



## The Regional Municipality of Durham

### Planning & Economic Development Committee Agenda

Council Chambers  
Regional Headquarters Building  
605 Rossland Road East, Whitby

**Tuesday, September 8, 2020**

**9:30 AM**

Please note: In an effort to help mitigate the spread of COVID-19, and to generally comply with the directions from the Government of Ontario, it is requested in the strongest terms that Members participate in the meeting electronically. Regional Headquarters is closed to the public, all members of the public may [view the Committee meeting](#) via live streaming, instead of attending the meeting in person. If you wish to register as a delegate regarding an agenda item, you may register in advance of the meeting by noon on the day prior to the meeting by emailing [delegations@durham.ca](mailto:delegations@durham.ca) and will be provided with the details to delegate electronically.

**1. Roll Call**

**2. Declarations of Interest**

**3. Adoption of Minutes**

- A) Planning & Economic Development Committee meeting  
– July 7, 2020

Pages 4 - 10

- B) Closed Planning & Economic Development Committee  
meeting – July 7, 2020

Under Separate Cover

**4. Statutory Public Meetings**

There are no statutory public meetings

## **5. Delegations**

- 5.1 Claire Malcolmson, Rescue Lake Simcoe Coalition, re: Environmental and Corporate Developmental Effects that are taking place in the Lake Simcoe watershed
- 5.2 Hugh Stewart, Clark Consulting Services, re: Application to Amend the Durham Regional Official Plan submitted by Darmar Farms Inc., File: OPA 2020-001, and Application to Amend the Durham Regional Official Plan submitted by D.S. & B. Farms Inc., File: OPA 2020-002 (2020-P-16 and 2020-P-17) [Items 7.2 A) and B)]

## **6. Presentations**

There are no presentations

## **7. Planning**

- 7.1 Correspondence
- 7.2 Reports

- A) Application to amend the Durham Regional Official Plan, submitted by Darmar Farms Inc. to permit the severance of a dwelling rendered surplus to a farming operation as a result of the consolidation of non-abutting farm parcels, in the Township of Brock, File: OPA 2020-001 (2020-P-16) 11 - 19
- B) Application to amend the Durham Regional Official Plan, submitted by D.S. & B. Farms Inc. to permit a severance of a dwelling rendered surplus to a farming operation as a result of a consolidation of non-abutting farm parcels, in the Township of Brock, File: OPA 2020-002 (2020-P-17) 20 - 28
- C) Proposed Amendment to the Durham Regional Official Plan for lands in the Municipality of Clarington, File: OPA 2020-003 (2020-P-18) 29 - 38
- D) Review of the Region of Durham's Soil and Groundwater Assessment Protocol (2020-P-19) 39 - 124

## **8. Economic Development**

- 8.1 Correspondence
  - 8.2 Reports
- There are no Economic Development Reports to be considered

**9. Advisory Committee Resolutions**

**9.1 Durham Agricultural Advisory Committee**

- A) Bruce Sargent, Farm Boy Productions – Virtual Farm Tour  
Video Discussion 125

Recommendation: Receive for Information

- B) Improving Connectivity in Ontario (ICON) Program 125

Recommendation: Receive for Information

**10. Confidential Matters**

There are no confidential matters to be considered

**11. Other Business**

**12. Date of Next Meeting**

Tuesday, October 6, 2020 at 9:30 AM

**13. Adjournment**

Notice regarding collection, use and disclosure of personal information:

Written information (either paper or electronic) that you send to Durham Regional Council or Committees, including home address, phone numbers and email addresses, will become part of the public record. This also includes oral submissions at meetings. If you have any questions about the collection of information, please contact the Regional Clerk/Director of Legislative Services.

**The Regional Municipality of Durham**

**MINUTES**

**PLANNING & ECONOMIC DEVELOPMENT COMMITTEE**

**Tuesday, July 7, 2020**

A regular meeting of the Planning & Economic Development Committee was held on Tuesday, July 7, 2020 in the Council Chambers, Regional Headquarters Building, 605 Rossland Road East, Whitby, Ontario at 9:30 AM. Electronic participation was offered for this meeting.

