



CLEARVIEW

June 27, 2019

DELIVERED

Warden Selwyn Hicks
County of Grey
595 9th Avenue East
Owen Sound, ON N4K 3E3

Dear Warden Hicks:

Re: Improvements to Township of Clearview Nottawasaga Sideroad 26/27

Thank you for your letter of May 30, 2019, and the accompanying enclosures. As I understand Grey County's (the "**County's**") request, you believe that the Township of Clearview (the "**Township**") should undertake a "Municipal Class C" Environmental Assessment, before commencing the reconstruction of Nottawasaga Sideroad 26/27 (the "**Sideroad**").

While the Township appreciates the County's interest in this matter, with respect, I must say that we were completely surprised to see the County take the rather extraordinary step of challenging the decision-making of a neighbouring municipality and asking the Niagara Escarpment Commission (the "**NEC**") to delay the processing of our applications. At a minimum, I would have expected an opportunity to discuss and address any concerns you may have with our project, before such an intervention.

In any event, the Township continues to regard our decision to pursue the reconstruction of the Sideroad as a Class A+ project to be appropriate and we will not be changing our position, in that regard. Our position is based on the advice of our experienced engineers and our understanding of the environmental assessment process for municipal projects. Not only has the project been properly assessed as a Class A+ project - an assessment confirmed by the Ministry of the Environment, Conservation and Parks (the "**Ministry**") - but in the course of the application process for a Development Permit and an amendment to the Niagara Escarpment Plan the Township has conducted an exhaustive environmental impact study, which has identified all possible environmental impacts that may be associated with the road improvements and has concluded that the development is ecologically and environmentally sound.

The Environmental Assessment Process

As you may know, the *Environmental Assessment Act*, R.S.O. 1990, c. E.18, as amended (the “Act”) requires all undertakings to be subject to some form of environmental assessment, with the exception of those projects that are pre-approved. The pre-approval of certain projects, including municipal road improvements within specific limits, is established by Order-in-Council no. 1923/2000 which is based on the professional expertise of members of the Municipal Engineers Association (the “MEA”). Class A and Class A+ projects are set out in the Project Schedules in Appendix 1 of the Municipal Class Environmental Assessment document (the “MCEA”). Per Section 4 of Appendix 1 of the MCEA, modifications to existing facilities is a schedule A+ project, including: *Construction of localized operational improvements at specific locations (...) with no or minimal adverse environmental effects*

In our view, the establishment of this process provides not only protection of the environment, but also allows Ontario municipalities to undertake necessary public works projects in an efficient and effect manner. Indeed, I imagine that Grey County often undertakes works which have been approved under the Class EA process.

That said, it is possible for the Minister to issue a Part II or “Bump-Up” Order, however, the Minister has complete discretion on these requests and will base his or her decision on the evaluation criteria for Part 11 Order requests found in subsection 16(4) of the EAA and other matters the Minister may consider appropriate as set out in Section A.2.8.3 of the MCEA. The criteria for the Minister to consider includes “the scale of the project or the environmental effects associated with the project”. In other words, there must be a large-scale project, and a serious environmental concern, to justify the expenditure of additional time and resources.

In keeping with this process, the Township’s engineers have identified the work on Sideroad 26/27 as a Class A+ project.

The Ministry’s Position

There have been repeated requests to the Minister regarding this project, requests which have all been rejected. The most recent response from the Ministry was on March 5, 2019, when Annamaria Cross, the Manager, Environmental Assessment Services Section of the Environmental Assessment and Permissions Branch, wrote to George Powell, of the Blue Mountain Watershed Trust Foundation (the “Foundation”). In that letter, Ms. Cross states very clearly that: “Based on the information and the requirements of the Municipal Class Environmental Assessment, the MECP has determined that the Township’s classification of the Project as a Schedule A+ undertaking is appropriate”. I attach Ms. Cross’s March 5, 2019, letter.

