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A Natural Attraction

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Policy Planner
Planning & Development Services

MEMO

To: Brian Jardine

From: Jennifer Current

Re: Notes from October 22, 2012 Agency Meetings, Telephone Conference Call with Gavin Battarino

Date: October 23, 2012, Revised November 26, 2012

Attendance:

Meeting 1

Brian Jardine, City of Quinte West
Jennifer Current, City of Quinte West
Milo Sturm, Shoreplan Engineering
Jane Graham, Shoreplan Engineering
Don Speller, Tarandus Associates Limited
Jane Tymoshuk, DFO
Tammy Chung, MNR
Julie Reeder, MNR
Kate Pitt, MNR
Jeff Wiltshire, MNR
Mike Lovejoy, LTRCA
Holly Simpson, MNR

1. Brian Jardine provided an overview of the project to date. A Terms of Reference was prepared and approved, two public open houses have been held and a preliminary preferred alternative site has been selected. A third public open house will be held in November at which mitigative measures will be discussed and a final preferred alternative will be revealed.

Don Speller gave an overview of the terrestrial and aquatic environment based on the data collected. There are no terrestrial species at risk (SAR) identified in the area however there are two aquatic SAR, American Eel and the Lake Sturgeon. The Trent River is a migration route for a number of species and the proposed preliminary preferred alternative could be a potential staging site for Lake Sturgeon due to the characteristics of this site. However, it is Don's opinion that this type of habitat is in abundance along the Trenton waterfront existing also on the east side of the mouth of the River.

The map turtle has also been seen in this area however, there is no nesting habitat in this area.

A question was asked by a MNR staff member regarding targeted Lake Sturgeon surveys and whether any had been undertaken as part of the data collection for this project. Don indicated

that he has correspondence from MNR indicating that no targeted Lake Sturgeon Surveys were required by MNR and he will provide a copy of this correspondence to Kate Pitt.

If Lake Sturgeon and/or their habitat will be impacted by the development, a permit under the Endangered Species Act will be required.

2. Julie Reeder from MNR provided an overview of the approvals required for the acquisition of the water lot. Applications under the Crown Lands Act, trigger a number of issues and a public lands permit is not issued until all of the other agencies have been satisfied that their issues have been addressed. Julie will review MNR records to ensure that a waterlot is available and provide this information to the City.

An application under the Public Lands Act must be supported with evidence that sufficient agency and public consultation has been undertaken and that there has been public "buy in".

Tenure of the adjacent shorelands was discussed and agencies were informed that the municipality only owns some of the shorelands and that there is a letter of intent to lease the remaining necessary lands. Ministry of Natural Resources indicated that in order to apply for a water lot that the proponent will have to have a letter of consent from adjacent property owner for disposition lying front of their land.

While the final completion of the EA is preferred prior to an application being submitted under the Public Lands Act, it would appear that this application could be submitted after the submission of the final EA for approval. Julie will provide us with a copy of the information/data requirements for an application for a water lot. A survey will likely be required however since there are no in water structures proposed, a survey requirements form with instructions will be provided prior to a survey being completed.

3. Milo Sturm from Shoreplan Engineering gave an overview of the proposed marina including a description of the in water works which will consist of floating breakwaters and docks. There will be no permanent in water structures constructed. The floating docks and breakwaters will be pulled towards the shore in the off season to avoid ice damage. The anchor systems will remain in the water and the docks and breakwaters will be reconnected/disconnected each spring/fall. The marina capacity will be 388 slips and docks will range in length from 9 – 14 metres.

The preliminary preferred alternative site will require some minor shoreline work be undertaken in the form of fill which will be required to regularize an area which currently just collects garbage and debris. The only other shoreline work proposed is the naturalization of the shoreline area. A Work Permit application may be needed.

Dredging will be required to achieve the necessary depths for navigation which is 2m below datum. Preliminary lakebed testing has been undertaken and it would appear that blasting will not be required to achieve the necessary depths, however additional testing will be undertaken over the next week to confirm this matter. Dredged material will be disposed in an appropriately licensed facility depending upon the quality of material removed. Detailed sediment testing has not been undertaken; however preliminary testing results have not revealed any quality issues. Additional sampling may be undertaken as part of the upcoming lakebed analysis.

Dredging timing was discussed. The current proposal would see dredging completed in the fall of 2013 with marina construction undertaken early 2014 and the marina up and running for the 2014 season. Given the characteristics of the Bay of Quinte, agencies are now leaning towards treating it as both a cold and warm water body and regulating it accordingly. While our consultants did not find any evidence of cold water species during their sampling, Mike Lovejoy from LTRCA indicated that there are reports of white fish using this area for spawning and there have been reports of Lake Trout, both of these being cold water species.

The preliminary Ministry time frame for dredging discussed at the meeting was from July 1st to October 1st or 15th. This time frame was very rough and the agency representatives did indicate that there is room for flexibility if the appropriate mitigation in the EA is provided

MNR Staff requested clarification on the timing of fish sampling and Don Speller confirmed that no fall fish sampling was undertaken.

Vegetation control and management will be necessary both during the construction of the marina and on an on-going basis. It is anticipated that the initial dredging will remove both the soil and vegetative material and that annual vegetation maintenance will be required in subsequent years. The ongoing vegetation management could be supplemented with through the use of mats etc. however it is anticipated that mechanical weed removal will be required and will require authorization under a Work Permit if greater than 100 sq. m.

4. Mike Lovejoy from LTRCA indicated that he has reviewed the materials provided and that he has some concerns regarding shoreline management in the City of Quinte West. The information provided to date indicates that the shoreline will be restored to a natural state and maintained accordingly. However, over the past year the City has removed shoreline vegetation and the City and LTRCA will need to reconcile how the shoreline will be maintained.

