clerks@clarington.net>; Wendy Bracken <wendy-ron@Sympatico.Ca>; Kerry Meydam <ksam2@rogers.com>

Subject: FYI -Durham staff report March 26, 2021 INFO 35 Durham York Energy Centre Source Test Update (Nov. 2020)

EXTERNAL

Good morning:

We learned last week that Durham released the attached staff report found in the March 26th CIP, about the November 2020 Source Test results.

Note this report comes more than four months after the source test, which took place from November 9-12, 2020.

The [INFO 35 report](#) is relevant to the delegations Wendy, Kerry and I will make tonight further to our letter dated March 17th, on your agenda tonight, on the topic of Dioxins and Furans Monitoring and Long Term sampling.

Source Test results reflect results on those testing dates ONLY - one should not interpret or suggest that even a series of source test results are a reflection of emissions **between** those test dates. **Source tests are a snapshot of emissions on the testing dates.**

As we described on page 5 of our March 17 letter: Durham's consultant at the time, John Chandler, wrote further to the fall 2016 source test, on page 4 of his memo to Mr. Anello dated Nov.22-December 1, **2016**:

"Preliminary Results of Fall Regulatory Tests"

The author has reviewed the preliminary results of the test series. The numbers are well below the required levels of the Approval.

It is my opinion there should be no attempt to interpret the data either as it relates to between tests on either unit, or between the units.

It needs to be stated that Environment Canada have stated that the level of quantification, 32 pg TEQ/Rm³ represents the lowest level that can reasonably be reported with conventional sampling and analytical methods.

Moreover, the ASME ReMAP study has suggested that there is considerable statistical variation in sample results at this level. "

I attach the above referenced Chandler memo fyi as well.

Note, from the limited documents Durham did release in response to Wendy's Freedom of Information request to Durham in May 2019, it appears there have been several changes to both AMESA and Source testing procedures over the last several years at the DYEC

However, NO monthly (28 day) AMESA sampling results were released and Wendy has appealed Durham's decisions to not release several requested documents.

If possible, it would be useful for councillors to review the attached Durham's INFO 35 Nov. 2020 Stack Test report and consider this in conjunction with our March 17th letter and our delegations to council tonight.

Thank you for your attention.

Linda Gasser

905-665-5789

MEMORANDUM

22 November 1 December 2016

TO: Gioseph Anello, Region of Durham

SUBJECT: Fall 2016 Testing at DYEC

Observations from Sampling October 28, 2016

Attended at DYEC site in the morning to discuss testing that had been done this week and observations re the AMESA. Talked to Covanta's Environmental Rep on site this week and Mr. Dunbar from HDR re their observations.

Things appear to have been running very well this week. Even though they switched the targeted unit for this week, #2 has not had any glitches after the ID fan trips last weekend.

Looking at the velocity in the stack the ΔP on the PCDD/F train was very steady through the 1st 2 hours of today's run. Reviewed the control room screens and the steam output was relatively steady so the unit was operating with feed being uniform. The feeder responds to furnace temperature and steam output to maintain the output. When the steam and temperature set points are satisfied the feed is reduced – ie. goes to zero and then comes back on – although there was a period where the steam was down and #1 was being fed continuously. Likely wetter waste or waste with lower calorific value.

Talked to Mr. Dunbar about his observations, and those of Mr. Muller, the AMESA technician when the latter was cleaning the systems on Wednesday Oct. 26th. There was a noticeable red stain on the probe, nozzle and fitting that are inside the stack. It was more noticeable on #2 than on the system from #1. Mr. Muller wondered if during cleaning of the probe this sort of material might be dislodged from the nozzle and create elevated readings. He cleaned the connector and the nozzle thoroughly on the outside before cleaning the inside as well. He kept the rinses from the cleaning should there be an interest in analysing those samples. I think we should wait and see what we get with these tests. The glass liners have a thick wall. They were thoroughly cleaned before the system was assembled, and the liner is taken out and sealed after each run.

Ms. Huxter, DYEC's Environmental Specialist, said that the intent is to send the laboratory all the PCDD/F samples from Unit 1 after the testing on October 31st, so the samples and liners are being stored on-site.

The other thing that Mr. Muller commented upon was the amount of material in the tube that connects the probe to the sampling box. Apparently, a great deal of material was deposited in the sharp bend of the tube and this was cleaned as well.

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It might be worth considering having some extra connecting tubes on site so they can be swapped out during the monthly cartridge replacement. There would only need to be 2 spares because the dirty one could be cleaned before it was re-installed. The procedure for this cleaning should be defined – along with the need for any special equipment to accomplish the cleaning.

Talked to Mr. Dunbar about procedures for routine operation. In my opinion the glass liner should be used at least until we get a few month's experience. Depending upon what is found in the probe rinse during analysis the time line for pulling the liner and inserting a new one can be specified. I am not sure it needs to be done each month.

The MOECC stack sampling specialist arrived on site just before I left.

Observations from Sampling November 1, 2016

The author attended at site to observe sampling operations and to discuss the AMESA program with Mr. Juergen Reinmann, the Environnement S.A Deutschland Branch Manager, Mr. Leon Brasowski, Director, Environmental Engineering Covanta and Mr. Chuck Davis from Covanta.

Sampling was proceeding in the same manner as the previous week with no noticeable concerns raised by the sampling team or the Covanta representatives.

On both occasions that the author was on site Ortech personnel were conducting the sampling in their usual calm, controlled manner. Sufficient QA/QC measures were incorporated into their sampling plan to ensure that the results would truly represent the emissions from the facility and I did not observe anything that would make me concerned about the procedures.

Comments and Thoughts on AMESA Sampling Meeting

Mr. Reinmann stated that he had reviewed the system and its operation and everything was progressing as it should. The meeting included a wide ranging discussion about potential issues related to high levels from the AMESA system.

Based upon the observations reported on the 28th, the deposits on the exterior of the probe were discussed. It was explained that these had been cleaned off relatively easily with a 3M Scotch-brite heavy duty cleaning pads. The surfaces could be cleaned and polished with these pads. As to the deposit in the nozzle, it was noted that such deposits can give rise to a "memory-effect" leading to higher concentrations. Essentially material created during a potential upset of the system could remain in the nozzle and release PCDD/F at an elevated rate for some time. This phenomenon had been observed in APC systems in Europe where it took some time for the system emissions to return to lower levels after an upset. There is no way that the impact of such a deposit can be quantified. It suggests that back flushing the system when sampling is off-line is a good precaution. Furthermore, the nozzle should be cleaned at the end of each month and the rinsings retained.

The manufacturer recommended that all the probes from the AMESA system be sent to the lab for recovery of the samples. This was a precaution to limit the potential for contamination on site. The liners were capped and stored in their shipping box after use. Since all the liners had been cleaned and capped prior to testing, field contamination should not be a factor. It was stated that the tube should be brushed in the lab, but the brush should be proofed before the cleaning procedure to ensure no contamination from the cleaning. It was recommended that the liners be rinsed with toluene. AMESA to provide written guidance for future recovery. The probe rinses should be analysed separately from the other samples.

Mr. Reinmann cautioned that the anti-sieze compound used on the system can affect reported emission levels. Care must be taken to ensure that there are no touchdowns of the probe nozzle during installation or removal.

The discussion moved to comparison studies and requirements. Mr. Reinmann noted that there are 60 installations in Belgium with no legal requirement from the EU. In 2006 in Italy the local authorities started to require the units and there are 80 in operation. As of 2010 France started to require the units and there are 250 installations in that country. There are 60 installations in other European countries, 30 in Asia and 5 in Canada. These were supplied by three different manufacturers: Decora; AMESA; and DMS. The differences are related to how the sample is collected as each uses one of the EU standard methods: cooled probe, AMESA; filter condenser, DECORA; and dilution, DMS. Validation is typically done with paired AMESA trains and paired regulatory trains operating at single points in the same stack.

Mr. Reinmann mentioned that they have seen leakage in the Method 23 impinger train that could change the results, and mentioned that because of this the European norm is to use a single large impinger in the train to limit the potential for leaks. The best alternative has been to run extended paired tests over 8 – 12 hours. Wallonia requires 2 reference method tests each year regardless of the AMESA.

Typically, the installations are installed in locations where the flow direction is vertically upwards, the opposite of the DYEC operation, but there are installations that are similar to DYEC. It was mentioned that condensation at the probe tip may be more pronounced in the downward flow direction resulting in more material in the probe.

Mr. Reinmann had prepared some slides with data from other facilities and the DYEC data that had been provided. The correlation between the reference methods and the AMESA have been good. There was a discussion about the link between the other parameters recorded by the DYEC control system and the AMESA. Question, what happens during outage situations and it was explained that this is covered in the approval. Essentially the unit is assumed to be off when the input is below 50% of full load and there is a 5 hour exclusion period in the approval for such circumstances.

It was suggested that some field blanks be run for the system. The procedure is outlined on page 22 of EN1984-5 and essentially involves installing the cartridge, completing a leak test, and then removing the cartridge and having it analysed.

Some of the results from the May testing and situations in the facility were discussed. It was noted that the fabric filter plugged after the outage in May. The operators were addressing the issue of fabric filter cleaning cycles and both the frequency and duration of the pulses used for this purpose.

The manufacturer asked whether there had been a dust profile completed in the stack. This would establish if there was any bias induced by particulates not being evenly distributed in the stack. Essentially a dust profile would require a separate filter/train be used to sample at each point on a traverse of the stack. With the low particulate level in the stack, and the limited sensitivity of Method 5 the results could be problematic unless long samples were taken. Alternatively, extractive Beta monitors could be used for this purpose should it be deemed necessary.

While the signature data were discussed it was also suggested that we compare the D/F ratios for the runs to see if there were any differences. There is literature data on the range that would be expected.

Should the AMESA results from the Fall 2016 test not correlate with the Regulatory method, additional comparisons will likely be necessary starting with fixed point comparisons of the two methods.

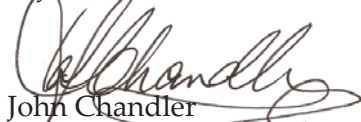
Given the use of the glass liner, the group agreed that at least for now, the probe should be cleaned monthly for the first 3 months, quarterly after that for the first year, and possibly then every 6 months. The period will depend upon the amount of material trapped in the liner versus the results from the cartridges.

Preliminary Results of Fall Regulatory Tests

The author has reviewed the preliminary results of the test series. The numbers are well below the required levels of the Approval. It is my opinion that there should be no attempt to interpret the data either as it relates to between tests on either unit, or between the units. It needs to be stated that Environment Canada have stated that the level of quantification, 32 pg TEQ/Rm³, represents the lowest level that can reasonably be reported with conventional sampling and analytical methods. Moreover the ASME ReMAP study has suggested that there is considerable statistical variation in sample results at this level.

I await the AMESA data.

Your truly,
A.J. Chandler & Associates Ltd.



John Chandler
Principal

Patenaude, Lindsey

From: Patenaude, Lindsey
Sent: Tuesday, April 6, 2021 10:09 AM
To: Patenaude, Lindsey
Subject: FW: Additional - 2020 DYEC Annual Report - FYI -Durham staff report March 26, 2021 INFO 35 Durham York Energy Centre Source Test Update (Nov. 2020)

From: Linda Gasser <gasserlinda@gmail.com>
Sent: April 6, 2021 9:47 AM
To: Mayor Shared Mailbox <mayor@clarington.net>; Neal, Joe <JNeal@clarington.net>; Anderson, Granville <GAnderson@clarington.net>; Zwart, Margaret <MZwart@clarington.net>; Jones, Janice <JJones@clarington.net>; Hooper, Ron <rhooper@clarington.net>; Traill, Corinna <CTraill@clarington.net>
Cc: Burke, Amy <ABurke@clarington.net>; Langmaid, Faye <flangmaid@clarington.net>; ClerksExternalEmail <clerks@clarington.net>; Wendy Bracken <wendy-ron@Sympatico.Ca>; Kerry Meydam <ksam2@rogers.com>
Subject: Additional - 2020 DYEC Annual Report - FYI -Durham staff report March 26, 2021 INFO 35 Durham York Energy Centre Source Test Update (Nov. 2020)

EXTERNAL

Good morning: -

My apologies - I meant to also advise that last week, Durham released the 2020 DYEC Annual Report - see:
https://www.durhamyorkwaste.ca/en/operations-documents/resources/2020/20210330_RPT_2020_DYEC_ECA_Annual_ACC.pdf

and also attached. See pages 30-34 re LTSS and limited AMESA information.

Linda

DYEC long term sampling system results for dioxins and furans (Joint correspondence dated March 17/21)

Linda Gasser to Clarington Council

April 6, 2021

Host Community Council has obligations and challenges around the incinerator

- First, I wish to thank Councillors Neal and Anderson for speaking to the issues we raised in our March 17th letter and at the March 24th meeting of Durham Council. You made important points which must be recognized and dealt with.
- The meek shall not inherit the earth. For Clarington to get Durham Council's attention requires focus, good data and unwavering resolve.
- Many citizens predicted the challenges we face in terms Durham's lack of transparency or getting information out of them or Covanta which might be inconsistent with their preferred narratives around incinerator operations.

Components of DYEC monitoring program

DYEC monitoring for Dioxins and Furans includes:

- Source/Stack Testing – twice a year – MECP required only ONE annual compliance test, the second source test is “voluntary”. Durham council could terminate voluntary test at any time. (Durham staff had promised quarterly stack tests in 2008 business case)
- A council vote on Jan. 30 2019 was required to continue voluntary S. Test.
- Ambient Air – for D & F every 24 days
- Soil Testing – was annually, now only every three years
- AMESA LTSS – samples over +/-28 days - results NOT required for compliance but are for “information” as described in ECA Condition 7(3).

DYEC ECA Condition 7 (3)

Long-Term Sampling for Dioxins and Furans

- (3) (a) The Owner shall develop, install, maintain and update as necessary a long-term sampling system, with a minimum monthly sampling frequency, to measure the concentration of Dioxins and Furans in the Undiluted Gases leaving the APC Equipment associated with each Boiler. The performance of this sampling system will be evaluated during the annual Source Testing programs in accordance with the principles outlined by 40 CFR 60, Appendix B, Specification 4.
- (b) The Owner shall evaluate the performance of the long-term sampling system in determining Dioxins and Furans emission trends and/or fluctuations as well as demonstrating the ongoing performance of the APC Equipment associated with the Boilers.

Source test results a snap shot – reflect emissions on testing dates

- March 26, 2021 Durham finally released preliminary November 2020 Source test information.
- In Section 5, “Continued Demonstrated Performance” staff claim:
- *5.1 Attachment #4 presents the results of testing completed for the last three years. **The data presented indicates that the DYEC has demonstrated it can safely and effectively operate within the ECA Schedule “C” limits. This consistent performance demonstrates the controls and monitoring in place provide a level of safety and protection to human health and the environment.***
- From Chandler memo Nov.22-Dec.1, 2016

*“The author has reviewed the preliminary results of the test series. The numbers are well below the required levels of the Approval. **It is my opinion there should be no attempt to interpret the data either as it relates to between tests on either unit, or between the units.**”*

Until the release on March 30 of select 2020 AMESA data in 2020 Annual Report, Durham RESISTED requests for LTSS data for over five years.

Citizens petitioned MoE to require Long Term Sampling of Dioxins and Furans

Durham, Clarington and Covanta KNEW from early days of EA that dioxins and furans emissions were a by-product of incineration and of great concern to public.

Former Works Commissioner wrote on June 2016 re AMESA:

“The objective for the installation and testing of the AMESA system is to generate additional Dioxins and Furans data to monitor the performance of the plant and its APC system.

In addition, the Owners expect that after further investigation the AMESA system will be used to monitor Dioxins and Furans between the scheduled stack tests. This will provide for an additional mechanism to better protect the public”.

AMESA monthly (28 day) sampling essential to know D & F emissions between stack tests over all operating conditions

- In December 2019, Wendy B. delegated to Durham Works Committee and Council, advising that Durham staff asserted, including September 24, 2019 at the EFW WMAC meeting with archived webcast,, that they weren't reviewing AMESA results, that these were meaningless and said that Covanta had the AMESA data. See our letter for related details.
- Durham's story evolved since then, to statements at March 24th, 2021 Council, that staff have monthly meetings with Covanta and reviewed all aspects of operations including AMESA.
- (Durham Council and EFW WMAC meeting webcasts archived at: <https://www.eventstream.ca/events/durham-region>)

Covanta HAS been reviewing Amesa data

From April 19, 2016 AMESA LTSS Work Plan:

- *“Ongoing performance of the AMESA system will also include evaluation of long term data collected (28+/- day sample periods) between the next scheduled semi-annual validation test periods”*

From April 11 2017 Revised Work Plan:

“Ongoing performance of the AMESA system will also include evaluation of long term data collected (28 +/- day sample periods).

How is the AMESA data being interpreted?

Work Plans reveal numerous changes to testing procedures

- From reviewing the some of the AMESA Work Plans released to Wendy B. through FOI, I have to wonder –
- are Durham and Covanta looking for sampling results that fit with their expected and/or preferred emissions numbers, similar to the stack tests where D & F emissions were below limits?
- Are Covanta and Durham fully considering the two very different types of information that each monitoring/sampling option provides?
- Recall – a Stack test is a pre-advised snap shot over a few hours under optimal conditions. Amesa collects over all operating conditions over +/- 28 days –a longer period.

From October 17 2018 (page 8) & November 14, 2018 (page 7) Work Plans (Durham staff claimed in 2019 that AMESA data “meaningless”)

*As the **AMESA appeared to report consistent results during the 2017 validation test program**, subsequent long term sample results were included as part of the current AMESA performance evaluation.*

*Since the **successful completion of the 2017 validation test program**, fourteen (14) monthly samples have been collected for each unit. Sample volumes and dioxin concentrations are summarized on Table 4.*

*Unlike the validation test results, the AMESA monitor reported a **significant variation, approximately 3 orders in magnitude in dioxin concentrations between Units 1 and 2, even when excluding two apparent outliers until April 2018**. During the initial 10 monthly periods following the 2017 validation tests, however, dioxin concentrations from Unit 1 were extremely consistent, ranging between 0.019 and 0.081 pg TEQ/Rm3.*

*During that same period, **dioxin concentrations from Unit 2, excluding outliers from July-September 2017 of 521 pg TEQ/Rm3 and from March to April 2018 of 162.6 pg TEQ/Rm3 are also consistent, but consistently higher than Unit 1, ranging between 5.7 and 35.5 pg TEQ/Rm3.***

Who defines what is “outlier” data? Or “system bias”?
Why expect the two boilers to operate in identical fashion?

“A review of boiler operations during the July-September 2017 outlier period identified that both boilers were tripped offline due to a severe thunderstorm. Also, Unit 1 was shut down due to a carbon monoxide (CO) emission issue and the ID fan tripping due to a plugged superheater. Unit 2 experienced a superheater tube leak and a feed chute water jacket leak.

A review of boiler operations during the March-April 2018 outlier period identified that both boilers went black plant due to a turbine issue. Unit 1 shut down 3 times due to turbine issues while Unit 2 shut down 6 times, also due to turbines issues.

To the extent possible, auxiliary burners were utilized for shutdown, except in the cases of power failures and black plant. Only a single CO emission excursion occurred during the two periods in question.”

AMESA collecting data over all operating conditions may collect data to confirm higher emissions at such times can be expected e.g. during start ups, shut downs and upset periods

Even though both units experienced similar shutdown events during the outlier periods, only Unit 2 reported higher dioxin emissions, on top of significantly higher average emissions in comparison to Unit 1. Unit 1 dioxin emissions did not significantly vary during the two outlier operations periods, even though Unit 1 experienced operational issues during the outlier periods as well.

As a result, it appears that the underlying sampling system bias by Unit 2 likely contributes more significantly to the generation of outliers than the impact on dioxin emissions during transitory boiler operation.”

Covanta and Durham report AMESA internally

Table 4 Page 8 Nov.14, 2018 Work Plan

Table 4: Summary of Monthly AMESA Data Collected Post 2017 Validation Testing

| Date Range (Start – Stop) | Unit 1 | | Unit 2 | |
|--|------------------------------|-------------------------------------|------------------------------|-------------------------------------|
| | Sample Volume ⁽¹⁾ | Dioxin Concentration ⁽²⁾ | Sample Volume ⁽¹⁾ | Dioxin Concentration ⁽²⁾ |
| 01 Jun 2017 - 30 Jun 2017 | 545.5 | 0.081 | 512.5 | 5.7 |
| 30 Jun 2017- 28 Jul 2017 | 504.0 | 0.063 | 483.3 | 8.0 |
| 28 Jul 2017 – 07 Sep 2017 | 383.3 | 0.080 | 371.7 | 521 |
| 07 Sep 2017 - 05 Oct 2017 | 514.9 | 0.049 | 500.9 | 35.5 |
| 05 Oct 2017- 02 Nov 2017 | 516.5 | 0.019 | 501.6 | 16.1 |
| 02 Nov 2017 – 01 Dec 2017 | 481.9 | 0.021 | 467.5 | 8.8 |
| 01 Dec 2017 – 29 Dec 2017 | 515.5 | 0.025 | 505.8 | 6.9 |
| 29 Dec 2017 – 26 Jan 2018 | 477.6 | 0.039 | 462.9 | 7.0 |
| 27 Jan 2018 – 01 Mar 2018 ⁽³⁾ | 531.5 | 0.037 | | |
| 27 Jan 2018 – 21 Mar 2018 ⁽³⁾ | | | 454.5 | 14.1 |
| 02 Mar 2018 – 24 Apr 2018 ⁽³⁾ | 500.4 | 0.023 | | |
| 21 Mar 2018 – 24 Apr 2018 ⁽³⁾ | | | 554.5 | 162.6 |
| 24 Apr 2018 – 22 May 2018 | 510.6 | 3.2 | 516.7 | 49.1 |
| 22 May 2018 – 22 Jun 2018 ⁽³⁾ | | | 517.6 | 8.7 |
| 22 May 2018 – 3 Jul 2018 ⁽³⁾ | 558.1 | 29.9 | | |
| 3 Jul 2018 – 31 Jul 2018 | 473.4 | 22.9 | 476.2 | 9.3 |
| 31 Jul 2018 – 28 Aug 2018 | 474.0 | 12.8 | 478.2 | 4.7 |
| Long Term Average | 499.1 | 4.9 | 489.8 ⁽⁴⁾ | 14.5 ⁽⁴⁾ |

Notes:

- (1) Sample volume presented as cubic meters corrected to 25°C and 1 atmosphere.
- (2) All results presented as pg TEQ/Rm³ corrected to 25°C and 1 atmosphere, adjusted to 11% O₂, using NATO/CCMS (1989) toxicity equivalency factors with full detection limit.

Clarington needs the tools (LTSS data) and the political will to protect Clarington residents and the municipal corporation

- Clarington Council MUST first request, and then use, all tools to protect the public.
- For Durham to provide ONE year's data in the 2020 Annual Report (AR) is ridiculous.
- Covanta has at least five years of data. So should Clarington, Durham and the public.
- There is no **supporting detail** in AR re data excluded or validated. (page 32)
- I'm guessing Covanta would not want data made public that might indicate high D & F emissions between stack tests.
- Covanta should accept that AMESA was required by MECP for information purposes. IF they are smart, Covanta and Durham would use the data to improve their incinerator operations and their reputations and do everything possible to enhance transparency and accountability.

Clarington Council and especially regional reps need to deliver consistent evidence based messages & motions to Durham

- It's my observation over fifteen years working on incinerator issues that few Durham councillors care, or even know much, about the incinerator because it is NOT in their back yards. Few seem concerned by escalating disposal costs.
- Historically, often, Clarington Council's efforts at Durham Council have been hampered by contradictory messages from individual Clarington regional representatives. It is my opinion that this has HURT Clarington over many years and will continue to do so.
- Dissenting messages around documented concerns may have allowed other regional councillors to dismiss Clarington's concerns, and given the Region an easy out.
- For a recent troubling example, it's worth listening to the March 24, 2021 Durham Council webcast clip from the 2hr:25 minute -2:35 mark.
<https://www.eventstream.ca/events/durham-region>
- There are basic facts around which all Clarington councillors should be able to coalesce. All Clarington Councillors but especially the Mayor and regional reps need to find a path to get the issues affecting YOUR community addressed.

Clarington Council should pass a motion to Durham requesting LTSS monthly (28 day)sampling data from 2015 start up to most recent sampling period analyzed.

- The LTSS monthly(28 day) sampling data IS available to Durham Region – Durham taxpayers have been footing this bill and Covanta has been looking at it.
- For unknown reasons, Durham appears to have granted Covanta custody of AMESA data that's paid for by Durham residents and which is intended to monitor Covanta operations. Who thinks this is okay?
- Durham staff recently reversed earlier statements and claimed at Council March 24th that staff meet monthly with Covanta to review DYEC operations issues INCLUDING AMESA results.
- Durham staff **have obligation to review** to ensure they meet ECA condition 7(3) a & b. Also need data so as to update and advise Durham Council who is the majority owner of the incinerator.
- As the Host Community, Clarington Council/staff need to review all monitoring data including AMESA sampling data– **INDEPENDENT** of Durham and Covanta.

Thank you for your attention.

- QUESTIONS??

Long-Term Sampling System Update for Dioxins and Furans at DYEC

April 6, 2021

Kerry Meydam

AMESA

- Long term sampling of dioxins and furans
- Why is this important?
 - Clarington residents must know the sampling results to be able to understand and assess the potential impacts of the incinerator on our health and natural environment.

Health Risks

- Dioxins are highly toxic
 - can cause cancer, reproductive and developmental problems, damage to the immune system, and can interfere with hormones.
 - Children are especially susceptible, as toddlers but especially in the womb.
- Human exposure
 - Is mainly through foods we eat. Dioxins travel long distances, are found in the in the soil, and bioaccumulate there.
 - Food animals eat vegetation and it is stored in their fatty tissue. We eat the meat, fruits and vegetables, eggs, whole milk, cheese and other dairy products.
 - Dioxins are persistent in the environment and in the human body.

Health and Dioxins

- Dioxins are a “Group 1 carcinogen”
 - Meaning it is a known human carcinogen, according to The International Agency for Research on Cancer (IARC) -- part of the World Health Organization
 - The IARC reaffirmed that there is no known "safe dose" or "threshold" below which dioxin will not cause cancer.
 - EFW incinerators are a known source of dioxins, and levels can change depending on what is being burned on any particular day.
 - Dioxins are persistent in the environment and in the human body.