**1. Roll Call**

Present: Councillor Joe Neal, Vice-Chair  
Councillor Bath-Hadden  
Councillor Brenner  
Councillor Highet  
Councillor Kerr attended the meeting at 9:31 AM  
Councillor Lee  
Councillor Yamada  
Regional Chair Henry  
**\* all members of Committee, except Councillor Joe Neal and Regional Chair Henry, participated electronically**

Also

Present: Councillor Drew attended for part of the meeting  
Councillor Foster attended for part of the meeting  
Councillor Mulcahy

Absent: Councillor Ryan, Chair, was absent due to illness

Staff

Present: E. Baxter-Trahair, Chief Administrative Officer  
B. Bridgeman, Commissioner of Planning and Economic Development  
C. Bandel, Deputy Clerk, Corporate Services – Legislative Services  
A. Cooke, GIS Analyst  
L. Fleury, Legislative Officer, Corporate Services – Legislative Services  
C. Goodchild, Manager, Policy Planning & Special Studies  
R. Inacio, Systems Support Specialist, Corporate Services – IT  
S. Jibb, Manager, Economic Development, Agriculture and Rural Affairs  
S. Jones, Manager, Data, Mapping and Graphics  
A. Luqman, Project Planner  
G. Muller, Director of Planning  
S. Penak, Committee Clerk, Corporate Services – Legislative Services  
G. Pereira, Manager, Transportation Planning  
B. Pickard, Manager, Tourism

K. Ryan, Senior Solicitor, Corporate Services – Legal Services  
S. Salomone, Manager, Economic Development, Business Development  
and Investment  
L. Trombino, Manager, Plan Implementation  
G. Williams, Director, Corporate Communications  
A. Yearwood, Project Planner  
T. Fraser, Committee Clerk, Corporate Services – Legislative Services

Councillor Joe Neal, Vice-Chair, chaired the meeting in the absence of Councillor Ryan, Chair.

**2. Declarations of Interest**

There were no declarations of interest.

**3. Adoption of Minutes**

Moved by Councillor Lee, Seconded by Councillor Brenner,  
(32) That the minutes of the regular Planning & Economic Development  
Committee meeting held on Tuesday, June 2, 2020, be adopted.  
CARRIED

**4. Statutory Public Meetings**

There were no statutory public meetings.

**5. Delegations**

There were no delegations to be heard.

**6. Presentations**

**6.1 Aneesah Lugman, Project Planner, and Andrew Cooke, GIS Analyst, re: Durham Region Profile – Demographics and Socio-Economic Data (2020-INFO-44)**

G. Muller advised that Report #2020-INFO-44, Durham Region Profile – Demographics and Socio-Economic Data, was included in the May 15, 2020, Council Information Package. He also advised that it includes a comprehensive overview of demographic and socio-economic data concerning Durham's population, social characteristics, households, employment, education, income and agriculture. The 2016 census was the central source of information in the profile, as well as data from Canada Mortgage and Housing Corporation, Municipal Property Assessment Corporation, and research conducted by the Planning Division. He outlined some interesting facts and he advised that the Durham Profile is also provided in an online format to allow users to customize queries.

A. Luqman and A. Cooke provided an overview and demonstration of the online dashboard and they advised that it is available on the Regional website at: [durham.ca/durhamprofile](http://durham.ca/durhamprofile).

## **7. Planning**

### **7.1 Correspondence**

There were no communications to consider.

### **7.2 Reports**

- A) Application to Amend the Durham Regional Official Plan, submitted by Clara Conforti, to permit a contractor's yard and office uses in the Major Open Space Areas designation at 4560 Thickson Road North in the Town of Whitby, File: OPA 2016-003 (2020-P-12)
- 

Report #2020-P-12 from B. Bridgeman, Commissioner of Planning and Economic Development, was received.

Moved by Regional Chair Henry, Seconded by Councillor Kerr,

- (33) That the order of the Agenda be altered to consider Report #2020-P-12 at the end of the Other Business section of the Agenda.

CARRIED

- B) Region of Durham Woodland Conservation and Management By-law (Regional Woodland By-law) (2020-P-13)
- 

Report #2020-P-13 from B. Bridgeman, Commissioner of Planning and Economic Development, was received.

Staff responded to questions with respect to the process for establishing fines; enforcement of the Regional Woodland By-law; area municipal tree by-laws; coordination with area municipalities; when the new by-law would come into force; consultation with area municipal agricultural advisory committees; whether there are any outstanding concerns from the agricultural community; the definition of normal farm practices; whether there is an exemption for agricultural operations; and whether the new by-law would apply to the Durham Regional Official Plan amendment submitted by Clara Conforti, File: OPA 2016-003.