The EIS

In October of 2018, as part of the Township’s application to the Niagara Escarpment Commission, R.J. Burnside & Associated Limited, submitted the *Township of Clearview 26/27 Sideroad*,

Township of Clearview Proposed Improvements Environmental Impact Study (the "EIS"). Section 9.0 of the EIS included the following conclusions:

- The proposed road improvements to 26/27 Sideroad in the Township of Clearview, between Townline and 10th Concession improve the safety and conditions of the road for local residents and minimize the damage that the existing stormwater management features are causing to the road surface, ditches and culverts, and to the watercourse, wetlands and forests through significant amounts of sediment deposition.
- The ecological studies completed as part of the EIS have helped to inform the design of the road improvements, including such mitigation factors as reduced speed, improved surface water and stormwater quality, ecopassage design in sensitive habitat areas and a minimal footprint area within the IA.
- Low impact design, improvements to water quality, maintenance of hydrology and improvements to fish and herpetofaunal habitat have been included and have resulted in an overall benefit to vegetation communities, wildlife and wildlife habitat within the road corridor and IA. The NVCA is in agreement with rehabilitation offsetting at a separate location in their watershed in order to appropriately compensate for minor impacts to unevaluated wetlands.
- The duration of the effects will be both short and long-term, but the mitigation and compensation has been designed to result in an overall improvement to water quality, aquatic habitat features and functions and wetland habitats.
- The proposed development is environmentally and ecologically sound and that the potential impacts are acceptable, on the basis of recommended mitigation and compensation measures.

With a finding that the proposed development is environmentally and ecologically sound and that the potential impacts are acceptable, the Township is completely satisfied that there will be no negative impacts to the environment. In any event, the upcoming Niagara Escarpment Hearing Office hearing will allow these findings to be tested in a public hearing, and any competing views can be advanced.

Moreover, the length and detail of the EIS is no reason to "bump up" the Class Environmental Assessment to a Class C. The lengthy, and detailed, EIS, was completed to receive permits from the Niagara Escarpment, the Ministry of Natural Resources and Forestry, and the Department of Fisheries and Oceans. There is no connection between the EIS, and the appropriate Environmental Assessment Class. To the extent that the detailed EIS is relevant, it demonstrates the amount of thought going in the project to ensure environmental compatibility, and how a Class Environmental Assessment bump-up is unnecessary.

The Closure of County Road 91

It is very clear to me that the heart of the matter is the planned closure of County Road 91. You may recall that the closure of County Road 91 was proposed by the County of Simcoe, as a means of addressing the Niagara Escarpment Commission's (the "NEC's") opposition to re-building County Road 91 to a county road standard and to address traffic volume issues by directing (diverting) provincial and regional traffic to County Road 124. The original intent of the agreements closing County Road 91 was to satisfy the NEC and to mitigate traffic volumes on County Road 91. It was not the intent or objective to allow Walker Industries Inc. ("Walker") to extract rock from the road allowance. Extracting rock from the road allowance is not part of the licence or the Adaptive Management Plan for the quarry.

Clearview, the County of Simcoe and Walker subsequently agreed to Minutes of Settlement (the "MOS") on April 9, 2010, authorizing the closure of County Road 91 and the improvement to Sideroad 26/27 to a municipal gravel road standard with future paving anticipated. Once traffic reached 400 vehicles per day, an agreement between the County of Grey, Walker and Clearview confirmed that Clearview would pave the road. Pursuant to the MOS, Clearview entered into an agreement with Walker on the October 16, 2014, to facilitate the improvement of Sideroad 26/27. The agreements stipulate that Clearview will make the improvements to the Sideroad.

Of course, all this settlement and the associated agreements, including the agreement with the County, were in place prior to the introduction of the amendment to the regulations to Ontario Reg. 828 requiring a development permit for this work.

As I am sure you will appreciate, the Township must abide by the terms of the MOS, the Decision of the Joint Board, and all subsequent agreements pertaining to the improvements to the Sideroad. Asking for this additional and unnecessary process will in no way alter the decision to close County Road 91. With a reversal of the decision to close County Road 91 off the table, the only "alternatives" to the proposed work that are available to the Township are to "do nothing" or build an entirely new road, outside of the current road allowance. Perhaps you will agree that the merits of either alternative need little review.

Other Errors and Misconceptions

Repeated mention is made in the submission you received that the budget is four million dollars for the improvements to the Sideroad. The Township or its representatives are not the source of this estimate and hence suggest that this is a false and misleading statement. The original budget for the construction of the improvements was in the order of \$500,000.00. With the surprise introduction of the new regulation requiring that the work requires a Development Permit, that budget will be increased substantially, but nowhere near \$4,000,000.00.