We need more information, not less

- with the AMESA Long Term Sampling, we are still not getting sampling results on a monthly/28 days basis
- We have not had any results since the Fall of 2015, when AMESA was installed. The public is paying for this and we should have all the information (lab results) that come from it.
- Clarington Council/Staff and residents **MUST** have the opportunity to review all the AMESA sampling data after the lab analyses becomes available, monthly, as should Regional Council and **these results should be posted to DYEC website routinely after sampling cartridge data available.**

Motion request

- We ask that Clarington Councillors advocate clearly on our behalf to Durham Region, demanding transparency and to deliver on monitoring commitments made to Clarington Council and residents since before EA approval.
- **Please pass a motion tonight requesting AMESA sampling results taken monthly/28 days, from incinerator start up in 2015, to the present and that these be posted on the DYEC website.**

Long-Term Sampling System Update for Dioxins and Furans at DYEC

Presentation to Clarington Council

Kerry Meydam

April 6, 2021

I am here this evening to speak to you about my concerns regarding Durham York Incinerator and it's Long-Term Sampling System (AMESA) Update and staff comments on Works Report WR-5.

2 You've already heard Wendy and Linda speak to this subject and a lot has been covered. As a resident of Clarington, I'd like to focus on the lack of information provided to the public in any meaningful way, and why it makes a difference to the public (and Council's) understanding of the risks incineration poses to our health.

As you know, AMESA is the long term continuous sampling of dioxins and furans. Why is this important? Clarington residents must know the sampling results to be able to understand and assess the potential impacts of the incinerator on our health and natural environment.

3 Dioxins are highly toxic and can cause **cancer**, reproductive and developmental problems, damage to the **immune system**, and can interfere with hormones. Dioxins accumulate in food chains , concentrating mainly in the fatty tissue of animals. (**Agent Orange** was a herbicide mixture used by the U.S. military during the Vietnam War. Much of it contained a dangerous chemical contaminant called **dioxin**. ... As many U.S.Vietnam-era veterans know, **dioxin** is a highly toxic and persistent organic pollutant linked to cancers, diabetes, birth defects and other disabilities.)

Most people are exposed to **dioxins** throughout their lifetime in small amounts through the foods they eat. **Dioxins** are taken up by fish and other animals, where they get concentrated and stored in fatty tissue. Dioxins travel long distances, are found in the in the soil, and bioaccumulate there. Food animals eat vegetation and it is stored in their fatty tissue. We eat the meat, fruits and vegetables, eggs, whole milk, cheese and other dairy products.

Children: Dioxins have an impact on the growth and development of children. Most of the new studies on dioxin address its effects on children, notably the effects on the development of the immune, reproductive, and nervous systems, in particular

cognitive and learning abilities. While exposure of the general population occurs through ingestion of many common foods, children exposed in utero (in the womb) during critical periods of development appear to be the most sensitive and vulnerable to the toxic effects of dioxin.

4 The International Agency for Research on Cancer (IARC) -- part of the World Health Organization published their research into dioxins and furans and announced on February 14, 1997, that the most potent dioxin, was considered a Group 1 carcinogen, meaning that it's a known human carcinogen. EFW incinerators are a known source of dioxins, and levels can change depending on what is being burned on any particular day.

A 2003 re-analysis of the cancer risk from dioxin reaffirmed that there is no known "safe dose" or "threshold" below which dioxin will not cause cancer.

These are just a few reasons why we need to have more complete information on AMESA results and why long term sampling of dioxins and furans was requested by citizens during the Environmental Assessment, so that we would know the level of dioxins emissions between pre-advised Source/Stack tests which are conducted under optimal operating conditions.

We do get some information on levels of dioxins twice a year when source tests are done at the stack. However, that's only a few days out of an entire year, and these two source tests are done after boilers are shut down for maintenance, everything is cleaned and checked so the plant will be operating at its best. Start up and shut down (upset conditions) are not included in results, when we know the dioxins are higher than during normal operation, but those numbers are not included.

5 Now, with the AMESA Long Term Sampling, we are still not getting sampling results on a monthly/28 day basis – this year, starting with only 2020 results, even though Amesha has been sampling since 2015, it is saved up to the annual report and will be given once a year – not the monthly sampling results, but as a “rolling average”. That defeats the purpose of this type of monitoring.

We need more monitoring, not less. We have not had any results since the Fall of 2015, when AMESA was installed, until the 2020 Annual Report, released last week, with only 1 year of results. The public is paying for this and we should have all the information (lab results) that come from the monthly/28 day results. ***The public is paying for this and we should have all the information that comes from it.***

Clarington Council/Staff and residents MUST have the opportunity to review all the AMESA sampling data after the lab analysis becomes available, monthly, as should Regional Council. These results should be posted to DYEC website routinely after sampling cartridge data is available. Works Staff were claiming until quite recently, that they had not been reviewing the AMESA data. They leave it all to Covanta to do.

Residents of Clarington and Oshawa are most directly impacted by incinerator operations. We deserve better and Durham Region promised Clarington "the best of the best" monitoring - it's past time Durham delivers on that promise. We stand behind our Councillors who are looking out for the well-being and safety of our community and our residents.

6 This isn't something that will just go away, and for the sake of ourselves and especially the children and the vulnerable, we ask that Clarington Councillors advocate clearly on our behalf to Durham Region, demanding transparency and to deliver on monitoring commitments made to Clarington Council and residents since before EA approval. It seems that's not happening on several levels.

Please pass a motion tonight requesting AMESA sampling results taken monthly/28 days, from incinerator start up in 2015, to the present and that these be posted on the DYEC website.

Thank you.

Questions?

To Clarington Council

Re: Durham Region Waste Plan
And Recycling proposal

I am writing on behalf of over 500 residents, and many more every day, who reside in Clarington.

We have been monitoring very closely the actions of Durham Region and its attack on our waterfront.

Some years ago, our Municipality of almost 100,000, fought diligently against the Regions plans to burn garbage within our municipality. We lost the battle to stop incineration but managed to put in place limits and monitoring. Both have been ignored or exceeded to the point where the Ministry of Environment has had to be called in due to excesses of cancer-causing agents being released at unacceptable levels from the now outdated incinerator.

In a recent addition of our local Metroland newspaper the Durham Region Chair, John Henry, said that the Region is embarking on a 20-year plan to deal with ALL of the Regions waste. This 'plan' is to be discussed, as if public consultation was of importance to the Region.

However, while the Region is telling everyone, that they are consulting with the public. They are quickly proceeding with a formal proposal to construct a 200-million-dollar Mega garbage processing plant in Clarington. The Mega plant will ultimately increase the amount of burning at the incinerator.

We think that Clarington Council was right to tell the Region we are NOT a willing host for such a large plant. Clarington residents also do not want the entire Regions garbage and maybe more coming here.

Surely there are better uses for our limited waterfront?

We are a growing group that have raised over \$10,000 towards a legal challenge to the Regions poor plan, which they are rushing through WITHOUT proper scrutiny.

We are hopeful Council will allow our lawyer and our members to address Council soon so that we can work together against the Regions plans.

We are demanding that a full Environmental Assessment be required for three reasons:

1. The incinerator required an EA from the beginning and has not met the standards and regulations that it committed to then.
2. The Regions 20-year plan means that Clarington and Oshawa residents will be forced to live with whatever else is burned for a very long time.

3. Turning our waterfront business park, and Provincial waterfront park into one of the largest garbage processing plants in the GTA is not what our Official Plan or your residents had in mind.

So in conclusion we are requesting that this Correspondence is to appear and be placed on the April 6 agenda.

As well, I am Requesting that myself, Karrie Lynn Dymond , our lawyer Jonathan Crocker and possibly three other individuals appear and speak as a delegation.

This is an important election issue and one that local Councillors Regional Councillors and our members of Provincial Parliament need to pay attention too.

Together we can stop more burning.

Together we can put an end to Clarington being the garbage dump for the Region and surrounding areas.

Thank you

Sincerely

Karrie Lynn Dymond

1(647)568-1679





Port Darlington Community Association (PDCA)

Response to Report # PDS-007-21

Cedar Crest Beach – Property Loss Study



The embayment shoreline features a natural long-term recession trend

- 1954-2018 recession rate for CCB reach - .17 m/yr
- Reach 1, Ajax to Whitby - .23 m/yr (35% more than CCB)
- Reach 7, Port Hope to Cobourg - .9 m/yr to 1.3 m/yr (500% - 760% more than CCB)
- PDCA conclusions:
 - relevance of this factor is dubious
 - Failure to account for recession and replenishment
 - SMC headland unique to the Lake Ontario shoreline
 - PDCA weighting – 0%




Shoreline orientation not conducive to accumulation of sand and gravel

- S. 4.1: " due to the natural shoreline orientation in the Port Darlington West Embayment, the sediment transport modelling **suggests** that local beaches would have been narrow with low potential for sediment retention"
- S. 4.2: "Sediment arriving from the west during SW storms moved along the shoreline in the western half of the embayment but **likely** did not accumulate in this region due to the shoreline orientation".
- PDCA conclusions:
 - Report conclusions are speculative and inconsistent with lived experience
 - Report ignores dynamics of replenishment dynamics in this reach
 - Testamentary and photographic evidence ignored
 - PDCA weighting: 0%

The beach at 43 Cedar Crest Beach Rd. – early 1960s





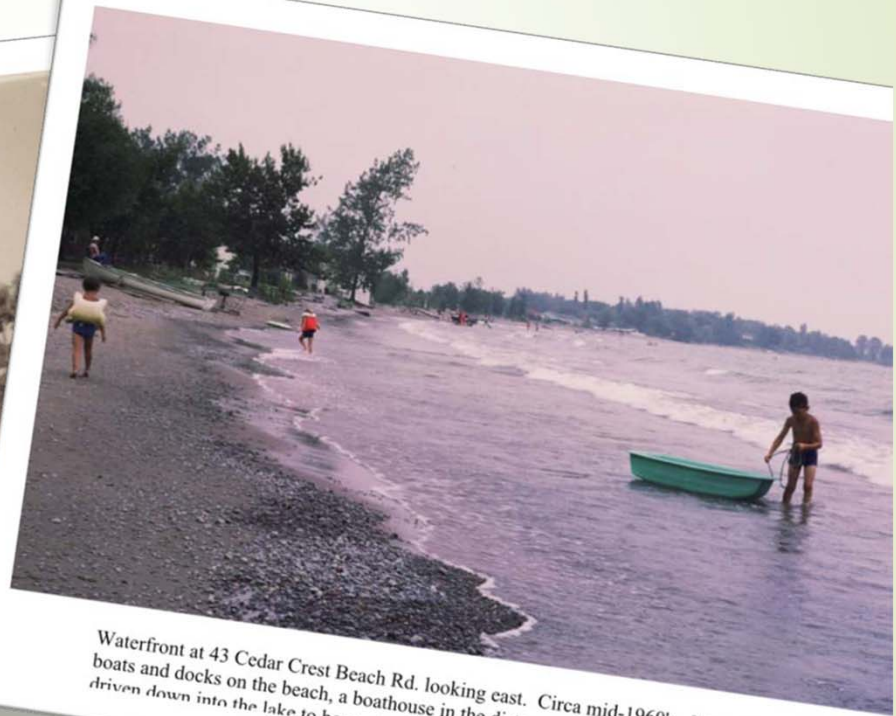
Homes were constructed too close to the water's edger and on top of a dynamic receding low-lying barrier beach

- Location and dating of original cottages
- Testamentary and photographic evidence ignored
- Presence of these homes DID NOT contribute to the erosion problem
- PDCA conclusion: this factor is a red-herring
- PDCA factor weighting: 0%

43 Cedar Crest Beach Rd.




43 Cedar Crest Beach Rd circa 1945



Waterfront at 43 Cedar Crest Beach Rd. looking east. Circa mid-1960's. Note all the boats and docks on the beach, a boathouse in the distance and even a car that had been driven down into the lake to be washed!


55 Cedar Crest Beach Rd.





Vertical shore-parallel protection structures were constructed on the beach that are not conducive to beach building

- Report fails to acknowledge when and why these structures were built
- Erosion well-advanced prior to install of gabions and rock walls
- Town of Newcastle Report #WD-1-91
- CLOCA has continued to mandate such structures
- PDCA conclusion:
 - we agree with the assessment of impact, but not cause
 - failure to analyze these structures in context of what was happening is troubling
 - PDCA factor weighting: 5%



A reduction in sediment supply to the Port Darlington West Embayment due to the SMC Headland

- S. 4.4: "The SMC headland has reduced the supply of sand and gravel to the Port Darlington embayment by approximately 660 m³/yr, which is one factor that has contributed to the loss of the beach"

BUT...

- Report speculates that this sediment would not have accumulated in large volumes along CCB (even if true, large volumes not necessarily needed – rather, a give and take of removal and replenishment)
- PDCA conclusions:
 - Report unfairly conflates this factor with lesser factors
 - No attempt to evaluate actual loss of beach in the period since construction of the headland
 - PDCA weighting – **95%**



PDCA concludes ...

- Report fails to address quantum of property lost
- Full impact of SMC headlands undermined and underweighted
- SMC headlands, in good conscience, must be viewed as the catalyst for and predominant on-going factor contributing to property loss in the CCB zone
- PDCA factor weighting of SMC headlands: **95%**
- **The Zuzek report cannot be relied upon for purposes of determining whether to pursue shoreline protection measures as set out in the Baird report**

March 22, 2021

Via email and upload to the Environmental Registry of Ontario

Hon. Laurie Scott
Minister of Infrastructure
College Park, 5th Flr. Rm 5E200
777 Bay Street
Toronto ON M7A 2J3

Hon. Steve Clark
Minister of Municipal Affairs and Housing
College Park, 17th Flr.
777 Bay Street
Toronto ON M7A 2J3

Dear Ministers Scott and Clark:

**Subject: Central Lake Ontario Conservation Authority Comments for
Proposed Changes to Minister's Zoning Orders and the Planning Act
(Schedule 3 to Bill 257)
Environmental Registry of Ontario Notice Number 019-3233
CLOCA File# ASLA3**

At their meeting of March 16, 2021, the Central Lake Ontario Conservation Authority (CLOCA) Board of Directors passed the following Resolution:

Res. #26 Moved by R. Hooper
Seconded by I. McDougall

***WHEREAS The Purpose of the Planning Act is to promote sustainable economic development in a healthy natural environment and to provide for a land use planning system led by provincial policy; and,
WHEREAS The requirement for all decision-makers under the Planning Act to make decisions in a manner that is consistent with the Provincial Policy Statement is longstanding and necessary for good planning outcomes;
BE IT RESOLVED
THAT The Minister of Infrastructure and the Minister of Municipal Affairs and Housing be requested to withdraw Schedule 3 from Bill 257;
THAT the Analysis Commentary in Staff Report 5733-21 be endorsed and submitted to the appropriate Legislative Assembly of Ontario Standing Committee, the Province of Ontario and Conservation Ontario as CLOCA's comments regarding Bill 257 and Environmental Registry Posting 019-3233; and,***

THAT Staff Report 5733-21 be circulated to Watershed Municipalities, Members of Provincial Parliament, Members of Parliament and adjacent Conservation Authorities for their information and corresponding action.

CARRIED

Accordingly, please find the endorsed staff report and attachments enclosed with this letter for detailed commentary.

Yours truly,



Chris Jones, MCIP, RPP

Director of Planning and Regulation

CJ/

Encl. CLOCA Staff Report 5733-21 and attachments

Cc: Hon. Mark Holland, MP (Ajax), Mark.Holland@parl.gc.ca
Rod Phillips, MPP (Ajax), rod.phillipsco@pc.ola.org
Hon. Erin O'Toole, MP (Durham), Erin.OToole@parl.gc.ca
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Ryan Turnbull, MP (Whitby) Ryan.Turnbull@parl.gc.ca
Lorne Coe, MPP (Whitby – Oshawa) lorne.coeco@pc.ola.org
Jennifer O'Connell, MP (Pickering – Uxbridge) Jennifer.OConnell@parl.gc.ca
Hon. Peter Bethlenfalvy, MPP (Pickering-Uxbridge), Minister of Finance and President of the Treasury Board peter.bethlenfalvyco@pc.ola.org
Ralph Walton, Regional Municipality of Durham, ralph.walton@durham.ca
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June Gallagher, Municipality of Clarington, clerks@clarington.net
Andrew Brouwer, City of Oshawa, clerks@oshawa.ca
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Mark Majchrowski, Kawartha Conservation, MMajchrowski@kawarthaconservation.com
Rob Baldwin, Lake Simcoe Region Conservation Authority, r.baldwin@lsrca.on.ca
Dan Marinigh, Otonabee Conservation, dmarinigh@otonabee.com

John MacKenzie, Toronto and Region Conservation Authority,
john.mackenzie@trca.on.ca
Brian Bridgeman, Region of Durham, Brian.Bridgeman@durham.ca
Geoff Romanowski, Town of Ajax, Geoff.Romanowski@ajax.ca
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Roger Saunders, Town of Whitby, saundersr@whitby.ca
Nicholas Fischer, Conservation Ontario, nFischer@conservationontario.ca
Chris Darling, CLOCA, cdarling@cloca.com

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DATE: March 16, 2021

FILE: ASLA3

S.R.: 5733-21

TO: Chair and Members, CLOCA Board of Directors

FROM: Chris Jones, Director, Planning and Regulation

SUBJECT: **Proposed Planning Act Amendment Regarding Minister's Zoning Orders (MZO)**

APPROVED BY C.A.O. 

The purpose of this report is to introduce and provide commentary in relation to a Bill containing a proposed Planning Act amendment regarding Minister's Zoning Orders (MZO) powers and in response to a corresponding policy proposal posted to the *Environmental Registry of Ontario*.

Background

On March 4, 2021, the Minister of Infrastructure introduced Bill 257, *An Act to enact the Building Broadband Faster Act, 2021 and to make other amendments in respect of infrastructure and land use planning matters*, which received First Reading by the Legislative Assembly of Ontario on that same day. Schedule 3 to Bill 257 proposes to amend the *Planning Act* to provide that Minister's Zoning Orders (MZO) "are not required and are deemed to never have been required to be consistent with [provincial] policy statements..." It is proposed that this provision would not have effect on an MZO that applies to land within the Greenbelt Plan Area.

Also on March 4, 2021, the Ministry of Municipal Affairs and Housing (MMAH) posted a corresponding notice on the *Environmental Registry of Ontario* regarding the proposed changes. The notice states that: "The proposed changes would permit the Minister of Municipal Affairs and Housing to *take other considerations into account* when making decisions..." (emphasis added). Comments on the proposal may be submitted to the registry by April 3, 2021. **Attachment No. 1** to this report contains the registry posting.

Context for a Provincial Policy-led Land Use Planning System in Ontario

Since 1994, the *Planning Act* has set out in section 1.1 the overarching purposes of the Act. The first two purposes of the Act are set out, as follows:

- a) "To promote sustainable economic development in a healthy natural environment *within the policy* and by the means provided under this Act;
- b) To provide for a land use planning system *led by provincial policy...*" (emphasis added)

Since 1983 the *Planning Act* at section 3 has enabled the province to issue policy statements on matters relating to municipal planning that are of provincial interest. To give legal effect to the policy statements, and to ensure that Ontario has a planning system led by open and transparent provincial policy, all decision makers under the Act, including the council of the municipality, Ministers "in respect of *the exercise of any authority* that affects a planning matter *shall be consistent with the policy statements...*" (subsection 3 (5), emphasis added).

Summary of Provincial Policy

The most recent statement of provincial policy is the *Provincial Policy Statement, 2020*, which came into effect on May 1, 2020. The policies are grouped into three main areas with a statement of purpose for each one that is grounded in the concept of sustainable development and worth recalling in the context of Bill 257:

Cont'd

1) *Building Strong and Healthy Communities*

“Ontario’s long-term prosperity, environmental health and social well-being depend on wisely managing change and promoting efficient land use and development patterns. Efficient land use and development patterns support sustainability by promoting strong, liveable, healthy and resilient communities, protecting the environment and public health and safety, and facilitating economic growth.”

2) *Wise Use and Management of Resources*

“Ontario’s long-term prosperity, environmental health and social well-being depend on conserving biodiversity, protecting the Great Lakes, and protecting natural heritage, water, agricultural, mineral and cultural heritage and archaeological resources for their economic, environmental and social benefits.”

3) *Protecting Public Health and Safety*

“Ontario’s long-term prosperity, environmental health and social-well-being depend on reducing the potential for public cost or risk to Ontario’s residents from natural or human-made hazards.”

January 2021, CLOCA Board of Director’s Comments

In response to a recent provincial consultation on expanded MZO powers enacted in 2020, the CLOCA Board of Directors endorsed the commentary contained in Staff Report 5722-21, which included the following specific commentary for the Minister:

“Regarding best practices and guidance, CLOCA comments that a key best practice would be to ensure that any Minister’s decisions are consistent with the Provincial Policy Statement, 2020 (PPS)...”

The transmittal letter for the previous consultation and Staff Report are appended to this Report in **Attachment No. 2**.

Analysis

The proposed changes to facilitate the zoning of land via MZO in a manner that is not required, and deemed to never have been required to be consistent with policy statements, is antithetical to the purposes of the *Planning Act* articulated at section 1.1, disregards the purpose and intent of the practice of contemporary land use planning in the Province of Ontario and is directly opposite of CLOCA’s previously expressed commentary on the use of MZO’s, as expressed earlier this year in the aforementioned provincial consultation.

The Minister’s statement of provincial policy, issued last year, stress, Ontario’s long-term prosperity, environmental health and social well-being depend on development and planning decisions that lead to strong and healthy communities, wise use and management of resources and public health and safety that is protected. These are the suite of public interest considerations that every previous minister entrusted with administration of the *Planning Act* has been bound-by since the policy statement concept was enacted in 1983. It is not reasonable that these considerations should only be binding for lands that fall within the Greenbelt Plan Area, as good land use planning outcomes are needed across the entire landscape of the province. Finally, since there are no public notice or appeal provisions associated with the current MZO power, and since the MZO power overrides all previously agreed municipal plans and associated public and agency consultation, it is therefore doubly important that a transparent set of public-interest policies guide the Minister in his decision-making, as is currently required by the Act. *It is therefore recommended that the Minister be requested to withdraw Schedule 3 from Bill 257.*

Cont’d

Conclusion

In considering the use of the MZO powers, the Minister should continue to be bound to making decisions that are consistent, in the public interest, and which seek good planning outcomes, as articulated in the *Provincial Policy Statement, 2020*. It is recommended that the Minister withdraw Schedule 3 from Bill 257.

RECOMMENDATION

WHEREAS The Purpose of the Planning Act is to promote sustainable economic development in a healthy natural environment and to provide for a land use planning system led by provincial policy; and,
WHEREAS The requirement for all decision-makers under the Planning Act to make decisions in a manner that is consistent with the Provincial Policy Statement is longstanding and necessary for good planning outcomes;

BE IT RESOLVED

THAT The Minister of Infrastructure and the Minister of Municipal Affairs and Housing be requested to withdraw Schedule 3 from Bill 257;
THAT the Analysis Commentary in Staff Report 5733-21 be endorsed and submitted to the appropriate Legislative Assembly of Ontario Standing Committee, the Province of Ontario and Conservation Ontario as CLOCA's comments regarding Bill 257 and Environmental Registry Posting 019-3233; and,
THAT Staff Report 5733-21 be circulated to Watershed Municipalities, Members of Provincial Parliament, Members of Parliament and adjacent Conservation Authorities for their information and corresponding action.

Attachment 1- Environmental Registry of Ontario (ERO) Posting
Attachment 2- Letter and Staff Report 5722-21

Proposed changes to Minister’s zoning orders and the Planning Act

| | |
|--|--|
| ERO (Environmental Registry of Ontario) number | 019-3233 |
| Notice type | Act |
| Act | Planning Act, R.S.O. 1990 |
| Posted by | Ministry of Municipal Affairs and Housing |
| Notice stage | Proposal |
| Proposal posted | March 4, 2021 |
| Comment period | March 4, 2021 - April 3, 2021 (30 days) Open |
| Last updated | March 4, 2021 |

This consultation closes at 11:59 p.m. on:
April 3, 2021

Proposal summary

The government is proposing changes to the *Planning Act* so that certain Minister’s zoning orders do not have to be consistent with the Provincial Policy Statement.

Proposal details

The *Planning Act* gives the Minister of Municipal Affairs and Housing the authority to zone and thereby control the use of any land in the province. Zoning orders can be used to protect a provincial interest (e.g. (for example), to protect an environmentally sensitive feature by prohibiting uses) or to help overcome potential barriers or delays to critical projects (e.g. (for example), to speed up planning approvals for long-term care homes and affordable housing projects).

Under the *Planning Act*, a decision of a Minister in respect of the exercise of any authority that affects planning matter (e.g. (for example), a Minister’s zoning order) shall be consistent with policy statements issued under the

Planning Act (e.g., the Provincial Policy Statement) that are in effect on the date of the decision.

Through Schedule 3 of Bill 257 (the proposed Bill 257, Supporting Broadband and Infrastructure Expansion Act, 2021) it is proposed to amend the *Planning Act*, so that a Minister's zoning order would not have to be consistent with the Provincial Policy Statement. This proposed amendment would not apply to lands located within the Greenbelt Area. In addition, the changes would provide that any existing Minister's zoning orders, never had to be consistent with the Provincial Policy Statement.

The proposed changes would permit the Minister of Municipal Affairs and Housing to take other considerations into account when making decisions to support strong communities, a clean and healthy environment and the economic vitality of the Province.

The Minister's zoning authority is a critical tool that can be used to support and expedite the delivery of government priorities, including transit-oriented communities, affordable housing, long-term care homes and strategic economic recovery projects by removing potential barriers and delays. These changes would ensure that the Minister, acting at their discretion, has the authority to provide their complete support for these critical projects.

Supporting materials

Related links

[Planning Act \(https://www.ontario.ca/laws/statute/90p13\)](https://www.ontario.ca/laws/statute/90p13)

[Provincial Policy Statement, 2020 \(https://www.ontario.ca/page/provincial-policy-statement-2020\)](https://www.ontario.ca/page/provincial-policy-statement-2020)

[O. Reg. 59/05 Designation of Greenbelt Area \(https://www.ontario.ca/laws/regulation/050059\)](https://www.ontario.ca/laws/regulation/050059)

[Bill 257, Supporting Broadband and Infrastructure Expansion Act, 2021 \(https://www.ola.org/en/legislative-business/bills/parliament-42/session-1/bill-257\)](https://www.ola.org/en/legislative-business/bills/parliament-42/session-1/bill-257)

View materials in person

Important notice: Due to the ongoing COVID-19 pandemic, viewing supporting materials in person is not available at this time.

Please reach out to the Contact listed in this notice to see if alternate arrangements can be made.

Comment

Let us know what you think of our proposal.

Have questions? Get in touch with the contact person below. Please include the ERO (Environmental Registry of Ontario) number for this notice in your email or letter to the contact.