Moved by Councillor Brenner, Seconded by Councillor Lee,

- (34) That we recommend to Council:

- A) That the Regional Woodland By-law, as contained in Attachment #1 to Report #2020-P-13 of the Commissioner of Planning and Economic Development, be passed;

- B) That the Director of Legal Services be authorized to submit an application to the Regional Senior Justice of the Province of Ontario seeking Part 1 offences to this By-law for set fines and short form wordings; and
- C) That a copy of Report #2020-P-13 and the By-law be forwarded to the Ministry of Natural Resources and Forestry (MNRF); the Region's Conservation Authorities; the Region's Area Municipalities; the Durham Environmental Advisory Committee (DEAC); the Durham Agricultural Advisory Committee (DAAC); local forest practitioners; and members of the public who have expressed interest.

CARRIED LATER IN THE MEETING (See  
Following Motion)

Moved by Councillor Kerr, Seconded by Councillor Lee,

- (35) That the foregoing motion (34) of Councillors Brenner and Lee be tabled to consider Report #2020-P-13 after the consideration of Report #2020-P-12.

DEFEATED ON THE FOLLOWING  
RECORDED VOTE:

Yes

Councillor Kerr  
Councillor Lee

No

Councillor Bath-Hadden  
Councillor Brenner  
Regional Chair Henry  
Councillor Highet  
Councillor Yamada  
Councillor Joe Neal, Vice-Chair

Members Absent: None

Declarations of Interest: None

The foregoing main motion (34) of Councillors Brenner and Lee was then put to a vote and CARRIED.

**8. Economic Development**

**8.1 Correspondence**

There were no communications to consider.

**8.2 Reports**

There were no Economic Development reports to consider.

**9. Advisory Committee Resolutions**

There were no advisory committee resolutions to be considered.

**10. Confidential Matters**

There were no confidential matters to be considered.

**11. Other Business**

**11.1 Dorsay Development Corporation Request for a Minister's Zoning Order (MZO) for Lands in Northeast Pickering**

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Councillor Lee asked staff to comment on the City of Pickering's request for a Minister's Zoning Order for lands in northeast Pickering.

B. Bridgeman advised that he will be bringing forward a report at the July 29, 2020 Regional Council meeting regarding the request by Dorsay Development Corporation. He explained that staff have some concerns from a Regional Planning perspective and the request would have an impact on the Municipal Comprehensive Review process.

B. Bridgeman responded to questions with respect to the impact if the Minister's Zoning Order is enacted before the July 29<sup>th</sup> Regional Council meeting; and the process for approving Minister's Zoning Orders.

Councillor Lee expressed concerns on behalf of the Town of Ajax about a potential Minister's Zoning Order. Councillor Brenner advised that the City of Pickering has given direction to staff to use an interim control by-law to ensure that the Town of Ajax is satisfied with any matters pertaining to the watershed on Carruthers Creek.

**11.2 Current State of the Building Industry in Durham Region**

Councillor Joe Neal asked if a report about the current state of the building industry in Durham Region will be presented at the July 29, 2020 Regional Council meeting.

B. Bridgeman advised that he has spoken with the Executive Director of the Durham Region Home Builders' Association (DRHBA) regarding the information Council would like about the impact of the pandemic on the building industry. He also advised that the DRHBA is willing to undertake a survey of their members on behalf of the Region. He noted that a report will not be ready for the July 29<sup>th</sup> Regional Council meeting.

The order of the Agenda was altered earlier in the meeting to consider Report #2020-P-12 at this time. [See motion (33) on page 3 of these minutes.]

## 7. Planning

### 7.2 Reports

- A) Application to Amend the Durham Regional Official Plan, submitted by Clara Conforti, to permit a contractor's yard and office uses in the Major Open Space Areas designation at 4560 Thickson Road North in the Town of Whitby, File: OPA 2016-003 (2020-P-12)
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Moved by Councillor Brenner, Seconded by Regional Chair Henry,

- (36) That the meeting be closed to the public in order to consider a matter of litigation or potential litigation, including matters before an administrative tribunal, and to receive advice that is subject to solicitor/client privilege relating to an application to amend the Durham Regional Official Plan submitted by Clara Conforti, File: OPA 2016-003.

CARRIED

Moved by Regional Chair Henry, Seconded by Councillor Highet,

- (37) That Committee recess for 5 minutes.

CARRIED

Committee recessed at 10:21 AM and reconvened at 10:28 AM.