There will be parking facilities associated with the proposed marina and a detailed SWM Plan will be required and will have to be reviewed by the Conservation Authority. Given that the proposed project is a marina, there will be development within 30 metres of the shoreline requiring approval from the LTRCA.

Approvals will be required under the Fisheries Act. The Federal Fisheries Act is currently under review and it is anticipated that there will be changes forthcoming in January/February 2013. Under these policies the issue of "serious harm" will be defined. It is anticipated that the first dredge will have the most significant environmental impact. In drafting the EA, consideration should be given to the definition of "serious harm" and how this will be addressed. Identification of a federal species at risk could cause significant problems for the project. There has been no evidence of any federal species at risk in this area.

An inquiry was made regarding current modeling. There has been no current modeling undertaken. LTRCA is the lead agency for commenting on the contaminated "hot spots" which are known at the mouth of the Trent River along the eastern shore and the EA will have to address these "hot spots" and the current patterns and how or why the modeling was not done.

5. Transport Canada has been contacted and it has been determined that the proposed undertaking will require a permit under the Navigable Waters Protection Act. The EA will address the need for this permit and how the requirements will/can be met.

6. All of the responses/information to be provided by MNR resulting from this meeting will be coordinated through Tammy Chung.
7. A separate meeting was held at the MOE office with Gary Muloin at 1:00 p.m. This meeting focused on the specific mandate of the MOE. It was confirmed that there will be no dewatering required as all works will be undertaken "in wet".

MOE does not have much sediment data for the preliminary preferred alternative and will need to have some characterization data for the sediment. A detailed sediment investigation has not been undertaken and it will be required to develop an appropriate sediment management plan. There has been some grab sampling done in this site and it may be possible to conduct more detailed sampling next week when the lakebed testing is undertaken.

The MOE Technical Support Section will be able to provide more detailed information required in the sampling requirements. Contacts at that office are:

Dana Cruikshank (surface water specialist) (613) 540-6856
Greg Faaren (hydrogeologist) (613) 540-6872

Detailed sediment analysis was not included as part of the Terms of Reference for the EA and it could be included as a condition to the approval.

There are no approvals required for the disposal of the sediments only the requirement that the disposal cannot conflict with the requirements/mandates of any other agency.

Ground conditions were discussed and Gary is going to confirm if a record of site condition is required for this property.

Gary asked if a request has been made under the Freedom of Information Act for this parcel. We have not made such a request but will consider doing so.

8. Required Permits

- a. Application under Endangered Species Act – if Lake Sturgeon habitat impacted (Section 17)
- b. Application under the Public Lands Act
 - Dredging Permit
 - Vegetation management permit
- c. Shoreline work permits (DFO/LTRCA/MNR) – Approvals under the Fisheries Act.
- d. Application under the Navigable Waters Protection Act.

9. Telephone Conference Call with Gavin Battarino

Brian Jardine and Jennifer Current had a telephone conference call with Gavin Battarino from MOE Approvals Branch on October 23, 2012. Brian provided Gavin with an update on the project to date and the results of the October 22nd meetings.

Gavin provided us with a summary of the information requirements for the final EA document. With the submission of the final EA document Gavin would like included a "sign off" from all of the appropriate agencies that their issues have been addressed and that they are satisfied that they could issue a permit for the proposed undertaking. As part of this submission, the form and content of the dialogue undertaken with each of the agencies must be included. All of the

information required for the Minister to make a decision must be included in the EA submission including the record of consultation and that the consultation followed the process set forth in the Terms of Reference. The EA document must demonstrate how issues raised during the consultation were addressed and resolved. The draft EA will be circulated to all agencies identified as the GRT and through this circulation the necessary clearances will be sought. All agencies must be given the same amount of time to provide comments and the time provided must be reasonable. It was recommended that a 4-5 week comment period be provided and if the circulation takes place over the Christmas Break, that the comment period be extended by a week. Circulation of the draft EA should be included with a letter requesting that each agency review the document as it pertains to each of their specific mandates and that they provide a written response.

Prior to submission of the final EA document. The Ministry of the Environmental Approvals Branch requires that a letter be sent to them indicating the date that the Final EA will be submitted.

The following approval timeframe was discussed:

- 7 week broad circulation and consultation period
- 5 week period for analysis of comments and consultation results
- 5 week Ministerial Review
- 13 weeks for the Minister to make a decision.

The aforementioned timing can change if there is a strike, change in Cabinet or election and there are no penalties for not making a decision within this time frame.

The EA needs to contain the “story” about how the agencies were consulted, what information they were provided with, the work undertaken to address their concerns and how the undertaking will be accomplished.

Since the Federal Environmental Assessment Act has been revised, and the Terms of Reference indicates that a joint Federal/Provincial EA will be undertaken, an explanation as to why this has changed will be required.

Gary Muloin has been in contact with Gavin to discuss the dredging issues and it was impressed upon us that the EA must demonstrate that the design is possible and that this justification should include a detailed explanation with respect to how and why it is feasible. This seems to be getting to the point that perhaps some more detailed sampling is necessary at this point.

Also, the issue of a record of site conditions was raised and whether any work has been undertaken to ensure that construction of the on shore works are feasible. An EA which does not address all of the feasibility issues will not be approved. While a theoretical comparison of the scoped sites is sufficient, a detailed examination of the preferred site is necessary. Brian will consult with a local geological firm to review requirements for some preliminary geotech work for the preferred site.

The EA must include contingency plans including how potential modifications to the undertaking will be dealt with. Modifications can be divided into minor and major categories and while a minor modification can be addressed at the Ministry level, a major modification will halt the project and another individual EA or screening may be required.