[Read our commenting and privacy policies. \(/page/commenting-privacy\)](/page/commenting-privacy)

Submit by mail

PlanningConsultation@ontario
.ca

Connect with us

Contact

PlanningConsultation@ontari
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L1H 3T3
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Web: www.cloca.com
Email: mail@cloca.com

Member of Conservation Ontario

January 27, 2021

via upload to the Environmental Registry

Planning Consultation
Provincial Planning Policy Branch
Ministry of Municipal Affairs and Housing
777 Bay Street, 13th floor
Toronto ON M7A 2J3

Dear Provincial Planning Policy Branch:

**Subject: Central Lake Ontario Conservation Authority Comments for
Proposed Implementation of Provisions in the Planning Act that Provide the
Minister Enhanced Authority to Address Certain Matters as Part of a Zoning
Order
Environmental Registry of Ontario Notice Number 019-2811
CLOCA IMS No: ASLA3**

At their meeting of January 19, 2021 the Central Lake Ontario Conservation Authority (CLOCA) Board of Directors passed the following Resolution:

Res. #14 Moved by D. Mitchell
Seconded by D. Pickles

***THAT the Analysis Commentary in Staff Report 5722-21 be endorsed and
submitted to the Province of Ontario and Conservation Ontario as CLOCA's
comments regarding Environmental Registry Posting 019-2811; and,
THAT Staff Report 5722-21 be circulated to Watershed Municipalities and
adjacent Conservation Authorities for their information. CARRIED***

Accordingly, please find the attached report and attachments enclosed with this letter for detailed commentary.

What we do on the land is mirrored in the water



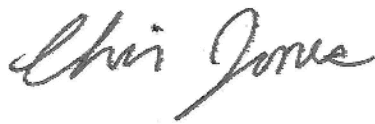
Ministry of Municipal Affairs and Housing

January 27, 2021

In summary:

- CLOCA requests, in relation to site plan control powers, that the site planning functions, which are very technical and require local expertise to be implemented properly, be left exclusively with municipalities through a corresponding repeal of that power from Section 47 of the Planning Act.
- With respect to the use of the new MZO powers, CLOCA recommends that the Minister should consult with CLOCA on the application review and the proponent should be required to submit the review fees that would otherwise be due if the application was reviewed locally.
- Regarding best practices and guidance, CLOCA comments that a key best practice would be to ensure that any Minister's decisions are consistent with the Provincial Policy Statement, 2020 (PPS). It is recommended that Section 47 of the Planning Act be amended to explicitly make this a requirement in the section. Further, the Minister should commit to consult with conservation authorities if an application has a relationship to natural hazards such as flooding or erosion that is within a Regulated Area under the Conservation Authorities Act, or a natural heritage issue where the Region of Durham or a local municipality would rely on CLOCA for expert technical input.

Yours truly,



Chris Jones, MCIP, RPP

Director of Planning and Regulation

CJ/

Encl. CLOCA Staff Report 5722-21 and attachments

cc: Hon. Mark Holland, MP (Ajax), Mark.Holland@parl.gc.ca
Rod Phillips, MPP (Ajax), rod.phillipsco@pc.ola.org
Hon. Erin O'Toole, MP (Durham), Erin.OToole@parl.gc.ca
Lindsey Park, MPP (Durham) kindsey.parkco@pc.ola.org
Colin Carrie, MP (Oshawa) colin.carrie@parl.gc.ca
Jennifer K. French, MPP (Oshawa) JFrench-CO@ndp.on.ca
Ryan Turnbull, MP (Whitby) Ryan.Turnbull@parl.gc.ca
Lorne Coe, MPP (Whitby – Oshawa) lorne.coeco@pc.ola.org
Jennifer O'Connell, MP (Pickering – Uxbridge) Jennifer.OConnell@parl.gc.ca




Hon. Peter Bethlenfalvy, MPP (Pickering-Uxbridge), Minister of Finance and President of the Treasury Board peter.bethlenfalvyco@pc.ola.org
Ralph Walton, Regional Municipality of Durham, ralph.walton@durham.ca
Nicole Cooper, Town of Ajax, Nicole.Cooper@ajax.ca
June Gallagher, Municipality of Clarington, clerks@clarington.net
Andrew Brouwer, City of Oshawa, clerks@oshawa.ca
Debbie Shields, City of Pickering, clerks@pickering.ca
JP Newman, Township of Scugog, jnewman@scugog.ca
Debbie Leroux, Township of Uxbridge, dleroux@town.uxbridge.ca
Chris Harris, Town of Whitby, harrisc@whitby.ca
Linda Laliberte, Ganaraska Region Conservation Authority, llaliberte@grca.on.ca
Mark Majchrowski, Kawartha Conservation, MMajchrowski@kawarthaconservation.com
Rob Baldwin, Lake Simcoe Region Conservation Authority, r.baldwin@lsrca.on.ca
Dan Marinigh, Otonabee Conservation, dmarinigh@otonabee.com
John MacKenzie, Toronto and Region Conservation Authority, john.mackenzie@trca.on.ca
Brian Bridgeman, Region of Durham, Brian.Bridgeman@durham.ca
Geoff Romanowski, Town of Ajax, Geoff.Romanowski@ajax.ca
Faye Langmaid, Municipality of Clarington, flangmaid@clarington.net
Paul Ralph, City of Oshawa, pralph@oshawa.ca
Kyle Bentley, City of Pickering, kbentley@pickering.ca
Kevin Heritage, Township of Scugog, kheritage@scugog.ca
Emilia Gruyters, Township of Uxbridge, egruyters@town.uxbridge.on.ca
Roger Saunders, Town of Whitby, saundersr@whitby.ca
Nicholas Fischer, Conservation Ontario, nFischer@conservationontario.ca
Chris Darling, CLOCA, cdarling@cloc.ca

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DATE: January 19, 2021
FILE: ASLA3
S.R.: 5722-21
TO: Chair and Members, CLOCA Board of Directors
FROM: Chris Jones, Director, Planning and Regulation
SUBJECT: **Provincial Consultation on Implementation of Minister's Zoning Orders (MZO) Powers**

APPROVED BY C.A.O. 

The purpose of this report is to introduce and provide commentary in relation to a provincial consultation on Minister's Zoning Orders (MZO) powers in response to a recent policy proposal posted to the *Environmental Registry of Ontario*.

Background

On December 16, 2020, the Ministry of Municipal Affairs and Housing (MMAH) posted a notice on the *Environmental Registry of Ontario* regarding changes to Minister's Zoning Order powers in Section 47 of the *Planning Act* that were enacted in 2020 and came into force as of July 21, 2020 (Bill 197, *COVID-19 Economic Recovery Act, 2020*). A copy of Section 47, as amended, is included as **Attachment No. 1** to this report.

The *Planning Act* gives the Minister of Municipal Affairs and Housing the authority to zone any property in Ontario by issuing a zoning order (MZO). Currently, when a zoning order is issued by the Minister, a municipality's Site Plan Control powers are used to implement the zoning to address site plan matters for the subject lands (i.e. even with a provincially ordered zoning for a parcel of land, municipal site planning implements the finer points of detailed design for a development including important issues reviewed by CLOCA such as grading, stormwater management and landscape design in relation to environmental features).

The recently enacted legislative changes to the *Planning Act* provide more powers to the Minister's authority for zoning orders across the province including the ability to remove municipal implementing roles related to Site Plan Control and to make amendments to existing MZO without giving public notice. This enhanced authority does not apply to lands within the Greenbelt Area, which encompasses around half of the CLOCA watershed.

MMAH is now inviting comment on the use of the new additional MZO powers, including Site Plan Control. According to the registry posting, feedback is requested as to whether the new MZO powers:

- should be expanded, repealed or otherwise adjusted;
- how the new MZO powers ought to be used;
- circumstances where new powers would be helpful and circumstances where it might be better not used;
- whether there are best practices that might be articulated to guide implementation.

A copy of the full environment registry posting is included as **Attachment No. 2** to this report.

Analysis

Previously, the Minister's MZO powers under the *Planning Act* were infrequently used and most site-level planning decisions in Ontario were left with municipalities to administer through the normal course of land use planning, including public notice and local democratic implementation. The current provincial government has chosen to make use of the Minister's MZO power more frequently.

On December 3rd, 2020, the Ontario Professional Planners Institute (OPPI) –the organization that represents professional planners in Ontario– wrote to the Minister with respect to the increased use of the MZO powers and articulated several concerns including the potential creation of new delays as planning approvals shift from the local municipal level to Queen’s Park, the introduction of new uncertainty and risk into real estate markets and an overall undermining of public trust in the land use planning process. OPPI recommended that the province commit to establishing transparent provincial criteria on the use of MZO’s for provincially significant priority projects and commit to reduced reliance on MZO and instead rely on measures to streamline the overall municipal planning process. A copy of OPPI’s letter to the Minister is included as **Attachment No. 3** to this report.

The remainder of the analysis in this report is scoped specifically to CLOCA’s policy, regulatory and operational interests in the MZO’s in its role as a public commenting body on land use applications within the watershed, specifically in relation to natural hazards associated with flooding and erosion.

Should the additional MZO powers be expanded, repealed or otherwise adjusted?

In relation to site plan control, *it is recommended that the site planning functions, which are very technical and require local expertise to be implemented properly, be left exclusively with municipalities through a corresponding repeal of that power from Section 47 of the Planning Act.*

Where appropriate, CLOCA provides input into the site plan control process with respect to stormwater management, including low-impact stormwater management measures, grading and landscaping measures where there are natural hazards or environmental features that require conservation, protection or management in relation to the development of a site. Often, the site plan review at the municipal level allows for CLOCA’s technical review under the Section 28 regulation to be undertaken up front and thereby streamlining the permit approval process for sites that have a natural hazard component and are subject to the regulation.

How should the new MZO powers ought to be used?

In considering an application that has a relationship to natural hazards such as flooding or erosion, that is within a Regulated Area under the *Conservation Authorities Act*, or a natural heritage issue where the Region of Durham or a local municipality would rely on CLOCA for expert technical input, *it is recommended that the Minister should consult with CLOCA on the application review and the proponent should be required to submit the review fees that would otherwise be due if the application was reviewed locally.*

Whether there are best practices that might be articulated to guide implementation?

A key best practice would be to *ensure that any Minister’s decisions are consistent with the Provincial Policy Statement, 2020 (PPS).* *It is recommended that Section 47 of the Planning Act be amended to explicitly make this a requirement in the section.* The PPS contains basic, fundamental planning policy directions related to the wise use and management of resources and protecting public health and safety through the management of hazards. In 2020, following recommendations of the Provincial Special Advisor on Flooding, the following critical directions were added to the PPS:

“Mitigating potential risk to public health or safety or of property damage from natural hazards, Including the risks that may be associated with the impacts of a changing climate, **will require the Province, planning authorities, and conservation authorities to work together**” [emphasis added]

Working together to achieve this critical provincial objective for protecting public health and safety through good land use planning should place an obligation on the Minister, in considering an MZO decision, to first work with the local conservation authority in relation to any natural hazard issues that might exist.

Accordingly, *the Minister should commit to consult with conservation authorities if an application has a relationship to natural hazards such as flooding or erosion that is within a Regulated Area under the Conservation Authorities Act, or a natural heritage issue where the Region of Durham or a local municipality would rely on CLOCA for expert technical input.*

Conclusion

In considering the use of the MZO powers, the Minister should enable local municipal expertise with respect to site plan control, should commit to make decisions in conformity with the *Provincial Policy Statement* while consulting with local conservation authorities when natural hazards are present.

RECOMMENDATION

THAT the Analysis Commentary in Staff Report 5722 -21 be endorsed and submitted to the Province of Ontario and Conservation Ontario as CLOCA's comments regarding Environmental Registry Posting 019-2811; and, THAT Staff Report 5722-21 be circulated to Watershed Municipalities, Members of Provincial Parliament, Members of Parliament and adjacent Conservation Authorities for their information.

Attachment 1- Section 47

Attachment 2- Environmental Registry of Ontario (ERO) Posting

Attachment 3- Ontario Professional Planners Institute (OPPI) Letter

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Power of Minister re zoning and subdivision control

47 (1) The Minister may by order,

- (a) in respect of any land in Ontario, exercise any of the powers conferred upon councils by section 34, 38 or 39, but subsections 34 (11) to (34) do not apply to the exercise of such powers; and
- (b) in respect of any land in Ontario, exercise the powers conferred upon councils by subsection 50 (4). R.S.O. 1990, c. P.13, s. 47 (1); 1994, c. 23, s. 27 (1).

Power of Minister to allow minor variances

(2) Where an order has been made under clause (1) (a), the Minister, in respect of the lands affected by the order, has all the powers in respect of such order as a committee of adjustment has under subsections 45 (1) and (2) in respect of a by-law passed under section 34, but subsections 45 (4) to (8) and (10) to (20) do not apply to the exercise by the Minister of such powers. R.S.O. 1990, c. P.13, s. 47 (2).

Order prevails over by-law in event of conflict

(3) In the event of a conflict between an order made under clause (1) (a) and a by-law that is in effect under section 34 or 38, or a predecessor thereof, the order prevails to the extent of such conflict, but in all other respects the by-law remains in full force and effect. R.S.O. 1990, c. P.13, s. 47 (3).

Deemed by-law of municipality

(4) The Minister may, in the order or by separate order, provide that all or part of an order made under clause (1) (a) and any amendments to it in respect of land in a municipality, the council of which has the powers conferred by section 34, shall be deemed for all purposes, except the purposes of section 24, to be and to always have been a by-law passed by the council of the municipality in which the land is situate. 2001, c. 9, Sched. J, s. 2 (1).

Interpretation, “specified land”

(4.1) In subsections (4.3) to (4.16),

“specified land” means land other than land in the Greenbelt Area within the meaning of the *Greenbelt Act, 2005*. 2020, c. 18, Sched. 17, s. 3.

Exclusion of land in Greenbelt Area

(4.2) For greater certainty, the land in the Greenbelt Area that is excluded from the definition of “specified land” in subsection (4.1) is the area of land designated under clause 2 (1) (a) of the *Greenbelt Act, 2005* which, pursuant to subsection 2 (2) of that Act, includes,

- (a) the areas covered by the Oak Ridges Moraine Conservation Plan established under section 3 of the *Oak Ridges Moraine Conservation Act, 2001*;
- (b) the areas covered by the Niagara Escarpment Plan established under section 3 of the *Niagara Escarpment Planning and Development Act*; and
- (c) such areas of land as may be described in the regulations made under the *Greenbelt Act, 2005*. 2020, c. 18, Sched. 17, s. 3.

Site plan control and inclusionary zoning, specified land

(4.3) The Minister may, in an order made under clause (1) (a) that applies to specified land,

- (a) provide that section 41 of this Act and section 114 of the *City of Toronto Act, 2006* do not apply in respect of all or a specified part of the specified land described in the order;
- (b) require that a person who owns all or any part of the specified land described in the order enter into one or more agreements with a municipality in which all or part of the specified land is situate dealing with some or all of the matters listed in subsection (4.4); and
- (c) exercise any of the powers conferred on councils by subsections 35.2 (1) and (2) in respect of all or a specified part of the specified land described in the order. 2020, c. 18, Sched. 17, s. 3; 2020, c. 18, Sched. 17, s. 3.

Matters that may be dealt with in agreement

(4.4) The matters referred to in clause (4.3) (b) are the following, subject to subsection (4.6):

1. A requirement that any development, within the meaning of subsection 41 (1), on all or a specified part of the specified land described in the order be undertaken in accordance with,

- i. plans showing the location of all buildings and structures to be erected and showing the location of all facilities and works to be provided in conjunction therewith and of all facilities and works as may be required by a condition imposed under paragraph 2, including facilities designed to have regard for accessibility for persons with disabilities, and
 - ii. drawings showing plan, elevation and cross-section views for each building to be erected, except a building to be used for residential purposes containing fewer than 25 dwelling units, which drawings are sufficient to display,
 - A. the massing and conceptual design of the proposed building,
 - B. the relationship of the proposed building to adjacent buildings, streets and exterior areas to which members of the public have access,
 - C. the provision of interior walkways, stairs, elevators and escalators to which members of the public have access from streets, open spaces and interior walkways in adjacent buildings,
 - D. matters relating to exterior design, including without limitation the character, scale, appearance and design features of buildings, and their sustainable design,
 - E. matters relating to exterior access to each building that will contain affordable housing units or to any part of such a building, but only to the extent that it is a matter of exterior design,
 - F. the sustainable design elements on any adjoining highway under a municipality's jurisdiction, including without limitation trees, shrubs, hedges, plantings or other ground cover, permeable paving materials, street furniture, curb ramps, waste and recycling containers and bicycle parking facilities, and
 - G. facilities designed to have regard for accessibility for persons with disabilities.
2. Anything that may be imposed as a condition by a municipality under subsection 41 (7) of this Act or subsection 114 (11) of the *City of Toronto Act, 2006*.
 3. Anything that may be imposed as a condition by an upper-tier municipality under subsection 41 (8). 2020, c. 18, Sched. 17, s. 3.

Same, Minister's direction

(4.5) If an order made under clause (1) (a) includes a requirement described in clause (4.3) (b) to enter into an agreement, the Minister may, at any time before or after the agreement has been entered into, provide the parties with written direction concerning the agreement. 2020, c. 18, Sched. 17, s. 3.

Contents of Minister's direction

- (4.6) Without limiting the generality of subsection (4.5), the Minister's direction may,
- (a) provide that one or more of the matters listed in subsection (4.4) shall not be dealt with in an agreement; or
 - (b) specify how any matter listed in subsection (4.4) shall be addressed in an agreement. 2020, c. 18, Sched. 17, s. 3.

Compliance with Minister's direction

- (4.7) The parties that are required under clause (4.3) (b) to enter into an agreement shall ensure that,
- (a) if the Minister gives direction under subsection (4.5) before the agreement is entered into, the agreement complies with the direction; and
 - (b) if the Minister gives direction under subsection (4.5) after the agreement is entered into, the agreement is amended to comply with the direction. 2020, c. 18, Sched. 17, s. 3.

Effect of non-compliance

(4.8) A provision of an agreement entered into pursuant to a requirement described in clause (4.3) (b) is of no effect to the extent that it does not comply with a direction the Minister gives under subsection (4.5). 2020, c. 18, Sched. 17, s. 3.

Same, timing of Minister's direction

(4.9) Subsection (4.8) applies whether the Minister's direction is given before or after the agreement has been entered into. 2020, c. 18, Sched. 17, s. 3.

Non-application of *Legislation Act, 2006*, Part III

(4.10) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a direction given by the Minister under subsection (4.5). 2020, c. 18, Sched. 17, s. 3.

Restriction on matters in subs. (4.4), par. 1

(4.11) The following matters relating to buildings described in subparagraph 1 ii of subsection (4.4) shall not be dealt with in an agreement entered into pursuant to a requirement described in clause (4.3) (b):

1. The interior design.
2. The layout of interior areas, excluding interior walkways, stairs, elevators and escalators referred to in subparagraph 1 ii C of subsection (4.4).
3. The manner of construction and construction standards. 2020, c. 18, Sched. 17, s. 3.

Enforceability of agreement

(4.12) If an agreement is entered into between the owner of land and a municipality in accordance with a requirement described in clause (4.3) (b),

- (a) the agreement may be registered against the land to which it applies; and
- (b) the municipality may enforce the agreement against the owner and, subject to the *Registry Act* and the *Land Titles Act*, any and all subsequent owners of the land. 2020, c. 18, Sched. 17, s. 3.

Inclusionary zoning policies

(4.13) If an order is made under clause (1) (a) in which the Minister exercises a power described in clause (4.3) (c), the Minister may do one or both of the following:

1. Require that any owner of lands, buildings or structures that are to be developed or redeveloped under the order and the municipality in which all or part of the specified land is situate enter into one or more agreements dealing with any or all of the matters mentioned in clauses 35.2 (2) (a) to (h) and ensuring continued compliance with the matters dealt with in the agreement.
2. Require that any owner of lands, buildings or structures that are to be developed or redeveloped under the order enter into one or more agreements with the Minister dealing with any or all of the matters mentioned in clauses 35.2 (2) (a) to (h) and ensuring continued compliance with the matters dealt with in the agreement. 2020, c. 18, Sched. 17, s. 3.

Same

(4.14) An order containing a requirement described in paragraph 1 of subsection (4.13) is deemed to be a by-law passed by the council of the relevant local municipality for the purposes of subsections 35.2 (3) to (9) and a municipality that is a party to an agreement mentioned in that paragraph shall take the steps required under those subsections. 2020, c. 18, Sched. 17, s. 3.

Same

(4.15) If an agreement is entered into in accordance with a requirement described in subsection (4.13),

- (a) the agreement may be registered against the land to which it applies; and
- (b) the Minister may enforce the agreement against the owner and, subject to the *Registry Act* and the *Land Titles Act*, any and all subsequent owners of the land. 2020, c. 18, Sched. 17, s. 3.

Same

(4.16) An order made under clause (1) (a) in which the Minister exercises a power described in clause (4.3) (c) applies regardless of whether the official plan in effect in the relevant local municipality contains policies described in subsection 16 (4). 2020, c. 18, Sched. 17, s. 3.

Notice

(5) No notice or hearing is required prior to the making of an order under subsection (1) but the Minister shall give notice of any such order within thirty days of the making thereof in such manner as the Minister considers proper. R.S.O. 1990, c. P.13, s. 47 (5); 2017, c. 23, Sched. 3, s. 15 (1).

Idem

(6) The Minister shall cause a duplicate or certified copy of an order made under clause (1) (a),

- (a) where the land affected is situate in a local municipality, to be lodged in the office of the clerk of the municipality, or where the land affected is situate in two or more local municipalities, in the office of the clerk of each of such municipalities; and
- (b) where the land affected is situate in territory without municipal organization, to be lodged in the proper land registry office, where it shall be made available to the public as a production. R.S.O. 1990, c. P.13, s. 47 (6); 2002, c. 17, Sched. B, s. 17.

Registration

(7) The Minister shall cause a certified copy or duplicate of an order made under clause (1) (b) to be registered in the proper land registry office. R.S.O. 1990, c. P.13, s. 47 (7).

Revocation or amendment

(8) An amendment to any order made under subsection (1), or the revocation in whole or in part of such an order, may be initiated by the Minister or on request to the Minister by any person or public body. 2017, c. 23, Sched. 3, s. 15 (2).

Consolidated Hearings Act

(8.0.1) Despite the *Consolidated Hearings Act*, the proponent of an undertaking shall not give notice to the Hearings Registrar under subsection 3 (1) of that Act in respect of a request under subsection (8) unless the Minister has referred the request to the Tribunal under subsection (10). 2017, c. 23, Sched. 3, s. 15 (2).

Information

(8.1) A request under subsection (8) shall include the prescribed information and material and such other information or material as the Minister may require. 1993, c. 26, s. 57 (2).

Refusal to consider

(8.2) The Minister may refuse to accept or further consider a request under subsection (8) until the prescribed information and material and the required fee are received. 1994, c. 23, s. 27 (3).

Action by Minister

(9) If the Minister initiates an amendment or revocation of an order made under subsection (1) or receives a request to amend or revoke the order, the Minister shall give notice or cause to be given notice of the proposed amendment or revocation in such manner as the Minister considers proper and shall allow such period of time as he or she considers appropriate for the submission of representations in respect of the proposed amendment or revocation. 2017, c. 23, Sched. 3, s. 15 (3).

Exception re notice — order exercising powers under subs. (4.3)

(9.1) Subsection (9) does not apply with respect to an order under clause (1) (a) if, in the order, the Minister has exercised any of the powers in subsection (4.3). 2020, c. 18, Sched. 17, s. 3.

Referral of request under subs. (8)

(10) The Minister may refer a request made under subsection (8) to the Tribunal. 2017, c. 23, Sched. 3, s. 15 (3).

(10.1) REPEALED: 2017, c. 23, Sched. 3, s. 15 (3).

Hearing by Tribunal

(11) If the Minister refers the request to the Tribunal, the Tribunal shall conduct a hearing. 2017, c. 23, Sched. 3, s. 15 (3).

Notice of hearing

(12) Notice of the hearing shall be given in such manner and to such persons as the Tribunal may determine. 2017, c. 23, Sched. 3, s. 15 (3).

(12.1)-(12.3) REPEALED: 2017, c. 23, Sched. 3, s. 15 (3).

Recommendation

(13) At the conclusion of the hearing, the Tribunal shall make a written recommendation to the Minister stating whether the Minister should approve the requested amendment or revocation, in whole or in part, make modifications and approve the requested amendment or revocation as modified or refuse the requested amendment or revocation, in whole or in part, and giving reasons for the recommendation. 2017, c. 23, Sched. 3, s. 15 (3).

(13.1)-(13.5) REPEALED: 2017, c. 23, Sched. 3, s. 15 (3).

Notice of recommendation

(14) A copy of the recommendation of the Tribunal shall be sent to each person who appeared at the hearing and made representations and to any person who in writing requests a copy of the recommendation. 2017, c. 23, Sched. 3, s. 15 (3).

Decision to amend or revoke

(15) After considering representations received under subsection (9), if any, and the recommendation of the Tribunal under subsection (13), if there is one, the Minister may, by order, amend or revoke in whole or in part the order made under subsection (1). 2017, c. 23, Sched. 3, s. 15 (3).

Notice of decision

(16) The Minister shall forward a copy of his or her decision to amend or revoke in whole or in part the order to the clerk of each municipality or secretary-treasurer of each planning board which is within the area covered by the amendment and any person who in writing requests a copy of the decision. 2017, c. 23, Sched. 3, s. 15 (3).

(17) REPEALED: 1994, c. 23, s. 27 (8).

Effect of land use order

(18) An order of the Minister made under clause (1) (b) has the same effect as a by-law passed under subsection 50 (4). R.S.O. 1990, c. P.13, s. 47 (18).

Deemed by-law

(19) The Minister may, in the order or by separate order, provide that all or part of an order made under clause (1) (a) and any amendments to it in respect of land in the planning area of a planning board shall be deemed to be and to always have been a by-law passed under section 34 by the planning board in which the land is situate. 2001, c. 9, Sched. J, s. 2 (2).



Proposed implementation of provisions in the Planning Act that provide the Minister enhanced authority to address certain matters as part of a zoning order

| | |
|--|---|
| ERO (Environmental Registry of Ontario) number | 019-2811 |
| Notice type | Policy |
| Act | Planning Act, R.S.O. 1990 |
| Posted by | Ministry of Municipal Affairs and Housing |
| Notice stage | Proposal |
| Proposal posted | December 16, 2020 |
| Comment period | December 16, 2020 - January 30, 2021 (45 days) Open |
| Last updated | December 16, 2020 |

This consultation closes at 11:59 p.m. on:

January 30, 2021

Proposal summary

We are inviting comments concerning changes to certain legislative provisions in the *Planning Act* now in force with the enactment of Bill 197, the *COVID-19 Economic Recovery Act, 2020* that enable the Minister to address site plan matters and apply inclusionary zoning as part of a zoning order.