(Refer to the closed Planning & Economic Development Committee meeting minutes of July 7, 2020)

Councillor Joe Neal advised that in the closed meeting session staff responded to questions with respect to the appeal to the Local Planning Appeal Tribunal and the recommendations contained in the confidential memorandum. He further advised that during the closed session, there were no decisions, motions or recommendations made as it relates to Report #2020-P-12.

Moved by Councillor Yamada, Seconded by Councillor Lee,

- (39) That we recommend to Council:

- A) That the Commissioner of Planning and Economic Development and the Director of Legal Services or their designates be authorized to attend the Local Planning Appeal Tribunal (LPAT) proceedings of the proponent's appeal of OPA 2016-003 to seek the dismissal of the proponent's appeal; and
- B) That the Commissioner of Planning and Economic Development in consultation with the Director of Legal Services be authorized to resolve matters of Regional interest relating to this application at the LPAT proceedings on behalf of Regional Council.

CARRIED

**12. Date of Next Meeting**

The next regularly scheduled Planning & Economic Development Committee meeting will be held on Tuesday, September 8, 2020 at 9:30 AM in the Council Chambers, Regional Headquarters Building, 605 Rossland Road East, Whitby.

**13. Adjournment**

Moved by Councillor Kerr, Seconded by Councillor Brenner,  
(40) That the meeting be adjourned.

CARRIED

The meeting adjourned at 10:59 AM

Respectfully submitted,

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Joe Neal, Vice-Chair

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T. Fraser, Committee Clerk



# The Regional Municipality of Durham Report

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To: Planning and Economic Development Committee  
From: Commissioner of Planning and Economic Development  
Report: #2020-P-16  
Date: September 8, 2020

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**Subject:**

Decision Meeting Report

Application to Amend the Durham Regional Official Plan, submitted by Darmar Farms Inc. to permit the severance of a dwelling rendered surplus to a farming operation as a result of the consolidation of non-abutting farm parcels, in the Township of Brock, File: OPA 2020-001.

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**Recommendation:**

That the Planning and Economic Development Committee recommends to Regional Council:

- A) That Amendment #180 to the Durham Regional Official Plan, to permit the severance of a dwelling rendered surplus to a farming operation as a result of the consolidation of non-abutting farm parcels, be adopted as contained in Attachment #3 to Commissioner's Report #2020-P-16; and
  - B) That "Notice of Adoption" be sent to the applicant, the applicant's agent, the Township of Brock, the Ministry of Municipal Affairs and Housing, and all other persons or public bodies who requested notification of this decision.
-

**Report:****1. Purpose**

- 1.1 On February 3, 2020, Clark Consulting Services Ltd., on behalf of Darmar Farms Inc. submitted an application to amend the Regional Official Plan (ROP) to permit the severance of a 0.4 hectare (1 acre) parcel of land containing a dwelling rendered surplus, from a 22.6 hectare (55.9 acre) agricultural parcel as a result of the consolidation of non-abutting farm parcels in the Township of Brock.

**2. Site Location/Description**

- 2.1 The subject site is located at 396 Cameron Street East and is located immediately east of the Cannington urban area (refer to Attachment #1). The property is legally described as Part Lot 23, Concession 12, (former Township of Brock) in the Township of Brock.
- 2.2 The agricultural parcel is triangular in shape and contains an existing dwelling. A watercourse traverses the property from east to west.
- 2.3 The surrounding uses located adjacent to the subject site include:
- a. North – Beaver River Wetlands Trail (part of a former railway line, now owned by Hydro One), agricultural lands;
  - b. East – rural residential lands, agricultural lands, Simcoe Street;
  - c. South – rural residential lands, agricultural lands; and
  - d. West – rural residential lands, Cannington urban area, sewage lagoons.

**3. Reports Submitted in Support of the Application**

- 3.1 A Planning Justification Report/Agricultural Assessment Report, prepared by Clark Consulting Services, dated January 10, 2020, has been submitted in support of the application. The report concludes that the proposed amendment is consistent with the Provincial Policy Statement (PPS), and conforms to the Greenbelt Plan and the ROP. The report also concluded the proposed severance will comply with Minimum Distance Separation (MDS) requirements. The Site Screening Questionnaire completed by GHD identified no environmental concerns on the subject site.