The submissions have suggested that if 26/27 Sideroad is to provide an alternate route for County Road 91 once closed that it should be built to a County standard with the apparent misconception that the existing County Road 91 meets the County standards. It does not. As noted previously,

the NEC objected to the County reconstructing the Road to County Standards, on the basis that such reconstruction would yield unmitigable impacts on the Niagara Escarpment.

Working Together

Clearview has always tried to work together with neighbouring municipalities. Collaboration between municipal governments is crucial to promoting regional economic development and service provision. However, collaboration requires municipalities to work together as equals, with respect of each municipality's jurisdiction. Intervening in the local affairs of a nearby municipality vitiates the respect between municipalities necessary to collaborate effectively.

We ask that the County of Grey respect Clearview's jurisdiction. It is a dangerous precedent to set when a neighbouring municipality intervenes to stop another municipality from improving a road within the existing road allowance. Municipalities routinely improve roads within their own jurisdiction without a Class C Environmental Assessment. For instance, the County of Grey recently improved County Road 31, encroaching onto a Provincially Significant Wetland, without a Class C Environmental Assessment.

Respecting nearby municipalities entails not only acknowledging the jurisdiction of those municipalities to improve their own road network, but also to refrain from interfering in your neighbour's contractual obligations.

I trust that you will receive this letter in the spirit in which it has been written. I would be happy to make our staff and consultants available to you or your staff to further clarify the need for these improvements and the process that we intend to pursue to secure them.

Yours very truly,



Doug Measures
Mayor
Clearview Township

cc: Via email
Nancy Mott, Niagara Escarpment Commission
Hon. Bill Walker, Minister of Government and Consumer Services
Hon. Lisa M. Thompson, Minister of Education
Hon. Rod Philips, Minister of Environment, Conservation and Parks
Jim Wilson, MPP
Warden George Cornell, Simcoe County
Local Municipalities – Grey County
Walker Industries Inc.

**Ministry of the Environment,
Conservation and Parks**

**Ministère de l'Environnement,
de la Protection de la nature et
des Parcs**



**Environmental Assessment
and Permissions Branch**

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BY EMAIL ONLY

March 5, 2019

Mr. George Powell
Blue Mountain Watershed Trust Foundation
hpowell@sympatico.ca

Dear Mr. Powell:

Thank you for your December 17, 2018 correspondence to the Ministry of the Environment, Conservation and Parks (MECP) in regards to the reconstruction of Side Road 26/27 (Project) as proposed by the Township of Clearview (Township).

The MECP previously wrote to the Blue Mountain Watershed Trust Foundation on May 2, 2017 and August 2, 2018 about your concerns with the classification of the Project as a Schedule A+ undertaking under the Municipal Class Environmental Assessment. At the time, the Niagara Escarpment Commission (NEC) refusal of a development permit for the Project was appealed to the Niagara Escarpment Hearing Office (NEHO) of the Environmental Review Tribunal. Since that time, the Township has also filed a Niagara Escarpment Plan Amendment for the Project, which is under review by the NEC.

On January 23, 2019, the MECP contacted the Niagara Escarpment Commission (NEC) for the latest information on the Project. Based on this information and the requirements of the Municipal Class Environmental Assessment, the MECP has determined that the Township's classification of the Project as a Schedule A+ undertaking is appropriate.

The Township must obtain all necessary permits and authorizations from the NEC, as well as the Nottawasaga Valley and Grey Sauble Conservation Authorities. Furthermore, the NEHO will review the Niagara Escarpment Plan Amendment appeal, which will subsequently be reviewed by the NEC. The NEC will make a recommendation to the Minister of Natural Resources and Forestry for a decision under section 10 of the Niagara Escarpment Planning and Development Act.

You are encouraged to continue working with the Township and participating in the NEC and NEHO processes to resolve your outstanding concerns. You may contact Mr. Gerry

Mr. George Powell
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LeMay of the Township directly at 705-428-6230 ext. 230 or at glemay@clearview.ca.
You can also contact Ms. Nancy Mott of the NEC directly at 905-877-8363 or at nancy.mott@ontario.ca.

Yours sincerely,



Annamaria Cross
Manager, Environmental Assessment Services Section
Environmental Assessment and Permissions Branch

c: Gerry LeMay, General Manager, Township of Clearview
Nancy Mott, Senior Strategic Advisor, NEC
Rick Watt, Senior Planning Coordinator, NEC
Chunmei Liu, Environmental Assessment Coordinator, MECP