Proposal details

The *Planning Act* gives the Minister of Municipal Affairs and Housing the authority to zone any property in Ontario by issuing a zoning order. Currently, when a zoning order is issued by the Minister, a municipality that uses the site plan control tool in the Act has the authority to address site plan matters for that area. The recently enacted legislative changes to the *Planning Act* enhance

the Minister's authority for zoning orders across the province. This enhanced authority does not apply to lands within the Greenbelt Area. The enhanced authority allows the Minister to:

- require inclusionary zoning affordable housing (inclusionary zoning),
- remove municipal use of site plan control and require agreements between the municipality and development proponent (or landowner) concerning site plan matters, and;
- make amendments to Minister's Zoning Orders that use any of these enhanced authorities without first giving public notice.

An enhanced Minister's Zoning Order could help to overcome potential barriers and development delays. The proposed new authority could be used to support the delivery of transit station infrastructure and the optimization of surplus lands (e.g. (for example), affordable housing and long term care homes), provide increased certainty for strategic projects, remove potential approvals delays, increase the availability of affordable housing, provide additional value capture to enable economic recovery.

Amendments to section 47 the *Planning Act* in force as of July 21, 2020 with the enactment of Bill 197, the *COVID-19 Economic Recovery Act, 2020*:

Section 47 of the *Planning Act* now provides the Minister of Municipal Affairs and Housing the authority to zone any property in the province. Prior to the enactment of Bill 197, the *COVID-19 Economic Recovery Act, 2020*, the Minister's authority to zone land did not include the authority to address site plan matters, or to require affordable housing units through inclusionary zoning.

Recent changes to section 47 of the *Planning Act* were set out in Schedule 17 of Bill 197, the *COVID Economic Recovery Act, 2020*. This bill received Royal Assent on July 21, 2020. These recent amendments to section 47 of the *Planning Act* give the Minister enhanced powers related to site plan control and inclusionary zoning. However, this enhanced authority would not be available to be used within the Greenbelt Area (i.e. (in other words), lands in the Niagara Escarpment Plan, Oak Ridges Moraine Conservation Plan, Greenbelt Plan Protected Countryside and Urban River Valleys). Ontario Regulation 59/05, Designation of Greenbelt Area, provides all the specific geographical detail and references the precise legal boundaries of the Greenbelt Area.

These recent legislative changes to section 47 of the *Planning Act* also provide authority for the Minister to amend an enhanced zoning order without giving notice beforehand.

Inclusionary Zoning

Inclusionary zoning is a land-use planning tool that may be used to require affordable housing units to be built in proposed developments. The recently enacted changes to section 47 of the *Planning Act* provide the Minister with authority, as part of an order zoning land outside the Greenbelt Area, to use inclusionary zoning to require affordable housing units in proposed developments. These changes would also allow the Minister to require agreements between the landowner and the municipality or the landowner and the Minister to address inclusionary zoning matters and to ensure continued compliance with affordable housing requirements.

Site Plan Control

Site plan is an optional tool under the *Planning Act* that allows the council of a local municipality to control certain matters on and around a site proposed for development. This control over detailed site-specific matters, such as access (for pedestrians and vehicles), walkways, lighting, waste facilities, landscaping, drainage, and exterior design, ensures that a development proposal is properly planned and designed, fits in with the surrounding uses and minimizes any negative impacts. The recent amendments to section 47 of the *Planning Act* allow the Minister to address site plan matters in areas covered by a zoning order, where needed. The new authority to address site plan matters could be used in conjunction with a new Minister's Zoning Order or an amendment to an existing Minister's Zoning Order.

This authority, if utilized by the Minister, would supersede municipal site plan authority, where the Minister so provides in a zoning order. Through the zoning order the Minister could require a municipality and a development proponent (or landowner) to enter into an agreement dealing with matters related to site plan control (i.e., ~~in other words~~), the same types of matters that may be addressed through typical site plan control). However, the Minister will be able to give binding direction outside the zoning order concerning the agreement to scope the matters that need to be addressed or to specify how the matters are to be addressed.

Implementation of Enhanced Minister's Zoning Orders

Attachment 2

The Ministry is inviting public comment on the use of these enhanced powers regarding site plan control and inclusionary zoning in zoning orders. The Ministry is interested in hearing feedback as to whether the legislative changes made in this regard by Bill 197, the *COVID-19 Economic Recovery Act, 2020* should be expanded, repealed or otherwise adjusted. Further the Ministry is interested in feedback as to how this enhanced authority, subject to any potential changes that might be made to it, ought to be used. As noted above, the new authority could be used to support the development of transit-oriented communities, the development of projects of strategic importance, the optimization of surplus lands (e.g. (for example), affordable housing, long term care homes and other health care facilities) or other recovery efforts (e.g. (for example), economic development and job creation). The Ministry is interested in feedback regarding circumstances where this enhanced authority could be particularly helpful and circumstances where it might be better not used.

The Ministry will meaningfully consider all feedback received and determine whether changes should be made to the provisions of section 47 of the *Planning Act* enacted by Bill 197, the *COVID-19 Economic Recovery Act, 2020* and, assuming the provisions are maintained, at least in part, whether there are best practices that might be articulated to guide the implementation of this enhanced authority.

Supporting materials

Related links

[Planning Act \(https://www.ontario.ca/laws/statute/90p13\)](https://www.ontario.ca/laws/statute/90p13)

[Bill 197, COVID-19 Economic Recovery Act, 2020 \(See Schedule 17\) \(https://www.ola.org/en/legislative-business/bills/parliament-42/session-1/bill-197\)](https://www.ola.org/en/legislative-business/bills/parliament-42/session-1/bill-197)

View materials in person

Important notice: Due to the ongoing COVID-19 pandemic, viewing supporting materials in person is not available at this time.

Please reach out to the Contact listed in this notice to see if alternate arrangements can be made.

Provincial Planning Policy Branch
777 Bay Street
13th floor
Toronto, ON
M7A 2J3
Canada

Comment

Let us know what you think of our proposal.

Have questions? Get in touch with the contact person below. Please include the ERO (Environmental Registry of Ontario) number for this notice in your email or letter to the contact.

[Read our commenting and privacy policies. \(/page/commenting-privacy\)](/page/commenting-privacy)

Submit by mail

Planning Consultation
Provincial Planning Policy Branch
777 Bay Street
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Connect with us

Contact

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December 3, 2020

DELIVERED ELECTRONICALLY ONLY

Hon. Steve Clark
Minister of Municipal Affairs and Housing
17th Floor, 777 Bay Street
Toronto, ON
M7A 2J3

Dear Minister,

Re: Increased Use of Minister's Zoning Orders

The Ontario Professional Planners Institute (OPPI) represents over 4,000 Registered Professional Planners (RPPs) from across the province. RPPs have gone through an extensive education, experience, and examination process to become qualified and are employed in municipalities, public agencies, private sector, not-for-profits, academia, and senior levels of government. OPPI, on behalf of the planning profession in Ontario, is a trusted and reliable source of information about land use planning and the planning process.

We recognize the Ontario government's interest in streamlining the planning process as it relates to priority projects integral to COVID-19 recovery including affordable housing, senior living environments and transit projects. Separately, OPPI has worked with Ministry staff and industry stakeholders including AMO, RPCO, OHBA, BILD and OBOA, to provide you with recommendations around delegation of approvals from elected Councils to qualified municipal staff and measures to strengthen oversight of the planning profession. We believe these measures are integral to COVID - 19 recovery efforts.

OPPI appreciates the potential efficacy of Section 47 of the Planning Act and the use of Minister's Zoning Orders (MZO's) to assist with economic recovery. MZO's are effective in substantially streamlining timelines associated with planning applications, public notice, consultation, Committee and Council deliberations and appeals. However, the significant increase in use of MZO's over the past several months warrants a cautionary approach as they have the potential to:

- **Create delays as planning approvals shift from the local community level to Queen's Park.**
During the 1980s and 1990s, previous Progressive Conservative governments recognized the benefits of a policy-led planning system. Routine approvals such as Plans of Subdivision were transferred from MMAH to municipalities. The provincial role was focused on setting policy through legislation, the Provincial Policy Statement(s) and Provincial Plans. Municipalities and their planners were given responsibility for local approvals. The opportunity for project proponents to obtain an MZO "fast track" has the potential to create significant bottlenecks at Queen's Park which would negate the intent of the MZOs. Including some level of local expertise

is necessary to ensure efficient and effective local planning that is sensitive to the wider range of issues affecting the host community and their neighbours – particularly on matters as close to the ground as zoning or site plan control and the preservation of the public interest in development agreements with municipalities.

- **Introduce uncertainty and risk into real estate markets.** Local businesses and homeowners make investments in Ontario real estate based on neighbourhood characteristics codified in planning documents like municipal Official Plans. Increased use of MZO's has the potential to introduce unexpected impacts on neighbouring properties and their mortgagees. This uncertainty and risk can further destabilize what are already volatile property markets in key Ontario locations.
- **Undermine public trust in the planning process.** Since the rationale for selecting one project over another for the use of an MZO is not transparent or published, public allegations of arbitrariness and favouritism will continue to be challenging issues for the government to manage.

OPPI offers two recommendations to help mitigate the drawbacks associated with the current increased use of MZOs:

1. **In the immediate term, commit to establishing transparent provincial criteria on the use of MZO's for provincially significant, priority projects** Transparent criteria would reduce uncertainty in the public's eye and help to lessen the likelihood of an approvals bottleneck as proponents attempt to shift routine applications from municipal to MMAH staff.
2. **Over the medium term, commit to reduced reliance on MZO's and instead, rely on measures to streamline the overall municipal planning process equitably in the provincial and municipal interests for all projects.** As noted above, OPPI has separately provided recommendations to ensure greater delegation of approvals from elected councils to qualified staff and to strengthen the oversight of the planning profession. If accepted, these recommendations would provide immediate benefit for communities using established tools and processes.

OPPI offers these recommendations as a trusted advisor with deep knowledge and understanding of community planning and its process. We are available at your convenience should you or your officials wish to discuss these matters further.

Sincerely,



Justine Giancola, RPP, MCIP
President

cc: Kailey Vokes, Director of Policy, Office of the Premier
Alex Barbieri, Director of Policy, Minister's Office, MMAH



The Regional
Municipality
of Durham

Corporate Services
Department
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Don Beaton, BCom, M.P.A.
Commissioner of Corporate
Services

March 24, 2021

Honourable Premier Doug Ford
Premier's Office
Room 281
Legislative Building, Queen's Park
Toronto, ON
M7A 1A1

Dear Premier Ford:

**RE: Memorandum from Ralph Walton, Regional Clerk/Director of
Legislative Services dated February 25, 2021, re: Resolution
adopted by Regional Council at its meeting held on February
24, 2021, Our File: O11**

Council of the Region of Durham, at its meeting held on March 24, 2021,
adopted the following resolution of the Works Committee:

“A) That the memorandum from Ralph Walton, Regional Clerk/Director of
Legislative Services dated February 25, 2021, re: Resolution adopted
by Regional Council at its meeting held on February 24, 2021 be
received for information;

And further that:

B) That notwithstanding the current Durham Region Council position
supporting the Lake Simcoe option, the Council of the Regional
Municipality of Durham requests that if the Province orders the Lake
Ontario solution in lieu of the Lake Simcoe option, then the Minister of
the Environment Conservation and Parks (MECP) Order that ALL
environmental benefits and conditions proposed for the UYSS related to
the Lake Simcoe option, including best management practices and
science for the Great Lakes and consultations with First Nations, be
required at the Duffin Water Pollution Control Plant (DWPCP) and that
the Province lead the research and study to advance best practices
related to nutrient management for the Great Lakes; and

That taxpayers and users in Durham must be protected from any
financial implications of this decision including the costs of the
accelerated expansion of the Duffin Creek WPCP due to the addition of
this unplanned capacity requirement.”

Ralph Walton

Ralph Walton,
Regional Clerk/Director of Legislative Services

RW/sg

- c: Honourable J. Yurek, Minister, Environment, Conservation and Parks
Peter Bethlenfalvy, MPP, Pickering-Uxbridge
Lorne Coe, MPP, Whitby
Jennifer French, MPP, Oshawa
Lindsay Park, MPP, Durham
Rod Phillips, MPP, Ajax
Caroline Mulroney, MPP, York-Simcoe
Stephen Lecce, MPP, King-Vaughan
Christine Elliot, MPP, Newmarket-Aurora
Paul Calandra, MPP, Markham-Stouffville
Michael Parsa, MPP, Aurora-Oak Ridges-Richmond Hill
Billy Pang, MPP, Markham-Unionville
Logan Kanapathi, MPP, Markham-Thornhill
Michael Tibollo, MPP, Vaughan-Woodbridge
Gila Martow, MPP, Thornhill
Daisy Wai, MPP, Richmond Hill
Andrea Horwath, MPP – New Democratic Party, Leader of the Official
Opposition
Steven Del Duca, MPP – Ontario Liberal Party, Leader
Mike Schreiner, MPP – Ontario Green Party, Leader
N. Cooper, Clerk, Town of Ajax
B. Jamieson, Clerk, Township of Brock
J. Gallagher, Clerk, Municipality of Clarington
M. Medeiros, Clerk, City of Oshawa
S. Cassel, Clerk, City of Pickering
L. Fleury, Acting Clerk, Township of Scugog
D. Leroux, Clerk, Township of Uxbridge
C. Harris, Clerk, Town of Whitby
E. Baxter-Trahair, Chief Administrative Officer
S. Siopis, Commissioner of Works

Patenaude, Lindsey

From: Chambers, Michelle
Sent: Wednesday, March 31, 2021 9:33 AM
To: Patenaude, Lindsey
Subject: FW: Time Sensitive.... Health Canada Cannabis Consultation Open for Comment until May 7/21

From: Debbie France <debbiefrance@live.ca>
Sent: March 29, 2021 4:34 PM
To: ClerksDepartment@clarington.net; Mayor Shared Mailbox <mayor@clarington.net>
Subject: Time Sensitive.... Health Canada Cannabis Consultation Open for Comment until May 7/21

EXTERNAL

Time Sensitive....Health Canada Cannabis Consultation Open for comment until May 7/21

Attention : Clerks, Kindly share with your Mayor, Councillors and staff and place on your agenda for review and action by all.

Hello Municipalities,

Great news! Health Canada has invited Canadians and Municipalities to share their perspectives on the factors that may be considered for refusal or revocation of a cannabis registration on public health and public safety grounds. Get your municipal comments in before closing on May 7 2021.

Why participate? Health Canada has seen a concerning trend with the size of certain personal and designated cannabis growing sites and issues associated with them.

Over the last year, OPP, York Regional Police and other police forces across Ontario have reported on the abundance of illicit grow ops run by criminal organizations who are exploiting Health Canada's cannabis rules and regulations. The threat to the personal health and safety of residents across Ontario is significant and should not be underestimated.

Here is a link for a great OPP video that explains the significant risks :

[OPP PROVINCIAL ENFORCEMENT TEAM TACKLES ILLEGAL CANNABIS MARKET - YouTube](#)

Here are two links for further evidence of the significant risks to public health and safety :

[York police seize roughly \\$150M worth of illegal pot, firearms and exotic animals in drug bust | CTV News](#)

[OPP say police have dismantled 52 illegal cannabis production sites since July - Kingston | Globalnews.ca](#)

Having completed previous Federal Cannabis consultations, I suggest you choose the email response so that you can express your concerns. The online form really does not allow you to comment to the issues you are each facing. We all have cannabis problems but different problems.

The link for Health Canada consultation is here:

[Consultation on guidance on personal production of cannabis for medical purposes - Canada.ca](#)

Please also let your residents know about this opportunity.

Thanks kindly,

Debbie France

751 Concession 14 Townsend, Simcoe, Ontario, N3Y 4K3 519 426 8626

A resident of Norfolk County



Port Darlington West Embayment Shoreline Change Assessment

Pete Zuzek, MES, CFM, P.Geo
February 1, 2021



Scope of Investigation

- I. Review of construction history for potential littoral barriers
- II. Shoreline change analysis for the regional study area
- III. Sediment bypassing analysis at potential littoral barriers
- IV. Study of development history impacts on shoreline erosion
- V. Reporting



Presentation Outline

- I. Shoreline Change Analysis
- II. Bathymetric Survey and Sonar Collection
- III. Numerical Modeling of Wave and Sediment Transport
- IV. Conclusions
- V. Questions



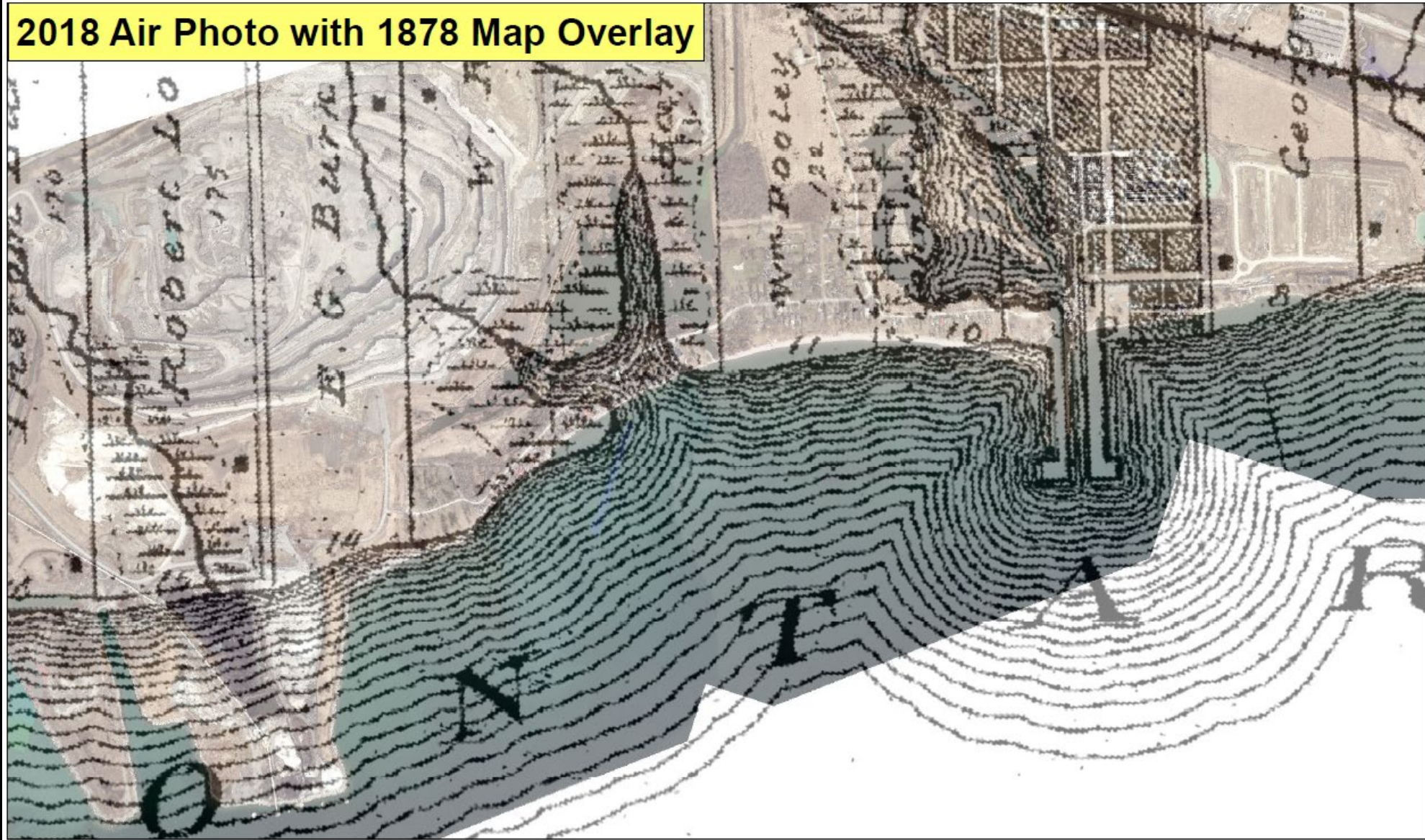
I – SHORELINE CHANGE ANALYSIS





1878 Map with 2018 Air Photo

2018 Air Photo with 1878 Map Overlay





1954 to 2018 Shoreline Change Rates





1954 to 2018 Shoreline Change Rates West of St. Marys Headland





Inputs from Bluff Erosion 1954 to 2018

Fillet Beach Growth



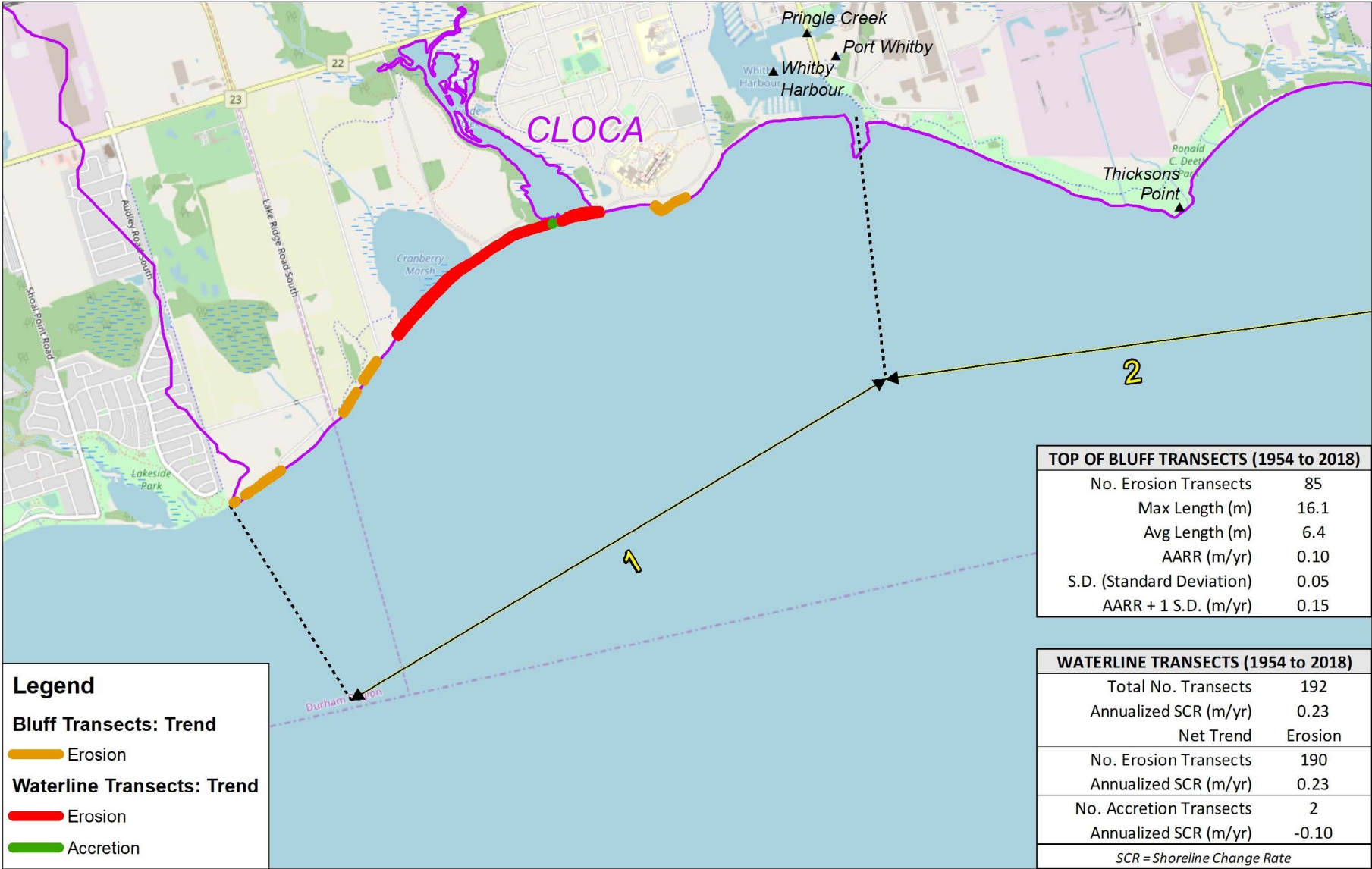


Port Darlington Fillet Beach Growth



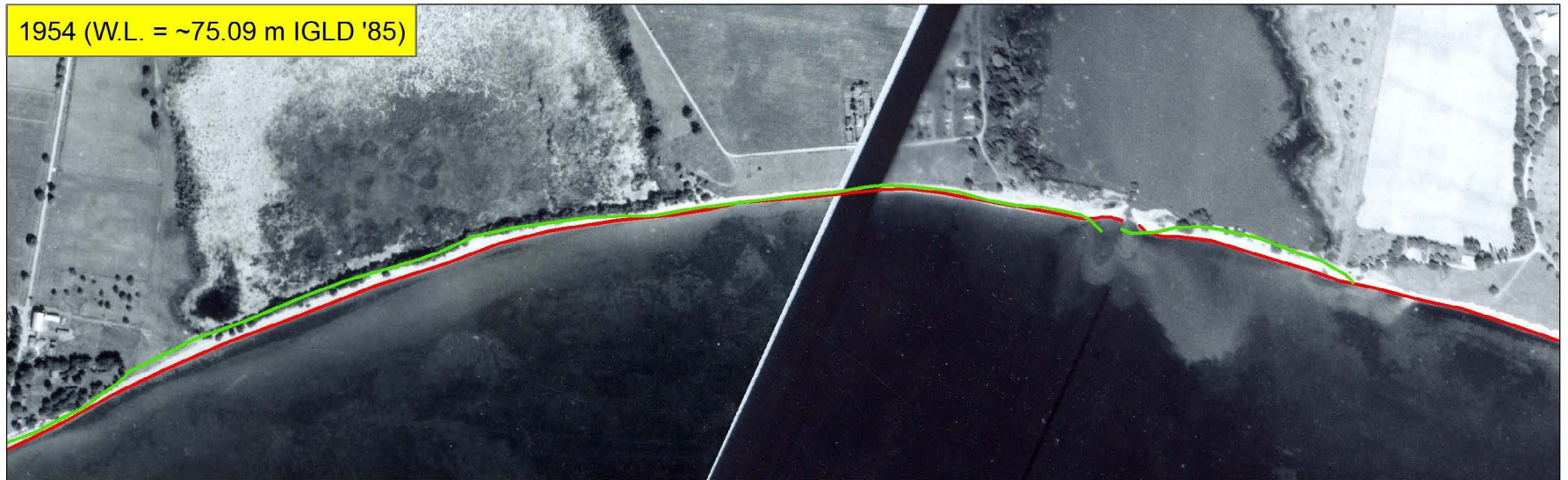


Shoreline Change at Lynde Shores CA (a similar site)





Shoreline Change at Lynde Shores CA (a similar site)



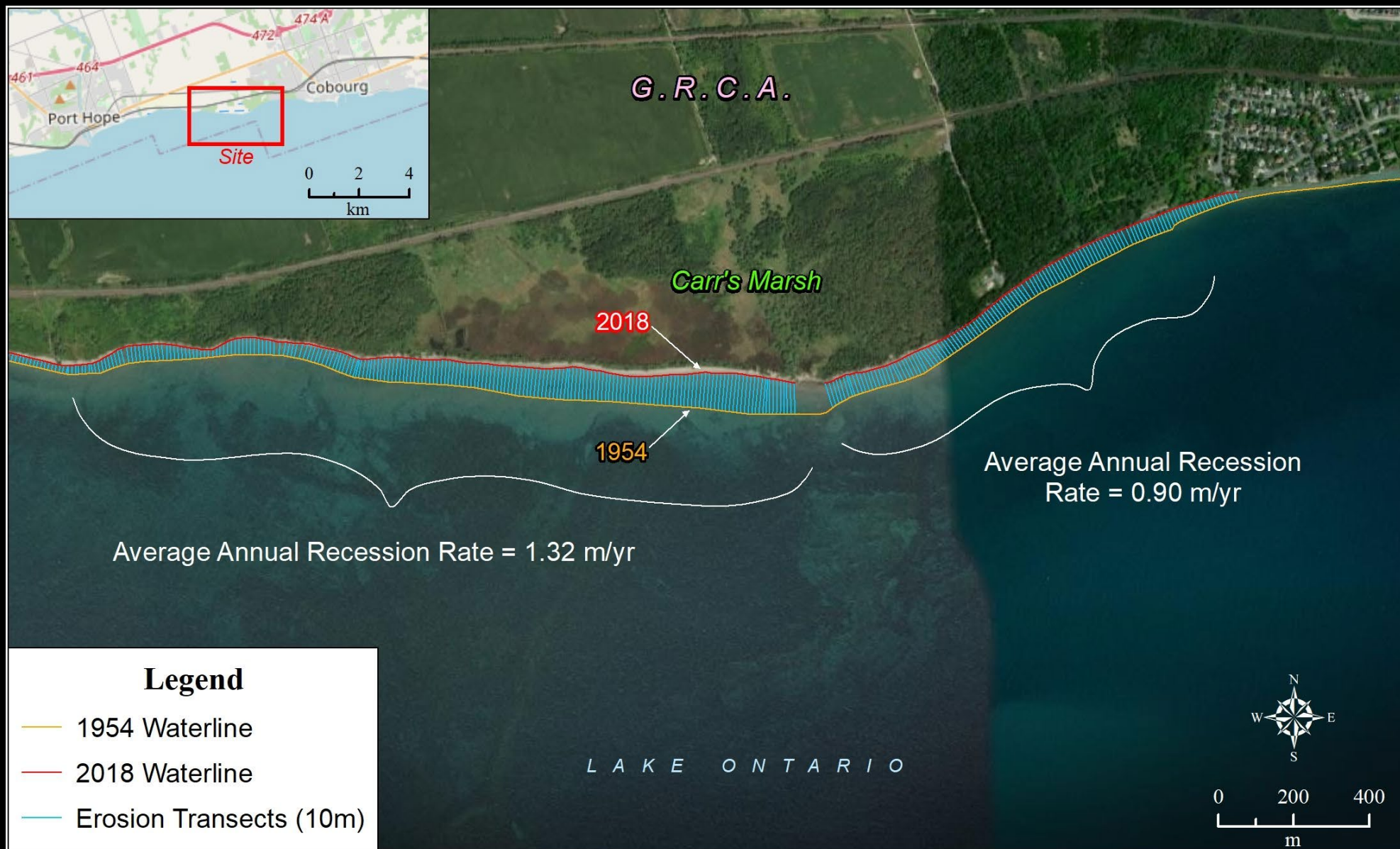


Shoreline Change at Carr's Marsh (a similar site)



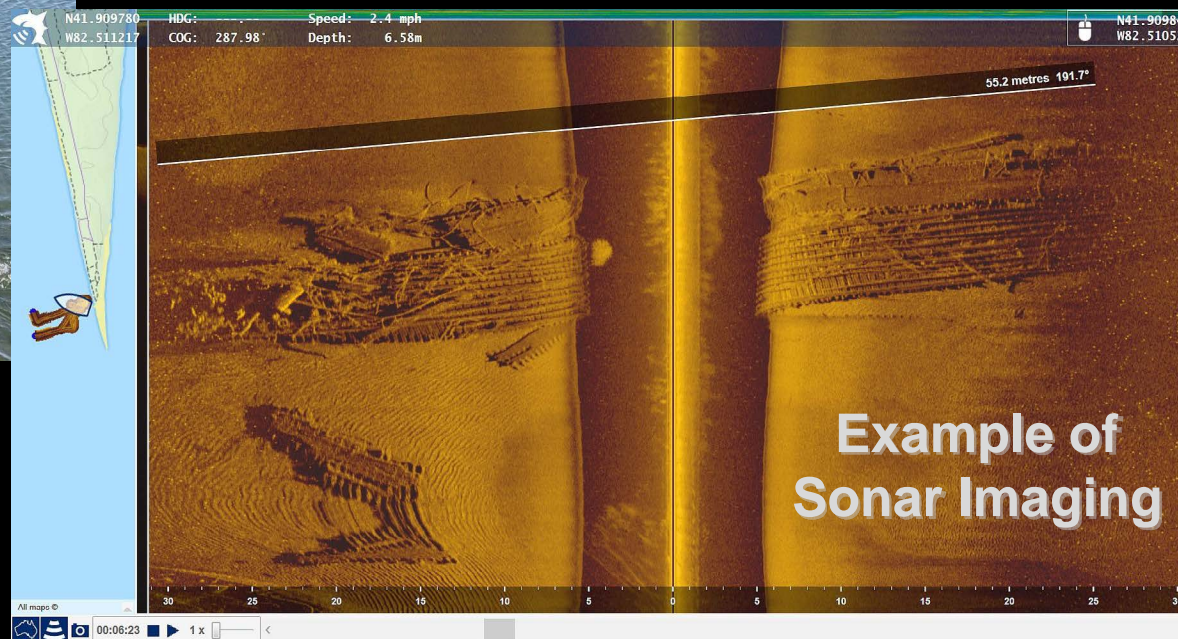


Shoreline Change at Carr's Marsh (a similar site)





II – BATHYMETRIC SURVEY AND SONAR COLLECTION

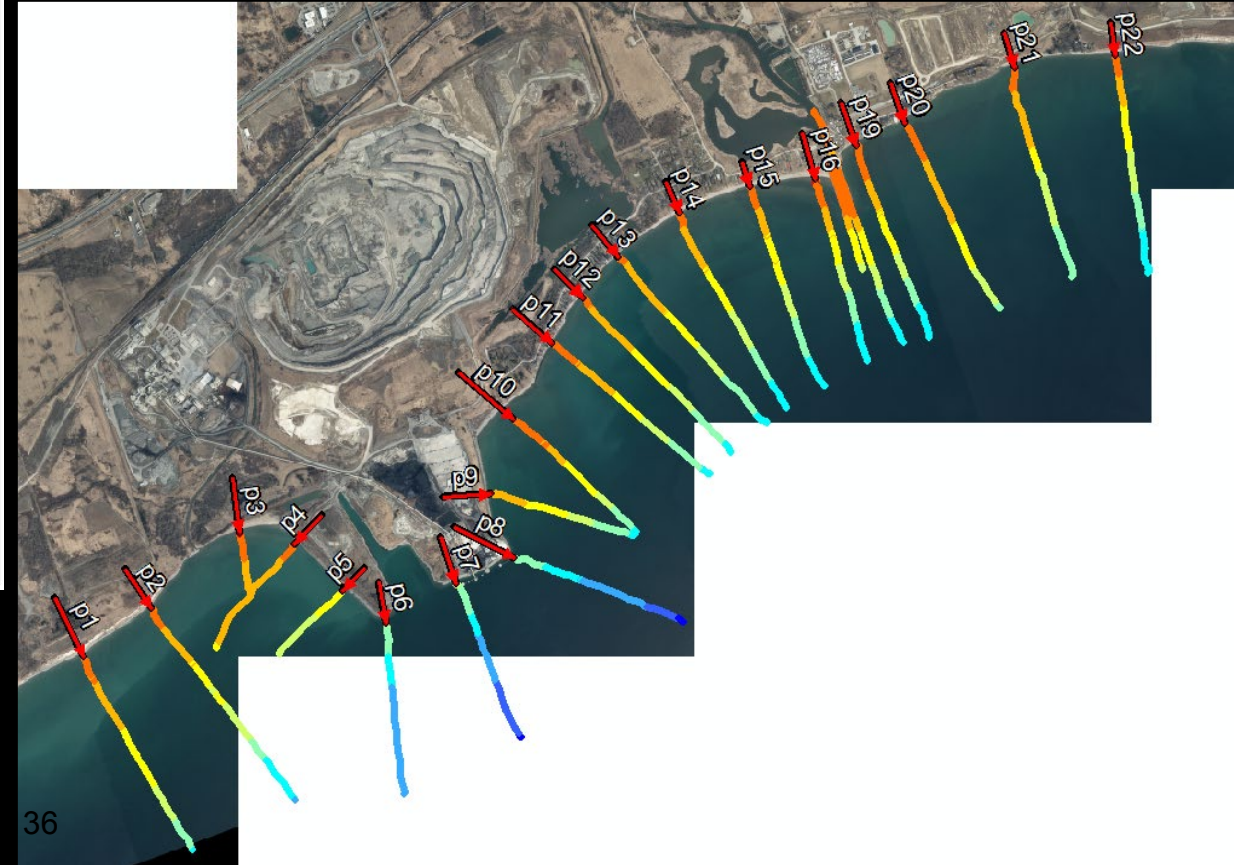
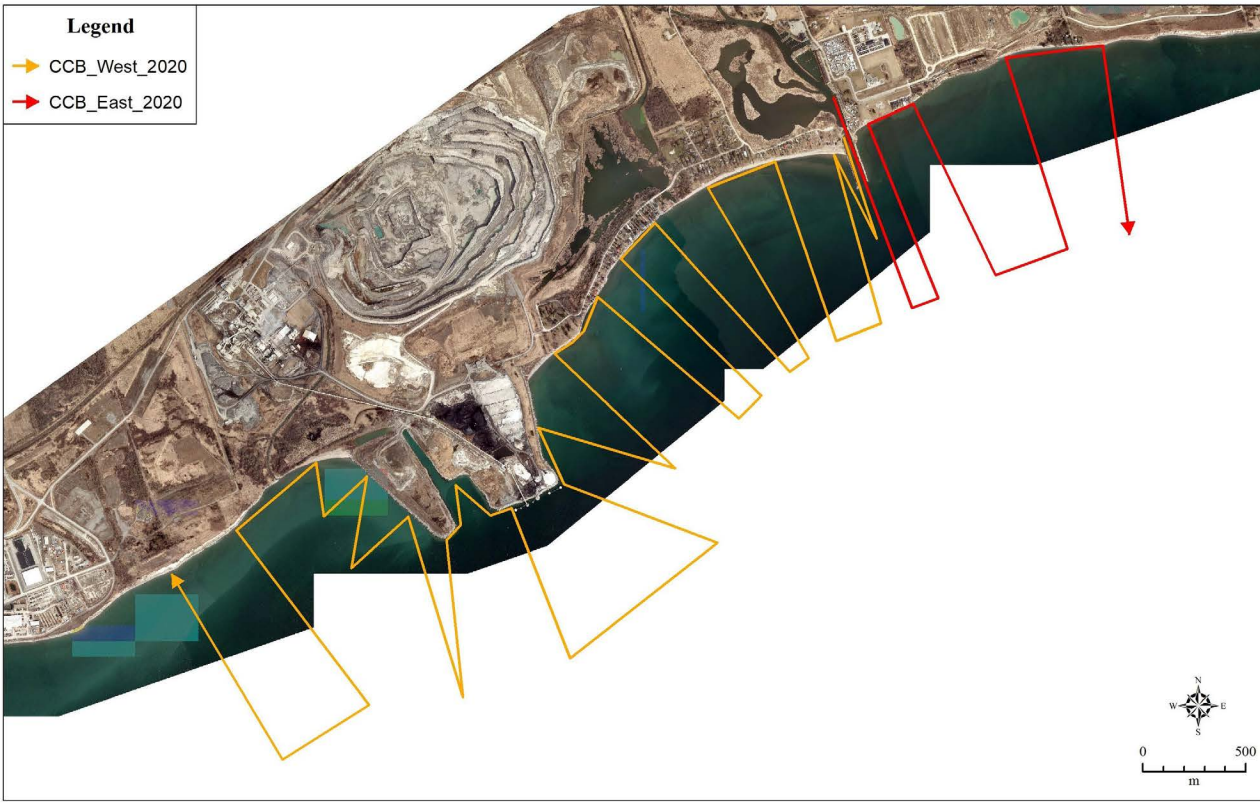




Boat Track and Depth Data

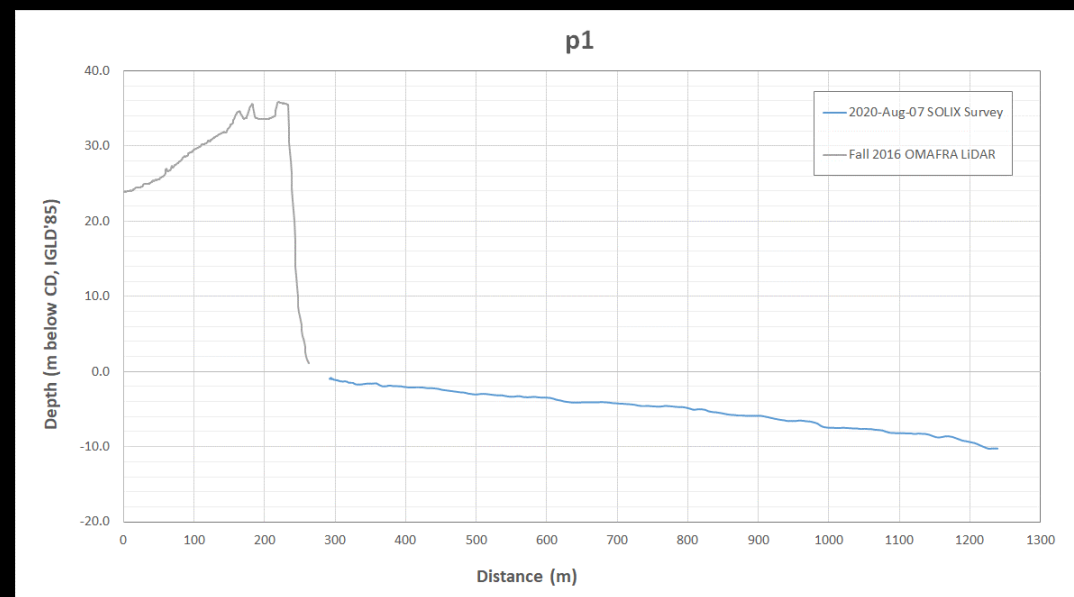
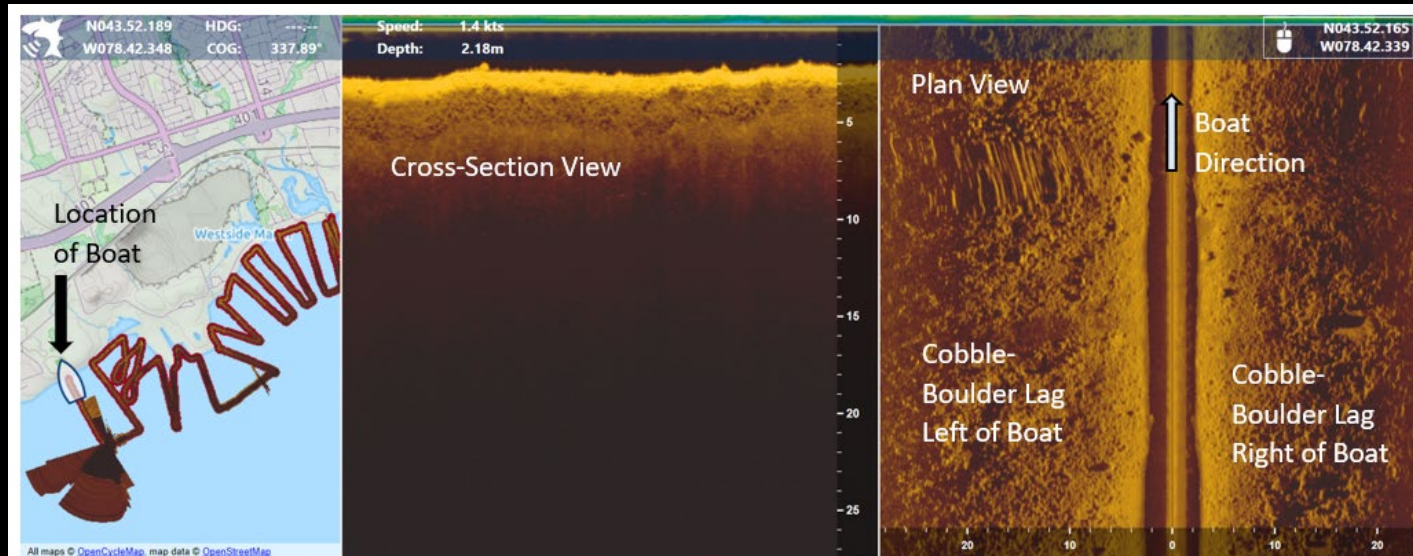
Legend

- CCB_West_2020
- CCB_East_2020



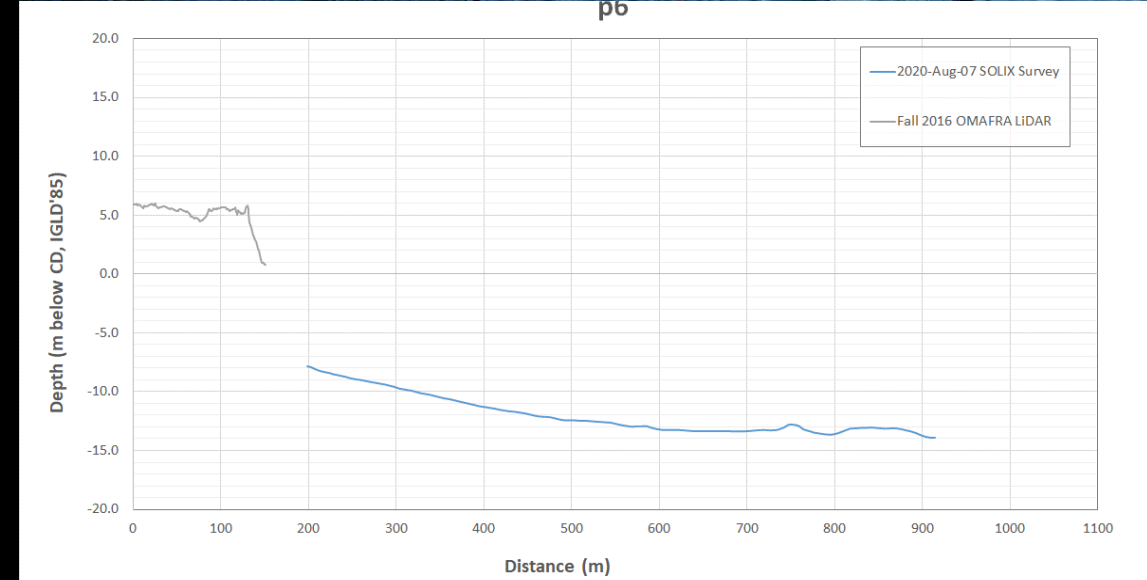
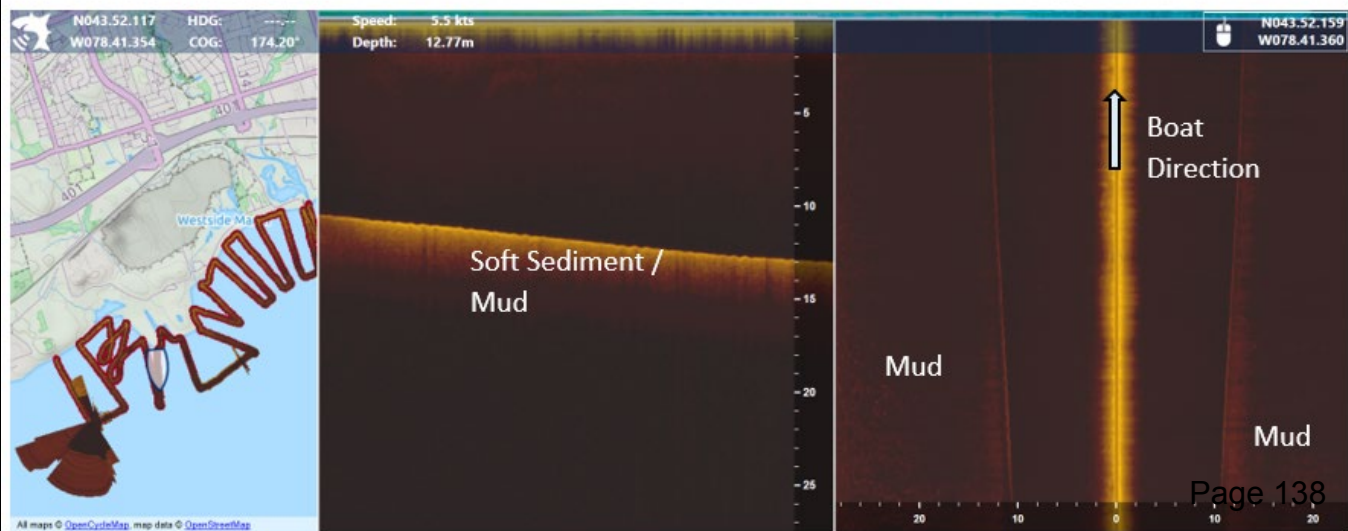
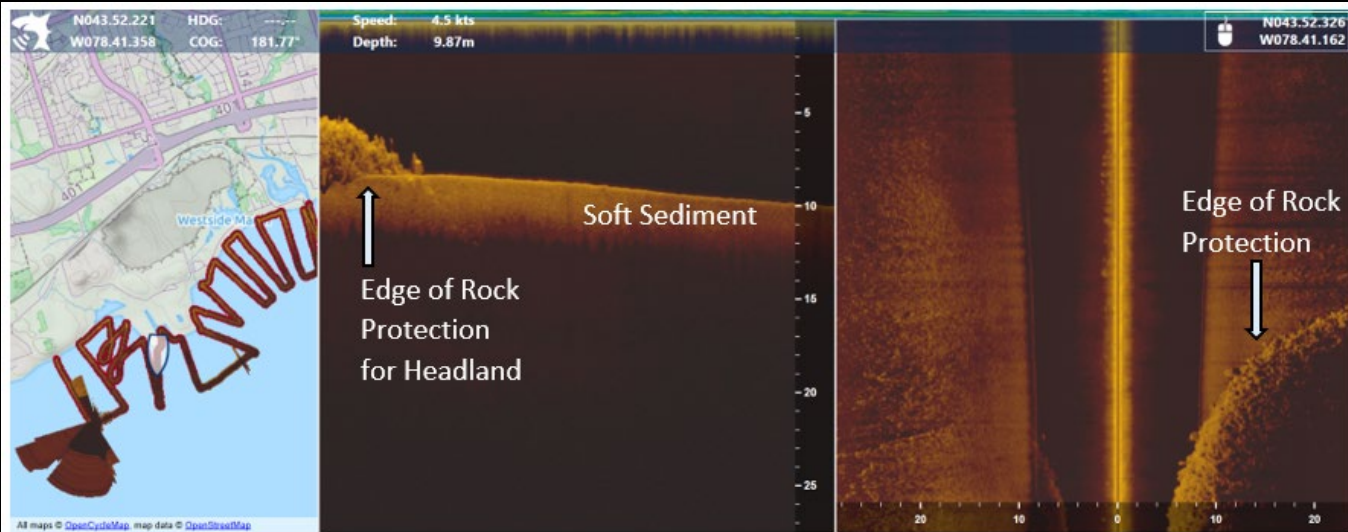


West of St. Marys Cement Headland



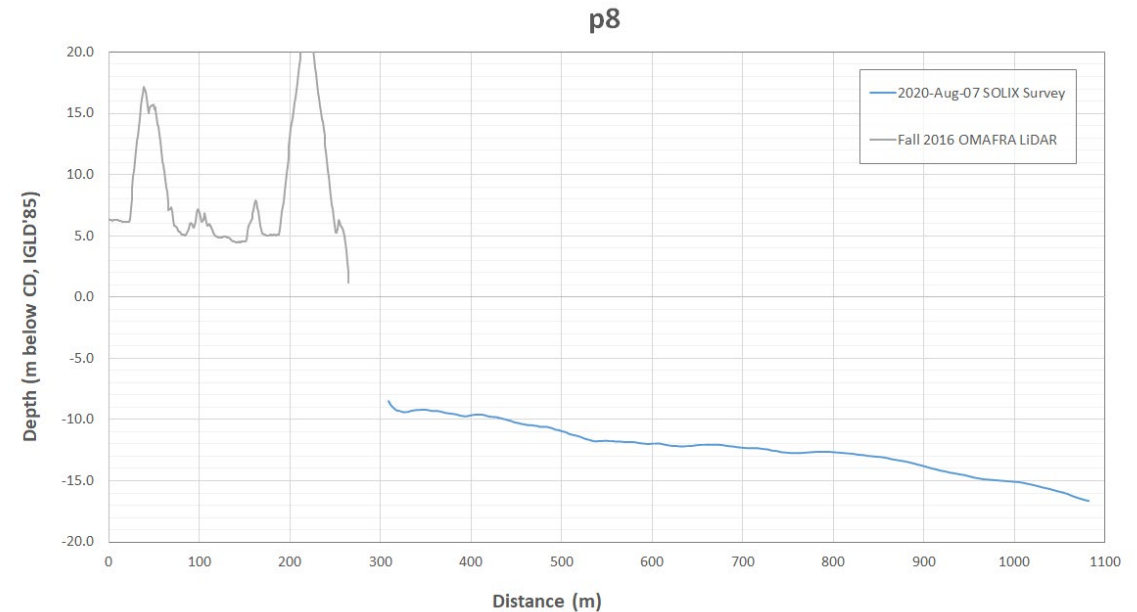
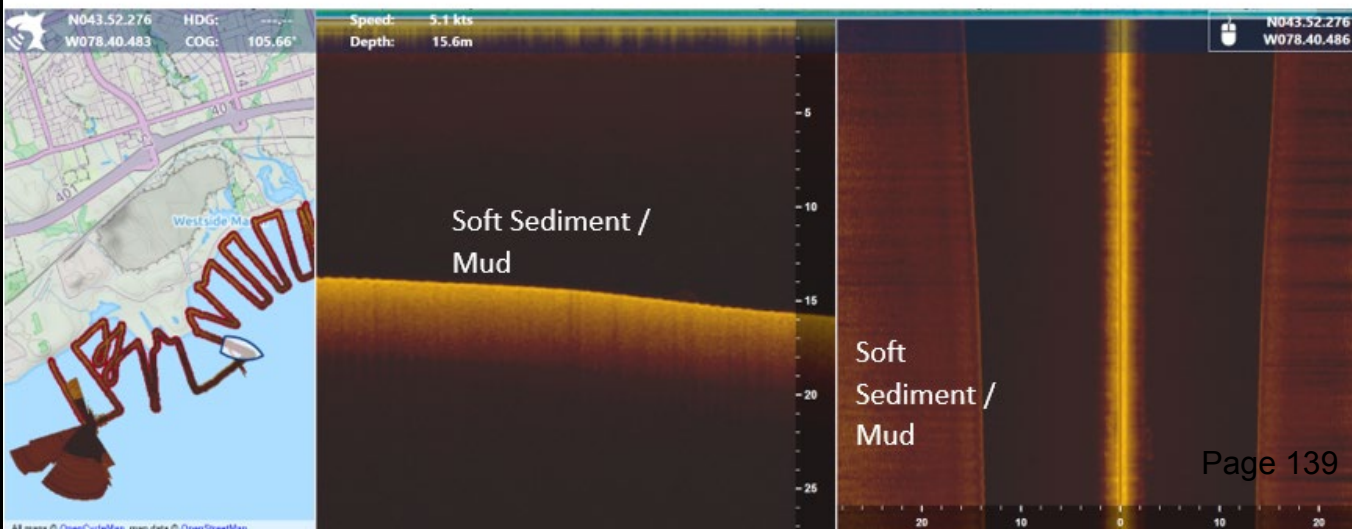
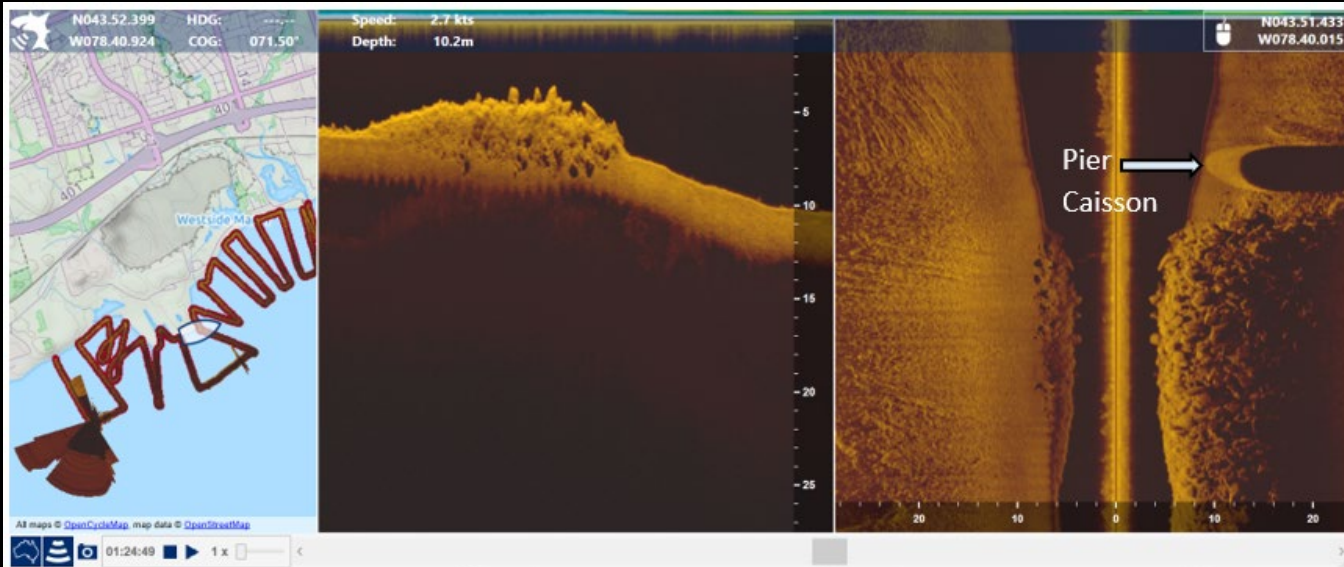


Southwest Corner of St. Marys Cement Headland



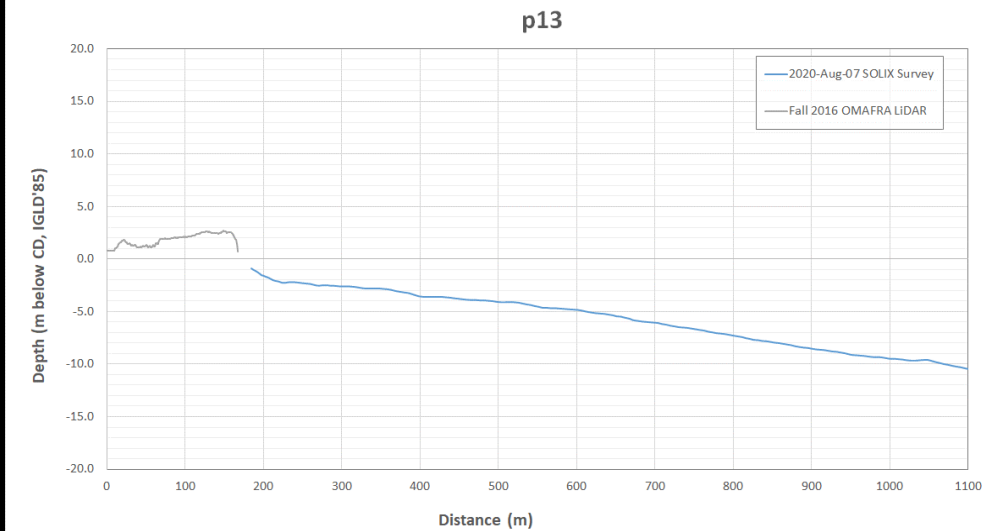
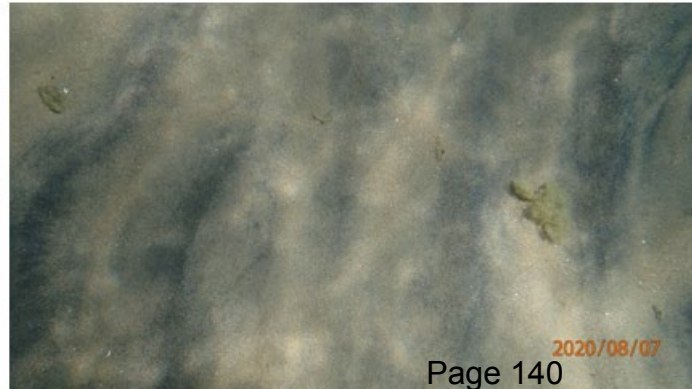
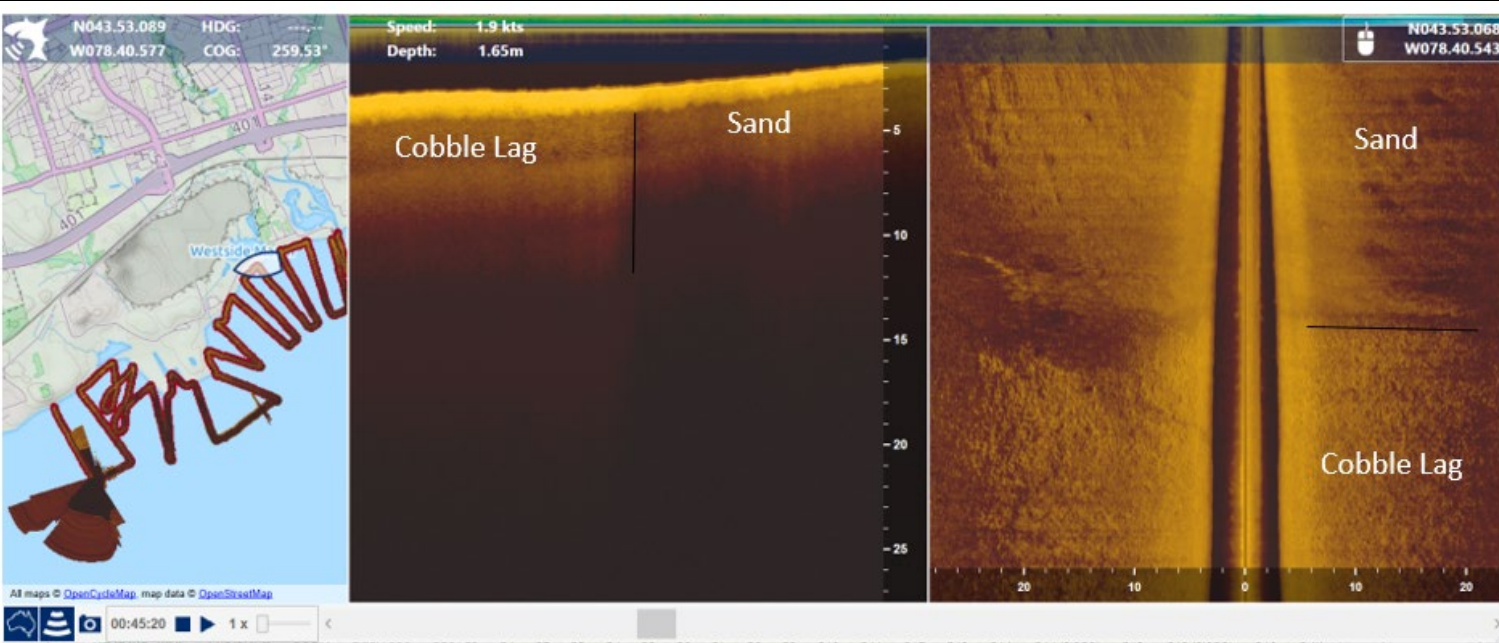


Southeast Corner of St. Marys Cement Headland





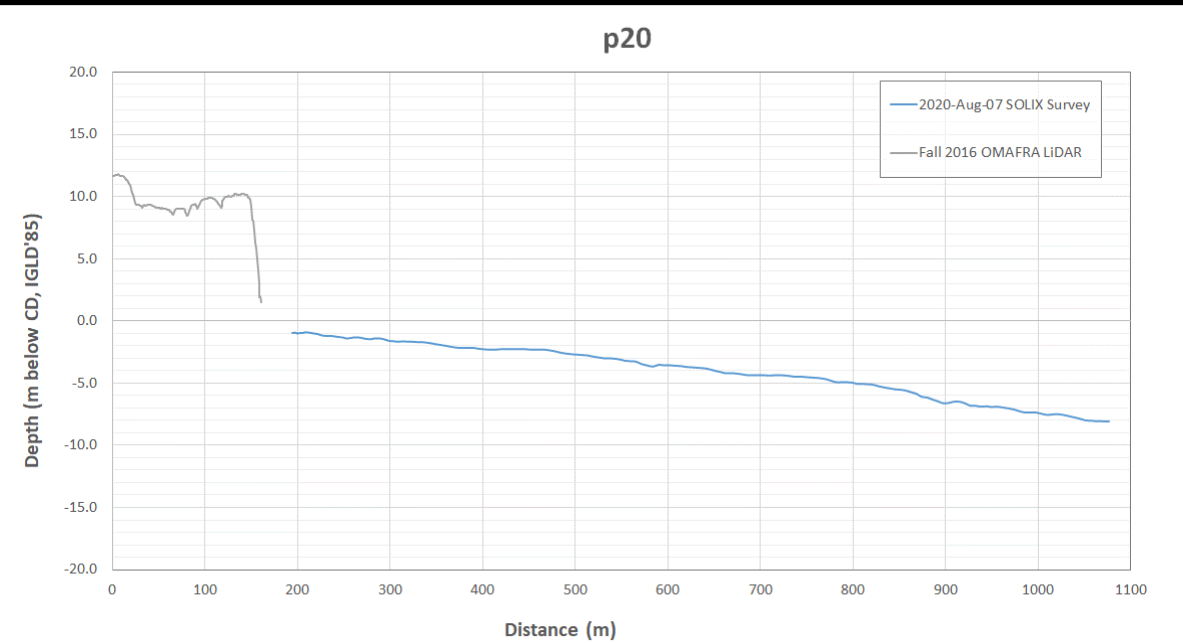
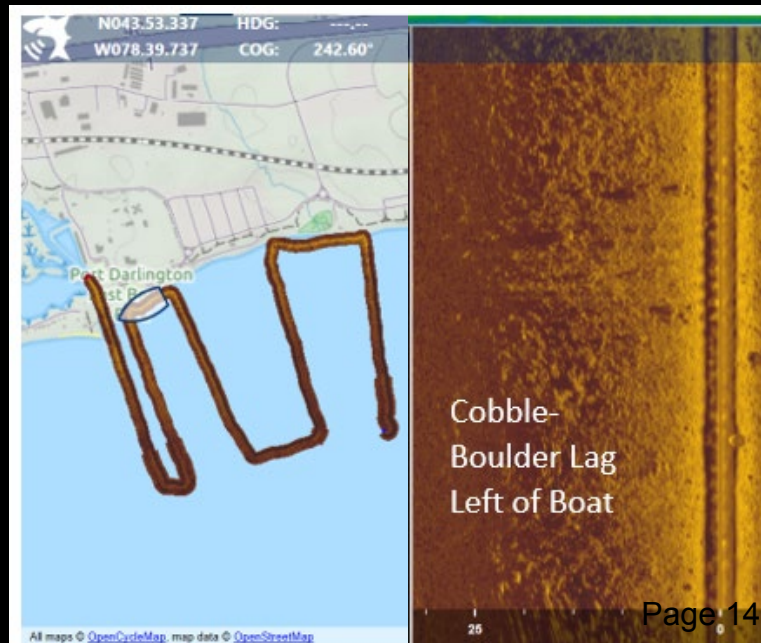
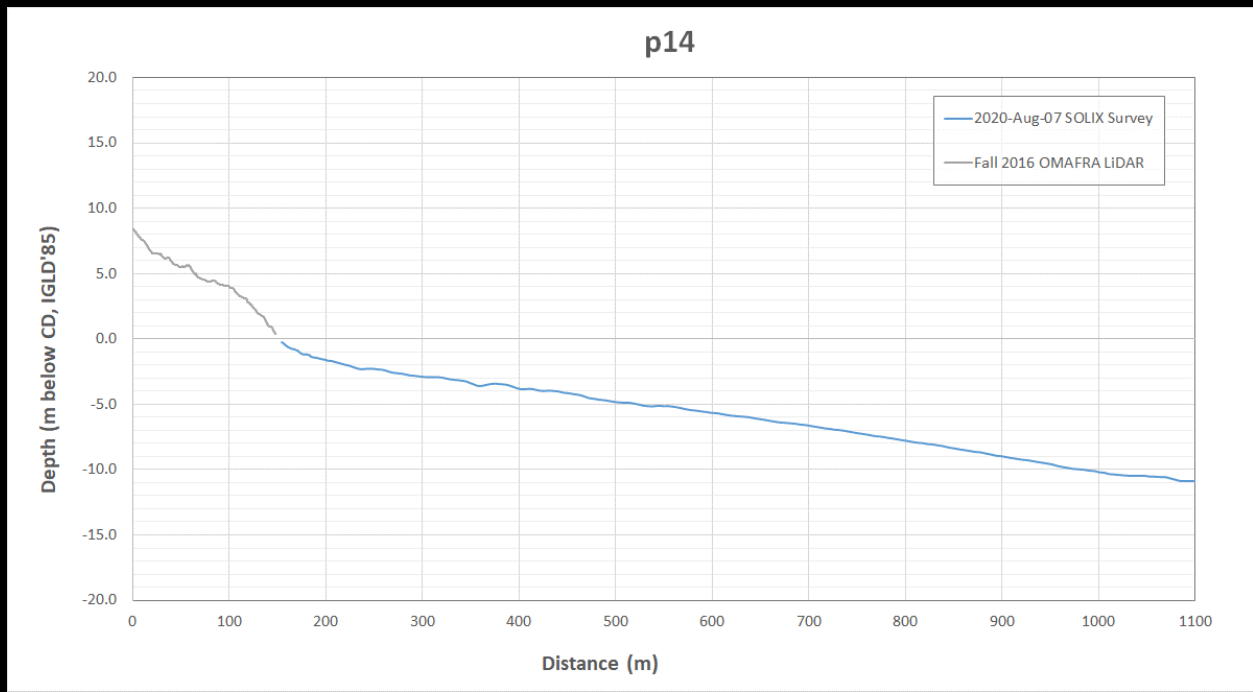
Cedar Crest Beach (Profile 13)





West Beach Profile 14

Profile 20 East of Port Darlington





III – NUMERICAL MODELLING OF WAVES AND SEDIMENT TRANSPORT

Three Scenarios:

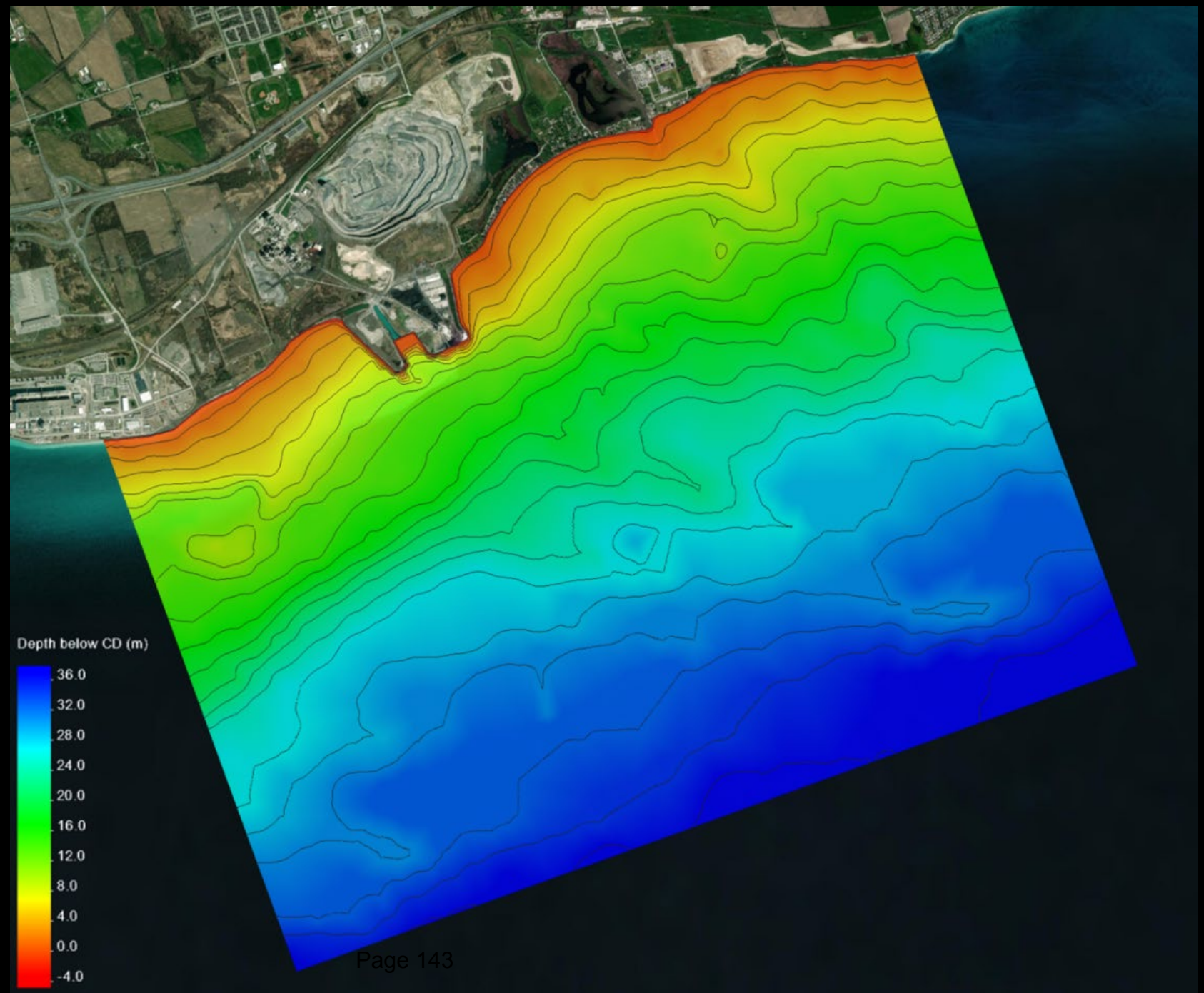
A: Pre-development Natural Shoreline

B: Mid-1800s to 1970 (Port Darlington, no SMC)

C: Post 1970s (present conditions)



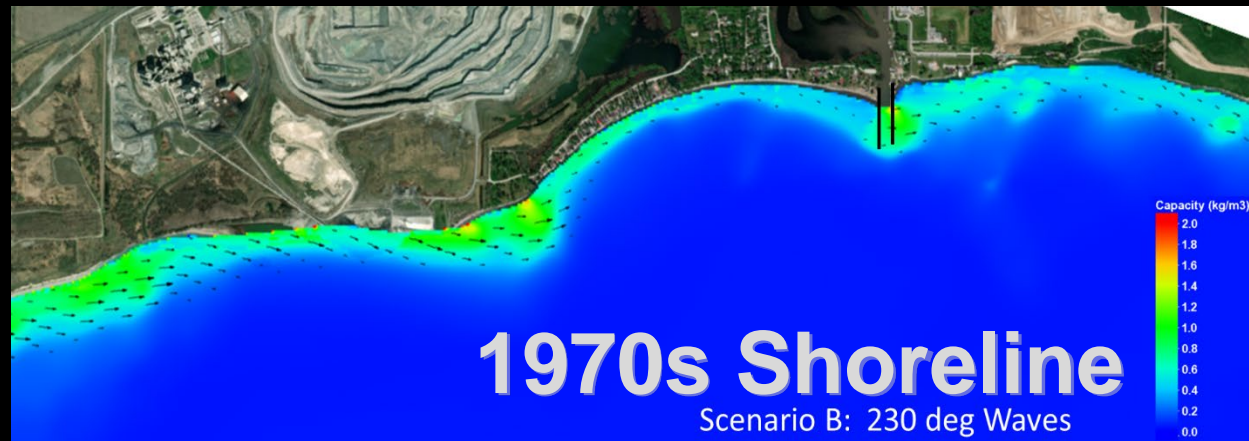
Computer Model Domain and Depths (m)





Sediment Transport Capacity for SW Storms

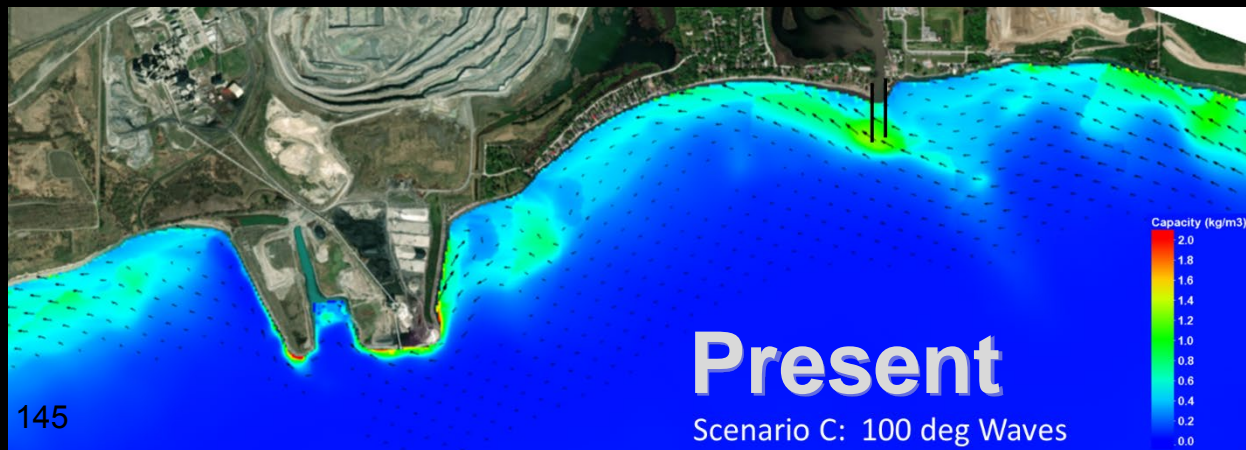
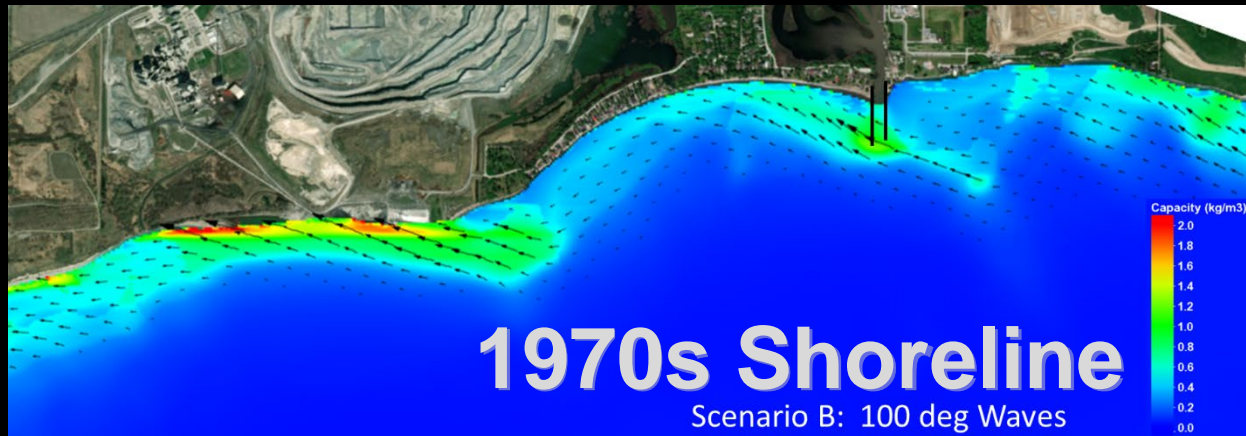
- 1800s: No barriers to trap sediment transport moving west to east
- 1970s: Sediment transport capacity decreases towards the Port Darlington jetties and sand is deposited in West Beach
- Present: Sediment transport capacity decreases towards the SMC Headland and Port Darlington jetties, resulting in sand accumulation in the fillet beaches





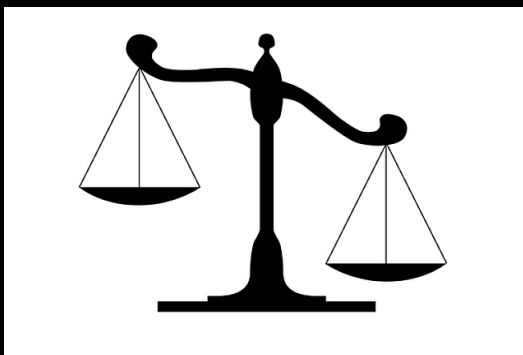
Sediment Transport Capacity for ESE Storms

- 1800s: No barriers to trap sediment transport moving from East to West
- 1970s: Without the SMC Headland, currents have the potential to move sediment westward out of the embayment
- Present: SMC Headland traps sediment in the embayment for southeast storms





IV – CONCLUSIONS





Benefits and Impacts of Littoral Barriers

- **BENEFITS:**

- The Port Darlington jetties created West Beach. Without the jetties West Beach would not exist
- The SMC Headland stabilized the eroding bluffs west of Cedar Crest Beach

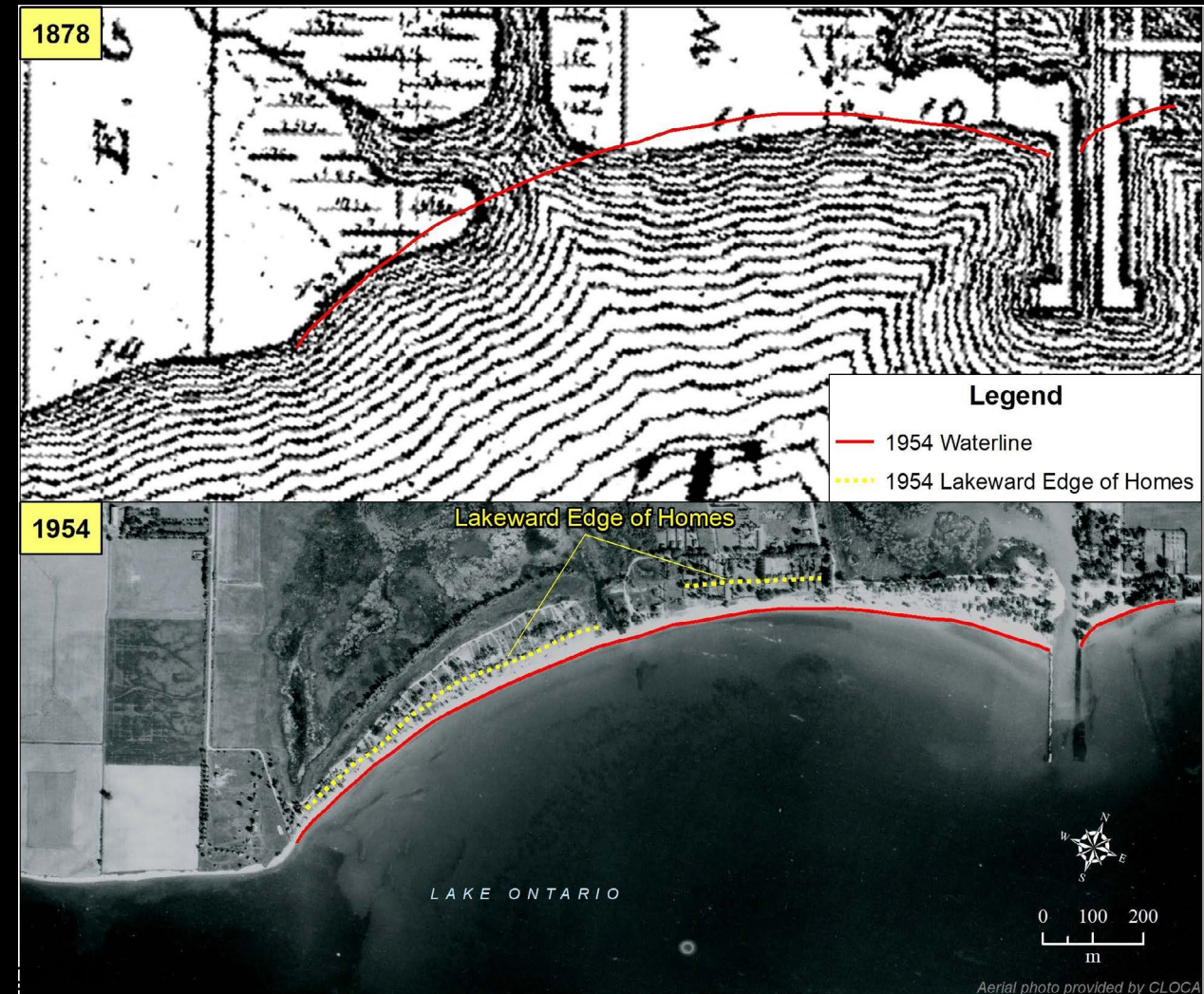
- **IMPACTS**

- The Port Darlington jetties have starved the bluff shoreline to the east of its natural supply of sand and gravel for more than 160 years
- The SMC Headland has reduced the supply of sand and gravel to the Port Darlington West Embayment



Understanding the History

- Pre-1800s, the embayment featured a large inlet (see 1878 map)
- Homes were constructed on top of a dynamic barrier beach and the former inlet
- The homes were constructed closer to the waters edge in the western half of the embayment
- The entire shoreline features a long-term recession trend





Factors Contributing to the Erosion Hazards along Cedar Crest Beach

- A reduction in sediment supply to the Port Darlington West Embayment due to the SMC Headland
- The embayment shoreline features a natural long-term recession rate
- The shoreline orientation is not conducive to the accumulation of sand and gravel
- Homes were constructed too close to the waters edge and on top of a dynamic receding low-lying barrier beach
- Vertical shore-parallel protection was constructed at the waters edge that is not conducive to beach building



Questions





**The Regional
Municipality of
Durham**

Works Department

605 Rossland Rd. E.
Level 5
PO Box 623
Whitby, ON L1N 6A3
Canada

905-668-7711
1-800-372-1102
Fax: 905-668-2051
durham.ca

Sent via email (clerks@clarington.net)

March 31, 2021

Clerk's Department
Municipality of Clarington
40 Temperance Street
Bowmanville, Ontario L1C 3A6

Attention: June Gallagher, Municipal Clerk

**RE: Durham York Energy Centre Operations – Long-Term
Sampling System (AMESA) Update**

In March 2021, Durham Region Works Committee considered Report #2021-WR-5 which provided an update and additional details on the operations and reporting of the Long-Term Sampling System (LTSS) at the Durham York Energy Centre (DYEC). Staff were directed to provide this Report to Municipality of Clarington (Clarington) Council.

The Report (Attachment #1) outlined the 2018 Adsorption Method for Sampling Dioxins and Furans (AMESA) Work Plan implementation and an overview of the monthly data collected during the 2020 calendar year. Works Committee Report #2021-WR-5 was reviewed and subsequently approved by Regional Council.

As noted in the Report, the DYEC is required to operate a LTSS to monitor Dioxins and Furans in accordance with Environmental Compliance Approval (ECA) section 7(3):

Long-Term Sampling for Dioxins and Furans

(3) (a) The Owner shall develop, install, maintain and update as necessary a long-term sampling system, with a minimum monthly sampling frequency, to measure the concentration of Dioxins and Furans in the Undiluted Gases leaving the Air Pollution Control (APC) Equipment associated with each Boiler. The performance of this sampling system will be evaluated during the annual Source Testing programs in accordance with the principles outlined by 40 CFR 60, Appendix B, Specification 4.

(b) The Owner shall evaluate the performance of the long-term sampling system in determining Dioxins and Furans emission trends

and/or fluctuations as well as demonstrating the ongoing performance of the APC Equipment associated with the Boilers

Durham and York Regions (Owners) developed the AMESA Work Plan in consultation with the Ministry of the Environment, Conservation and Parks (MECP) and Covanta, HDR emissions specialist, the AMESA manufacturer, Environment S.A. Deutschland (ESAD), and the North America vendor Envea (previously Altech).

The AMESA continuously samples flue gas from the Air Pollution Control (APC) system to evaluate the equipment's performance over a 28-day period. During 2020, the AMESA system operated normally in accordance with the Work Plan to collect data for performance evaluation of the system. Additionally, data was collected during short-term sampling periods coinciding with the Source Testing Program.

Measurements obtained from the AMESA system are not used for verifying compliance with the approval limit for Dioxins and Furans. As noted in ECA section 7(3)(b) above, the LTSS is used in determining Dioxins and Furans emission trends, as well as demonstrating the ongoing performance of the APC equipment.

As identified within the [2020 Annual Report](#), the Owners received monthly updates on the AMESA performance and results during 2020. The conclusions drawn from the data determined that the AMESA system produced sufficient quality data that would be suitable for monitoring the overall performance of the APC system, including establishing trends for Dioxins and Furans long-term analysis as envisioned by the ECA condition. In consultation with the MECP, the AMESA LTSS will continue as part of a comprehensive monitoring system at the DYEC.

Durham Region staff have registered to delegate at the April 6, 2021, Planning and Development Committee meeting to provide additional information and respond to any questions.

Sincerely,



Susan Siopis, P.Eng.
Commissioner, Works

c. G. Anello, M.Eng., P.Eng., PMP, Director, Waste Management Services, Durham Region

Enclosed (Attachment #1)

If this information is required in an accessible format, please contact 1-800-372-1102 ext. 3540.



The Regional Municipality of Durham Report

To: Works Committee
From: Commissioner of Works
Report: #2021-WR-5
Date: March 3, 2021

Subject:

Durham York Energy Centre Operations – Long-Term Sampling System Update

Recommendation:

That the Works Committee recommends to Regional Council:

That this report be received for information.

Report:

1. Purpose

- 1.1 This information report provides an update and additional details with respect to the operations and reporting of the Long-Term Sampling System at the Durham York Energy Centre (DYEC).

2. Background

- 2.1 The DYEC as part of the Environmental Compliance Approval (the ECA) section 7(3), is required to operate a Long-Term Sampling System (LTSS) for the monitoring for dioxins and furans.
- 2.2 The Adsorption Method for Sampling Dioxins and Furans (AMESA) LTSS is installed on each of the two boiler units at the DYEC and is a dioxin and furan continuous sampling system designed to meet the requirements of the ECA. The operation of the AMESA was initiated in 2015 and has been maintained in

accordance with current guidance from the AMESA manufacturer, Environment S.A. Deutschland (ESAD, the European manufacturer of the AMESA system), the North American vendor ENVEA and the AMESA Technical Manual (June 2010).

- 2.3 The AMESA system is used only for the purpose stated in ECA Condition 7(3) as included below, which relates to Dioxins and Furans emissions trend analysis and evaluation of Air Pollution Control equipment performance.

ECA Condition 7. (3). Testing, Monitoring and Auditing Long-Term Sampling for Dioxins and Furans:

- (3) (a) The Owner shall develop, install, maintain and update as necessary a long-term sampling system, with a minimum monthly sampling frequency, to measure the concentration of Dioxins and Furans in the Undiluted Gases leaving the (Air Pollution Control) APC Equipment associated with each Boiler. The performance of this sampling system will be evaluated during the annual Source Testing programs in accordance with the principles outlined by 40 CFR 60, Appendix B, Specification 4.
- (b) The Owner shall evaluate the performance of the long-term sampling system in determining Dioxins and Furans emission trends and/or fluctuations as well as demonstrating the ongoing performance of the APC Equipment associated with the Boilers.

- 2.4 The AMESA results themselves do not constitute a compliance point for the facility operations.
- 2.5 Following the 2016 facility Abatement plan, several workplans for continued AMESA system improvements have been completed at the facility. These workplans identified data concerns with the accuracy of the monthly evaluation data. Prior to the implementation of the 2018 strategy, inconsistent monthly AMESA data prevented the determination of dioxins and furans trends and presented challenges in achieving correlation between Method 23 sampling, which reviews samples collected from stationary monitoring locations, and the AMESA system results.
- 2.6 As such the objective of the 2018 AMESA Work Plan was to set forth an outline of a revised strategy to improve the consistency of monthly data while continuing

the performance evaluation of the LTSS. The 2018 AMESA Work Plan was provided to the Ministry of the Environment, Conservation and Parks (MECP) in November 2018 with activities identified within the workplan continuing until late 2020. Activities within the 2018 Work Plan included review and improvements to both plant equipment and laboratory processes and procedures in an effort to identify and resolve the cause of the inconsistencies.

3. Continued System Operations and Reporting

- 3.1 With the completion of the 2018 program a greater level of consistency regarding monthly AMESA results was achieved, as well as improved correlation between the AMESA results and the Method 23 results obtained during the voluntary and compliance source testing programs at the DYEC.
- 3.2 The 2018 program actions and recent dataset along with corresponding actions for program continuation were reviewed with the MECP. This has resulted in key outcomes for the continuation of the program as follows:
- a. The Long-Term Sampling for dioxins and furans will continue to be operated at the DYEC with the continuation of AMESA Program and Record Retention.
 - b. LTSS data validation will continue in conformance with the AMESA investigation checklist.
 - c. Validated LTSS data shall be utilized to evaluate trends in the performance of the facility's APC Equipment.
 - d. Annual AMESA correlation tests will be discontinued following the November 2020 Source Test. Correlation testing will be re-implemented if the AMESA results exhibit an erratic trend.
 - e. All AMESA records required by ECA conditions 14(3) through 14(8) will be held at the Facility and will be available for MECP inspection. Monthly data shall be summarized and presented in the annual ECA report.
 - f. AMESA results for the previous year will be reported as part of the Annual Report as required by ECA Condition 15, commencing with data collected during the 2020 calendar year. AMESA trends of validated data will be presented as a 12-month rolling average together with analysis to demonstrate the ongoing performance of the APC Equipment. A summary of non-routine maintenance completed on the AMESA system will be presented as part of the Annual Report.

- 3.3 The Annual Report as required by ECA Condition 15, which includes details on the AMESA results, is due to the MECP March 31 of each calendar year.

4. Relationship to Strategic Plan

- 4.1 This report aligns with/addresses the following strategic goals and priorities in the Durham Region Strategic Plan:
- a. Goal 1: Environmental Sustainability
 - 1.3 Protect, preserve and restore the natural environment, including greenspaces, waterways, parks, trails, and farmlands
 - b. Goal 5: Service Excellence
 - 5.3 Demonstrate commitment to continuous quality improvement and communicating results

5. Conclusion

- 5.1 The Durham York Energy Centre continues to operate the Adsorption Method for Sampling Dioxins and Furans system in keeping with the requirements of ECA Condition 7. (3). regarding a Long-Term Sampling System.
- 5.2 Long-Term Sampling System data validation will continue in conformance with the Adsorption Method for Sampling Dioxins and Furans system investigation checklist. Validated Long-Term Sampling System data shall be utilized to evaluate trends in the performance of the facility's Air Pollution Control Equipment.
- 5.3 Annual Adsorption Method for Sampling Dioxins and Furans system correlation tests will be discontinued following the November 2020 Source Test. Correlation testing will be re-implemented if the Adsorption Method for Sampling Dioxins and Furans system results exhibit an erratic trend.
- 5.4 Annual Adsorption Method for Sampling Dioxins and Furans system results for the previous year will be reported as part of the Annual Report as required by Environmental Compliance Approval Condition 15, commencing with data collected during the 2020 calendar year.
- 5.5 For additional information, please contact Gioseph Anello, Director, Waste Management Services, at 905-668-7711, extension 3445.

Respectfully submitted,

Original signed by:

Susan Siopis, P.Eng.
Commissioner of Works

Recommended for Presentation to Committee

Original signed by:

Elaine C. Baxter-Trahair
Chief Administrative Officer

Long Term Sampling for Dioxins and Furans

Gioseph Anello, M. Eng., P. Eng., PMP
Director of Waste Management Services



Service Excellence for our Communities

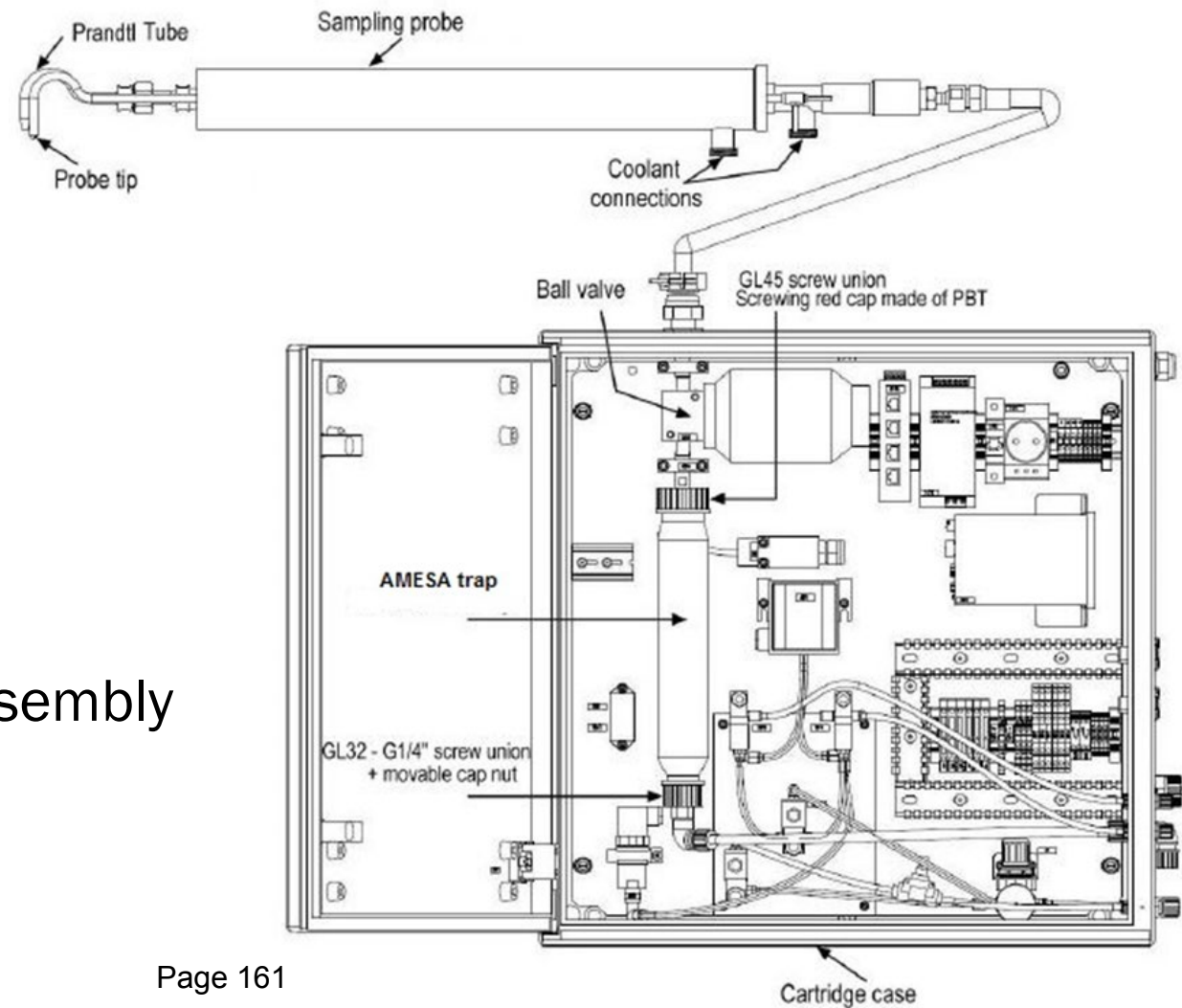
DYEC Monitoring

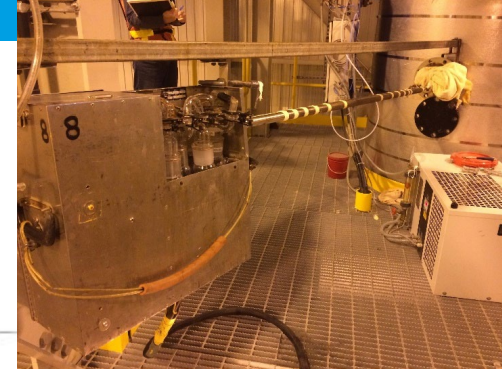
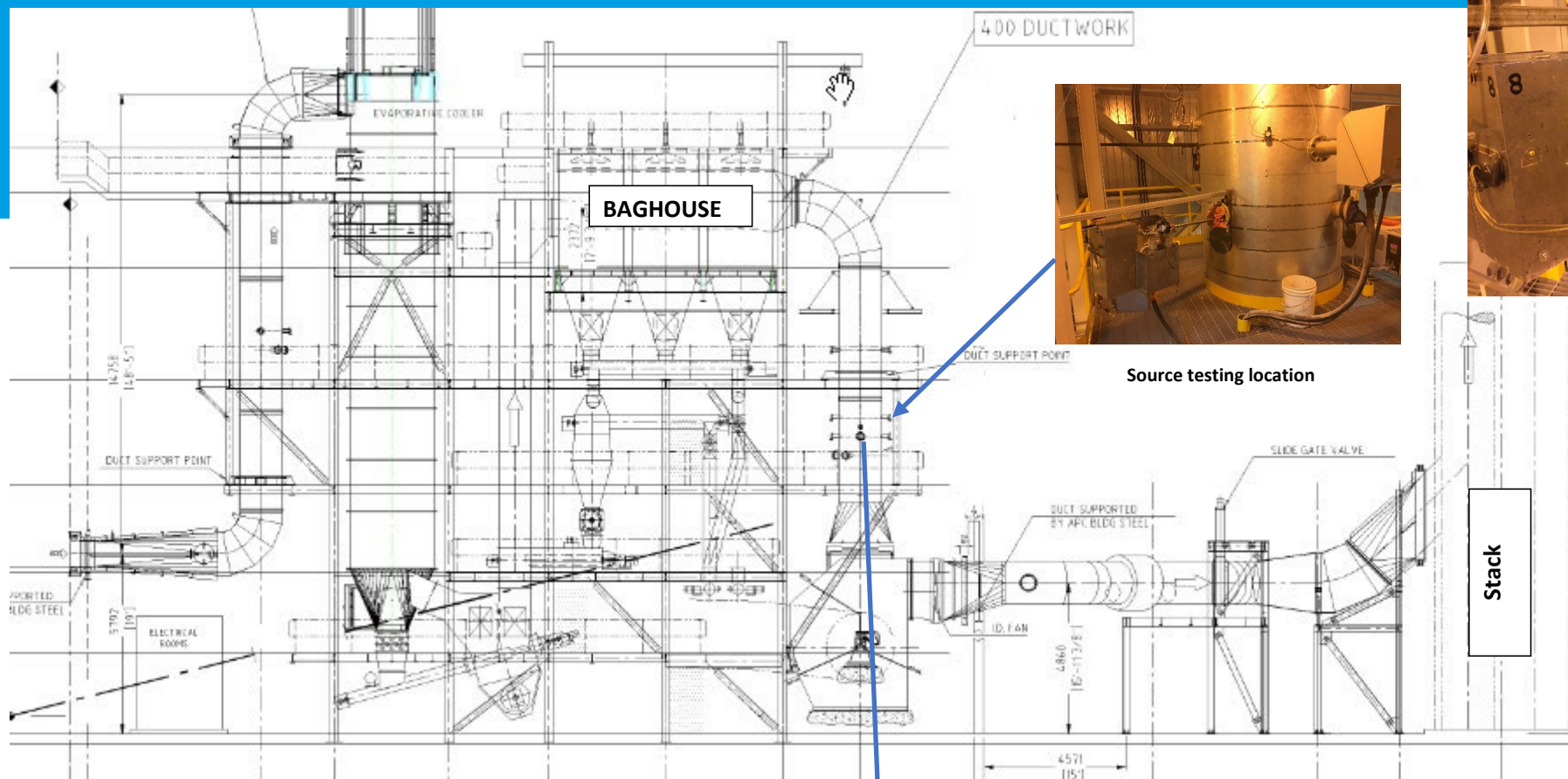
- Air Emissions Monitoring (CEM at stack)
- Annual Stack Tests and RATA
- Long Term Sampling for Dioxins and Furans AMESA)
- Ambient Air Monitoring (off-site): 3 stations plus one additional Council mandated station
- Groundwater and Surface Water Monitoring (on and off-site)
- Noise Monitoring (off-site)
- Odour Management and Mitigation Monitoring (on-site/off-site)
- Soils Monitoring (off-site)

AMESA Process

- The AMESA system is used only for the purpose stated in the ECA i.e. Dioxins and Furans emissions trend analysis, evaluation of Air Pollution Control equipment performance as documented by ECA Condition 7. (3).
- AMESA collects sample over a ± 28 day period
- 30 days for Laboratory Analysis (ALS Labs; Burlington, Ontario)
- AMESA results are the average concentration in picograms per reference cubic meter ($\mu\text{g}/\text{RM}^3$) or parts per trillion
- Dioxins and Furans concentration is a Toxic Equivalent using 17 congeners: WHO or NATO formula

AMESA Cartridge Case and Probe Assembly





Source testing rail with impinger units



Source testing location



AMESA trap (contains XAD resin and spike)

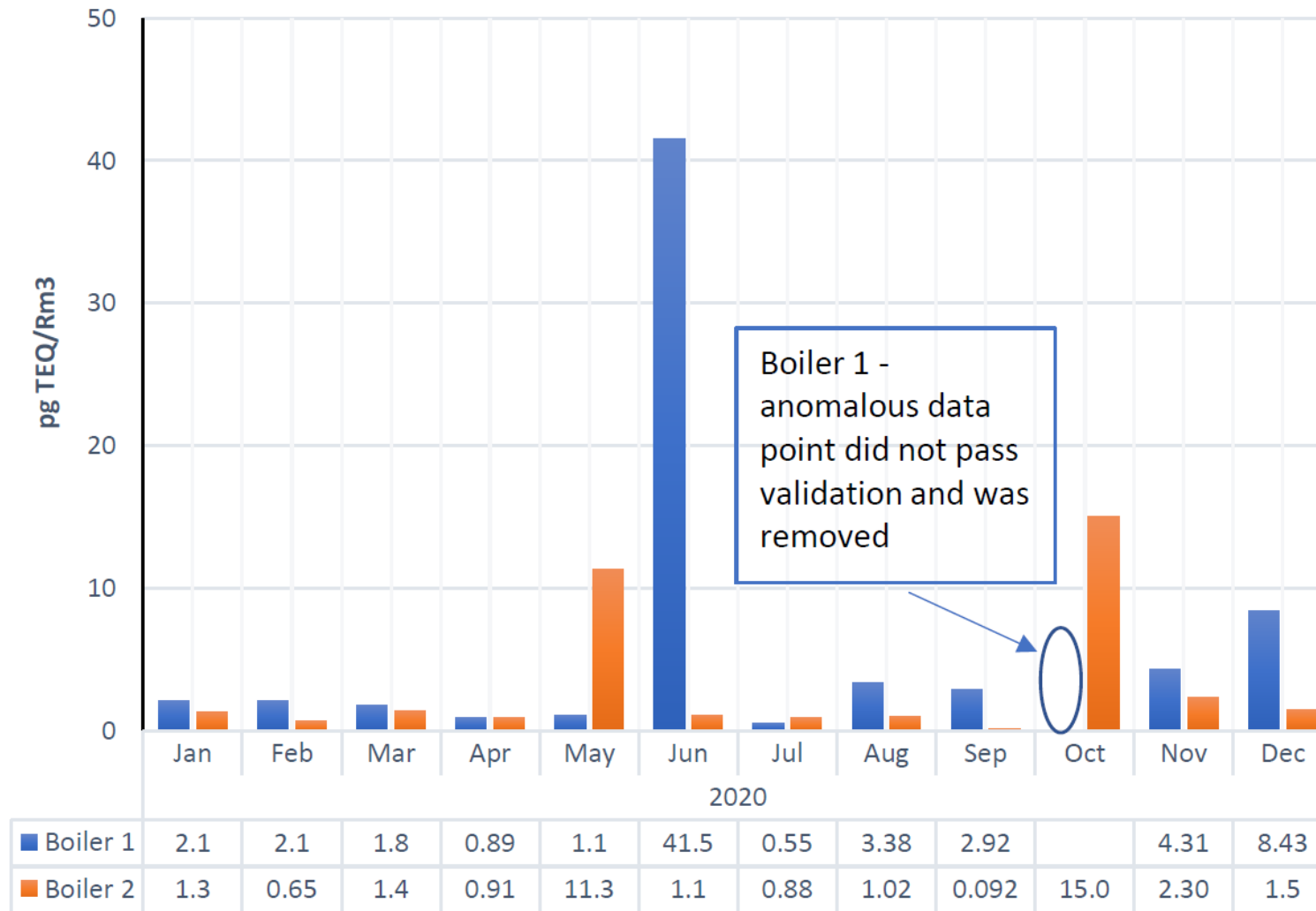


Cartridge Case



Goose neck nozzle

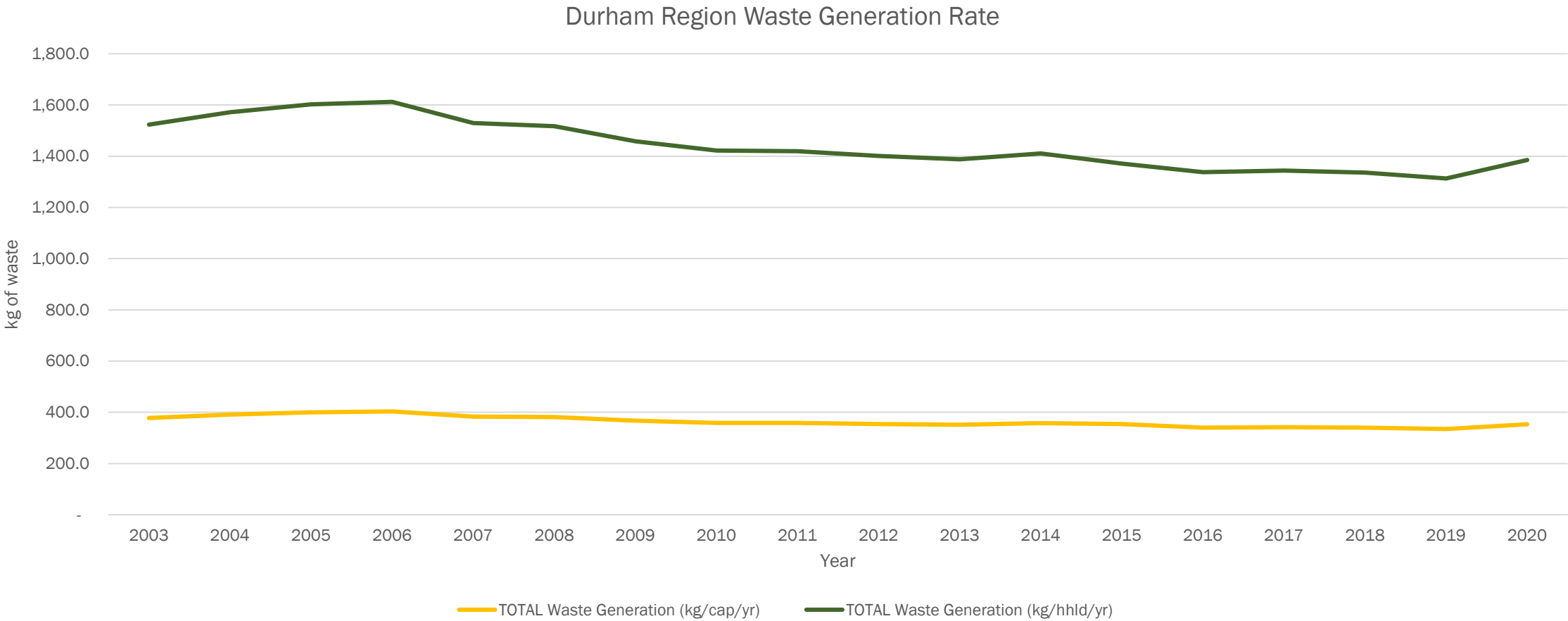
2020: Boiler 1 and Boiler 2 Monthly AMESA Results



Future Waste Flows



Reducing Waste Generation



Staff Report

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|-------------------------|--|-----------------------|------------|
| Report To: | Planning and Development Committee | | |
| Date of Meeting: | April 6, 2021 | Report Number: | PDS-022-21 |
| Submitted By: | Ryan Windle, Director of Planning and Development Services | | |
| Reviewed By: | Andrew C. Allison, CAO | By-law Number: | |
| File Number: | PLN17.3 | Resolution#: | |
| Report Subject: | Graham and Wilmot Creek Flood Plain Mapping Update Study | | |

Recommendations:

1. That Report PDS-022-21 be received;
2. That Council approve the Municipal contribution of \$30,000 from the Tax Rate Stabilization Reserve Fund to undertake the Graham and Wilmot Creek Flood Plain Mapping Update Study, in partnership with the Ganaraska Region Conservation Authority, the Region of Durham, and the National Disaster Mitigation Program;
3. That the Mayor and Clerk be authorized to execute the necessary agreements; and
4. That all interested parties listed in Report PDS-022-21 and any delegations be advised of Council's decision.

Report Overview

Flood plain mapping helps to identify areas that may be at risk of flooding during severe storms and is an important tool for land use planning and emergency preparedness. Ganaraska Region Conservation Authority's flood plain mapping for the Graham and Wilmot Creek watersheds is nearly 45 years old and is the oldest of the flood plain data sets used for Clarington.

The National Disaster Mitigation Program provides funding support for flood mitigation projects, with focus on those that inform future mitigation investments. In late 2020, Planning and Development Services, in partnership with Ganaraska Region Conservation Authority and the Region of Durham, applied to the National Disaster Mitigation Program for grant support for the Graham and Wilmot Creek Flood Plain Update Study. Approval of the Municipality's portion of the project costs is being recommended.

1. Background

- 1.1 On November 10, 2020, the Federal Government announced a new intake (intake 6) of the National Disaster Mitigation Program (NDMP). This intake invited eligible organizations to submit proposals for funding support of up to 50% to a maximum of \$1.5 million per eligible project.
- 1.2 The Ganaraska Region Conservation Authority (GRCA) approached the Municipality and the Region of Durham to collaborate on a funding application to update the flood plain mapping for the Graham and Wilmot Creek watersheds. GRCA's existing flood plain mapping for these two watersheds dates back to 1977.
- 1.3 On November 30, 2020, Planning and Development Services submitted a proposal to the NDMP for the Graham and Wilmot Creek Flood Plain Mapping Update Study (Study). Notice of provincial support of the application was received on February 1, 2021. An update was received on March 23, 2021, indicating a delay in Federal decision making. However, projects that may be compromised by a delayed start date were authorized to proceed as of April 1, and project costs incurred from this date would be recognized if federal approval is granted.
- 1.4 The purpose of this report is to seek approval of the Municipal funding contribution for the Study in advance of the Federal decision. These funds will allow for the field / survey work to proceed this spring, which is necessary for the project to be completed within the prescribed NDMP project completion timeframe.

2. Overview

Study Area

- 2.1 The Graham and Wilmot Creek watersheds are shown in Attachment 1. The Graham Creek watershed drains an area of 78 square kilometers. Mulligan Creek is the largest tributary of Graham Creek; however, other tributaries such as Crooked Creek and Lytle Creek are also part of the watershed. The Wilmot Creek watershed drains an area of 98 square kilometers. The main branch of Wilmot Creek is joined by four other tributaries - Orono Creek, Hunter Creek, Stalker Creek and Foster Creek.
- 2.2 The urban areas of Newcastle Village and Orono, along with the hamlets of Brownsville, Leskard and Newtonville fall within these watersheds. The total population of these watersheds is approximately 13,400 people, with 73% in the urban areas, 3% in the hamlets and 24% in the rural areas.
- 2.3 Of the approximately 13,400 people living in the watersheds, 11% live within the existing mapped flood plain. There are three senior (assisted living) residences, three childcare facilities and six schools within 100 m to 500 m of the existing mapped flood plain area. In addition, 25 commercial and industrial businesses and 531 municipal infrastructure assets are located in the existing mapped flood plain.

Study Purpose

- 2.4 The original flood hazard mapping for Graham and Wilmot Creeks was completed by Dillion Consulting for the GRCA in 1977. The Study will update flood plain mapping for the Graham and Wilmot Creek watershed areas to accurately identify the areas currently subject to flooding, factoring in changes that have occurred over time that can affect the size and location of the flood plain area. These include updated topographical information, improved modelling techniques and software, and new development and infrastructure construction. The scope will exclude Foster Creek, which was recently updated as part of new development in the area.
- 2.5 Knowing the extent of a flood plain is an important tool for land use planning and emergency management. It informs the Official Plan, zoning by-law and the review of development applications, helping to direct future development outside of flood-prone areas, to avoid injury, loss of life and property damage. It is also used to identify where flooding may impact access to roads, and emergency routes, and can help property owners to understand their potential risk of and to prepare for a flooding event. In addition, flood plain mapping can be used to support assessments of the vulnerability of roads and culverts to riverine flooding across Clarington.

- 2.6 The Study will use the 2016 provincial LiDAR data and additional structure survey information to update the hydrologic and hydraulic models for Graham and Wilmot Creeks to modernize the flood mapping for the vulnerable areas of Newcastle and Orono.

Funding

- 2.7 The NDMP is administered by Public Safety Canada. The program invests in projects that support building a body of knowledge on flood risks and foundational flood mitigation programs. The original program period from 2015 to 2020 was renewed to provide two additional years.
- 2.8 Intake 6 of the NDMP Program was opened for project proposals which included flood risk assessments, flood mapping, flood mitigation plans and non-structural flood mitigation projects, to be undertaken between April 1, 2021 and March 31, 2022.
- 2.9 The Study was submitted as a Stream 2: Flood Mapping proposal. It is estimated that the full 12-month project period will be required to complete the Study and grant reporting requirements and involves both field work and computer modelling. The work would be carried out by the GRCA as they have LiDAR expertise.
- 2.10 The total budgeted cost to undertake the Study was \$141,000. The breakdown of cost contribution to the project, as proposed, is outlined in Table 1.

Table 1: NDMP Project Proposal Cost Contribution Breakdown

| Contributor | Type | Contribution Amount |
|---|---------|---------------------|
| National Disaster Mitigation Program | Grant | \$70,500 |
| Region of Durham | Funding | \$30,000 |
| Ganaraska Region Conservation Authority | In Kind | \$10,500 |
| Municipality of Clarington | Funding | \$30,000 |
| | | \$141,000 |

Linkages to Other Projects

- 2.11 The Study builds on previous work done within the Municipality that was supported by the NDMP, such as the *Emergency Flood Access Risk Assessment and Mitigation Study* (Aquafor Beech Limited, March 31, 2020), which indicated the following:

Models for Wilmot and Graham Creeks are not georeferenced (crossings could not be located within the watersheds based on their IDs) and were flagged by the study team as potentially not being accurate from a vertical datum and results perspective. Therefore, the results from the existing HEC-RAS models for Wilmot and Graham Creeks were not used in the analysis in this study (except for one crossing which could be located in Wilmot Creek).

By producing updated models and mapping for Graham and Wilmot Creeks, elements of the previous *Emergency Flood Access Risk Assessment and Mitigation Study* (Aquafor Beech Limited, March 31, 2020) and other Flood Risk Assessment work undertaken by GRCA for Clarington can be updated to provide better quality information for emergency planning and flood mitigation purposes.

2.12 The Study aligns with Action 3.3 of the Clarington Corporate Climate Action Plan - work with the Conservation Authorities to update flood mapping based on the most up-to-date climate projections. It also supports implementation of several other CCCAP actions, including:

- Action 2.21 - Identify roadways that are the least likely to be impacted by flooding and incorporate them into community emergency evacuation plans.
- Action 3.6 - Assess the municipal trail system to determine areas that are most vulnerable to flooding based on climate projections.
- Action 3.8 - Utilize climate projections to identify areas of roads that are vulnerable to flooding. Create a plan to upgrade road areas that are at high risk.
- Action 4.17 - Assess bridges and embankments to determine areas that are most vulnerable to flooding based on climate projections.

2.13 The Study is also linked to an NDMP (Intake 6) application that was submitted by the Region of Durham to assess vulnerable roads and culverts to riverine flooding across Durham Region and confirm their ability to meet intended design standards under current and future climate change scenarios. The updated models and mapping produced through the Study would be used to inform the Region of Durham's risk assessment work.

3. Concurrence

3.1 This report has been reviewed by the Director of Financial Services/Treasurer who concurs with the recommendation.

4. Conclusion

- 4.1 Flood plain mapping is an important tool for land use planning and emergency management. GRCA's flood plain mapping for the Graham and Wilmot Creek watersheds is nearly 45 years old. The information updated through this study will be used to update the flood hazard mapping for Graham and Wilmot Creeks as administered by the GRCA, will inform the updated Municipality of Clarington Official Plan and zoning mapping, will support the creation of future inundation mapping, and will be used in future risk analyses by the Region of Durham and others.
- 4.2 The NDMP provides an opportunity to offset 50% of the \$141,000 required to update the flood plain mapping with the majority of the remaining funds offset by partner contributions from GRCA and the Region. It is respectfully recommended that the Municipality's financial contribution of \$30,000 (21% of project costs) be approved in order to proceed with the necessary field / survey work this spring to avoid negatively impacting the project schedule. Should NDMP funding be denied, other funding opportunities will be pursued, and the updated field / survey data will be needed for future use.

Staff Contact: Amy Burke, Senior Planner, 905-623-3379 ext. 2423 or aburke@clarington.net and Faye Langmaid, Manager of Special Projects, 905-623-3379 ext. 2407 or flangmaid@clarington.net

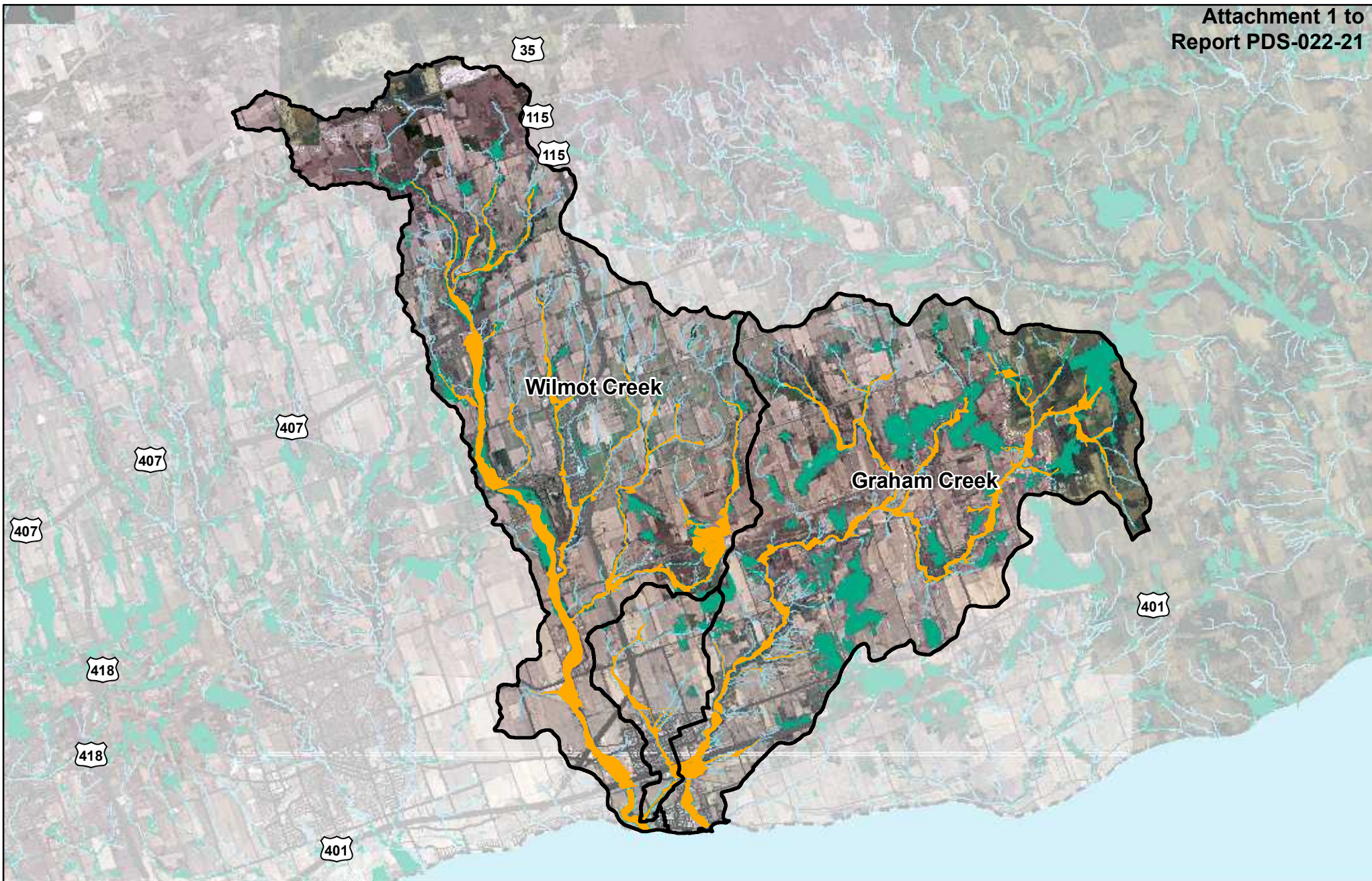
Attachments:

Attachment 1 – Graham and Wilmot Creek Watersheds Map

Interested Parties:

The following interested parties will be notified of Council's decision:

Linda J. Laliberte, CAO, Ganaraska Region Conservation Authority
Elaine Baxter-Trahair, CAO, Regional Municipality of Durham



Wilmot Creek and Graham Creek Watershed *Floodplain and Wetlands*

- | | | |
|--|---|--|
|  Floodplain |  Wetland |  Highway |
|  Watershed Boundary |  Waterbody |  Arterial |
|  Local Municipalities |  Watercourse |  Local Street |



0 1,450 2,900 5,800 8,700 11,600
Meters
1:125,000

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This map is for information purposes only and the Ganaraska Region Conservation Authority takes no responsibility for, nor guarantees, the accuracy of the information contained within the map.
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Municipality of Clarington

Planning & Development Committee

Resolution # _____

Date: April 6, 2021

Moved by: Mayor Foster

Seconded by: _____

That the start time for the May 17 Planning and Development Committee meeting be changed to 4:00 pm so that the following items can be discussed at a specific time, followed by the regular Agenda:

- 4:00 pm – South West Courtice Secondary Plan
- 7:00 pm – Brookhill Secondary Plan

EGD-006-20 Cedar Crest Beach Rd and West Beach Rd Berm Review and Estimates

At the February 16, 2021 General Government Committee Meeting, Council referred the following resolution to the April 6, 2021 Planning and Development Committee meeting:

Resolution # GG-209-21
Moved by Councillor Traill
Seconded by Councillor Neal

That Report EGD-006-20 be received;

That no further flood mitigation work be undertaken on West Beach Rd at this time; and

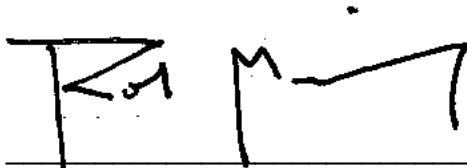
That all interested parties listed in Report EGD-006-20 and any delegations be advised of Council's decision.

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To: Planning and Development Committee
From: Robert Maciver
Date: April 1, 2021
Subject: Anaerobic Digester – Host Community Agreement Dispute

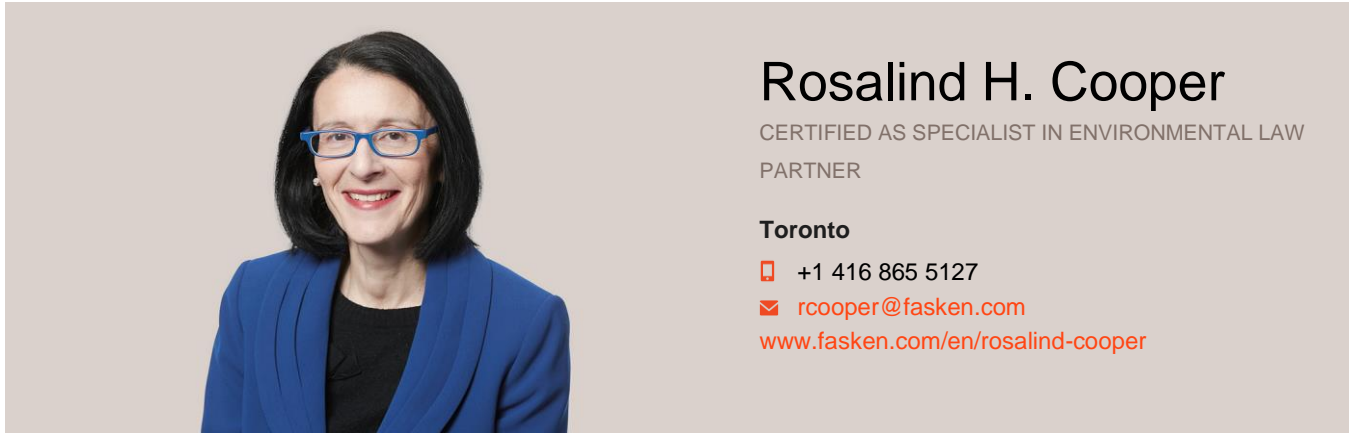
Further to the direction received at the General Government Committee meeting on March 29, 2021, our external legal counsel, Rosalind Cooper, will be in attendance during the closed portion of the Planning and Development Meeting to provide the advice that was requested, and to answer any questions from members of Council.

Ms. Cooper's CV is attached for your information.

A handwritten signature in black ink, appearing to read 'R. Maciver', written over a horizontal line.

Robert Maciver, LL.B., MBA
Director of Legislative Services / Municipal Solicitor

- c. A. Allison, Chief Administrative Officer
Ryan Windle, Director of Planning and Development Services
Faye Langmaid, Manager of Special Projects



Rosalind Cooper is one of the leading and most widely-recognized environmental lawyers in Canada. She has been named Environmental Lawyer of the Year for 2021 by *Best Lawyers in Canada* and has received this designation twice previously. She is also top ranked in Chambers Global, Chambers Canada, Lexpert/American Lawyer Guide to the Leading 500 Lawyers in Canada, Best Lawyers in Canada, and Canadian Legal Lexpert Directory and Who's Who Legal.

Rosalind litigates, arbitrates and mediates contaminated land and other environmental disputes before all levels of court on a variety of environmental matters including commercial matters with an environmental aspect. She defends environmental charges, and is also involved in appeals and environmental assessment proceedings before the Environmental Review Tribunal and provides regulatory advice in all areas of environmental law. Rosalind is also a highly sought environmental mediator/arbitrator and certified by the Law Society as an expert in environmental law.

Rosalind also provides advice on a variety of transactions including mergers and acquisitions, the purchase and sale of real estate, secured lending transactions, and leasing arrangements. Rosalind also advises on various aspects of due diligence.

Recent Presentations

- **Towards a Waste-Free Ontario: Electrical and Electronic Equipment Regulation in 2021 and Beyond**
Presented by Fasken in partnership with Toronto Shokokai, the Toronto Japanese Association of Commerce and Industry, December 2, 2020
- **Creative Sentencing in OHSA Cases**
Developments in Health and Safety Law 2020, Law Society of Ontario, November 18, 2020
- **Environmental Indemnities and the SCC: Is Any Client Safe?**
The Six-Minute Real Estate Lawyer 2020, Law Society of Ontario, November 17, 2020

FASKEN

- **The Impact of COVID-19 on the Real Estate Industry (Part 2)**
June 18, 2020
- **Environment, Health and Safety**
COVID-19 Webinar Series, April 28, 2020
- **Forum on Environmental Law**
Environmental Mediations and Arbitrations: The Road Not Taken – Enough!, January 23, 2020
- **Environmental Health & Safety and Environmental Law Year in Review**
Labour, Employment & Human Rights Group, Occupational, Health and Safety Prevention Services, Occupational Health and Safety & Workers' Compensation Group, Toronto, November 19, 2019
- **The Impending Changes to Federal Environmental Law in Canada: What are the Implications**
The Fasken Annual Seminar Series, Toronto, March 5, 2019
- **15th Annual Real Estate Law Summit: When Should You Call an Environmental Specialist? Avoiding Negligence Claims Over Environmental Issues**
LSUC, April 19, 2018
- **Risk and Cost: How to consider tailings, waste and water when valuing projects**
PDAC International Convention: Panel discussion, March 7, 2018
- **Environmental, Health and Safety 2017 Year in Review**
Labour, Employment & Human Rights Group, Occupational, Health and Safety Prevention Services, Occupational Health and Safety & Workers' Compensation Group, Toronto, November 15, 2017

Rankings and Awards

- *The Best Lawyers in Canada* 2021 Recognized as Lawyer of the Year in Environmental Law
- *Lexpert American Lawyers - Guide to the leading 500 lawyers in Canada* 2019-2021 Recognized in Environmental Law
- *Chambers Canada* 2016-2021 Recognized as top tier (Band 1) nationwide in Environment
- *The Legal 500 Canada* 2014-2021 Recognized nationwide as a Leading Individual in Environment
- *The Best Lawyers in Canada* 2006-2021 Recognized in Environmental Law in Toronto
- *Who's Who Legal* 2020 Recognized as a leading individual in Canada for Environmental Law
- *Chambers Global* 2012-2020 Recognized nationwide in Canada as top tier (Band 1) in Environment
- *Lexpert* 2012-2020 Recognized in the Canadian Legal Lexpert Directory as Most Frequently Recommended in Environmental Law



FASKEN

- *Acritas Stars* 2019 Named as as Acritas Stars Lawyer - 2019
- *Who's Who Legal Canada* 2011-2019 Who's Who Legal: Canada for Environment
- *Lexpert® Guide to the Leading US/Canada Cross-Border Corporate Lawyers* 2015-2018 Guide to the Leading 500 Lawyers in Canada for Environment
- *The Best Lawyers in Canada* 2017 Recognized as Lawyer of the Year in Environmental Law in Toronto

Memberships and Affiliations

- Member, Canadian Bar Association
- Member, Ontario Bar Association
- Member, The Advocates' Society
- Mediator/Arbitrator, Canadian Centre for Environmental Arbitration and Mediation
- Past Chair, Environmental Law Section Executive of the Ontario Bar Association