#### **4. Provincial Policies**

- 4.1 The subject site is located within the Protected Countryside designation of the Greenbelt Plan.
- 4.2 Both the Greenbelt Plan and the Provincial Policy Statement (PPS) permit the severance of a residence surplus to a farming operation as a result of a farm consolidation, provided that the planning authority ensures that a residential dwelling is not permitted on the proposed retained farm lot created by the severance.
- 4.3 The PPS and the Greenbelt Plan also require the creation of lots to comply with MDS requirements.

#### **5. Durham Regional Official Plan**

- 5.1 The subject site is designated “Prime Agricultural Areas” in the ROP with portions of the site containing Key Natural Heritage and/or Key Hydrologic Features (KNHHF) on site. Lands within the Prime Agricultural Areas designation are to be used primarily for agriculture and farm-related uses. Severance applications for agricultural uses are considered in accordance with the relevant policies of Sub-Section 9A of the ROP.
- 5.2 Policy 9.A.2.10 of the ROP permits the severance of a farm dwelling rendered surplus as a result of a farmer acquiring a non-abutting farm, provided that:
  - a. the dwelling is not needed for a farm employee;
  - b. the farm parcel is a size which is viable for farm operations;
  - c. for sites within the Protected Countryside of the Greenbelt Plan Area, the dwelling was in existence as of December 16, 2004; and
  - d. the farm parcel is zoned to prohibit any further severances or the establishment of any residential dwelling.

No further severances shall be permitted from the acquired farm parcel.

#### **6. Planning Analysis**

- 6.1 The applicant is a private farm corporation which owns a total of 13 farm properties under the name Darmar Farms, that encompass approximately 579.5 hectares

(1,432 acres) and farms cash crops. Four parcels are located in the Region (Attachment #2).

- 6.2 The subject farm parcel was acquired by Darmar Farms in February 2009 and contains an existing dwelling not utilized by a farm employee and has been rendered surplus to the needs of the farm operation. The proposed retained parcel is of a size that will remain viable for farming.
- 6.3 The surplus farm dwelling located on the subject site was built prior to 2004. The proposed amendment complies with the provisions of the PPS, the Greenbelt Plan, and the ROP. The proposed severed parcel will be limited in size to accommodate the surplus farm dwelling and the existing private well and septic systems.
- 6.4 The proposed severed parcel complies with MDS requirements. The subject site will be appropriately rezoned to prohibit the development of a new residential dwelling on the proposed retained agricultural parcel. Any further severances and/or new residential dwellings on the retained farm parcel will be prohibited in accordance with Provincial and Regional policies.

## **7. Public Meeting and Submissions**

- 7.1 In accordance with the Planning Act, a notice of public meeting regarding the application was published in the appropriate newspapers, mailed to those who own land within 120 metres (400 feet) of the subject site, and a public meeting was held on June 2, 2020. Commissioner's Report #2020-P-7 provides information on the application.
- 7.2 The Region did not receive any written submissions from the public concerning the application.

## **8. Consultation**

- 8.1 On July 13, 2020, the Council of the Township of Brock adopted a resolution supporting the approval of the application to amend the ROP. The Township of Brock intends to bring forward an implementing Zoning By-law at a future meeting. The proposed Zoning By-law Amendment will prohibit the development of a residential dwelling on the retained agricultural parcel and will prohibit any future severances.

- 8.2 The Ministry of Municipal Affairs and Housing, Lake Simcoe Region Conservation Authority, the Regional Health Department, Regional Works Department and the Durham Agricultural Advisory Committee (DAAC) have no concerns with the approval of the amendment application.

## **9. Notice of Meeting**

- 9.1 Written notification of the meeting time and location of the Planning and Economic Development Committee meeting was sent to all that requested notification, in accordance with Regional Council procedure.
- 9.2 The recommendation of the Planning and Economic Development Committee is scheduled to be considered by Regional Council on September 30, 2020. If Council adopts the proposed Amendment, notice will be given by the Regional Clerk and Council's decision will be final unless appealed to the Local Planning Appeal Tribunal (LPAT).

## **10. Conclusion**

- 10.1 The proposed amendment is consistent with the PPS and conforms with the policies of the Greenbelt Plan and the ROP. It has been demonstrated that the dwelling is surplus to the needs of the farming operation. The proposed Zoning By-law Amendment will set restrictions to prohibit any further severance and/or a new dwelling to be constructed and the proposal maintains the intent of the ROP in protecting agricultural lands for agricultural purposes. Furthermore, the proposed severance of the farm dwelling will be limited to the minimum size needed to accommodate the retained residential dwelling and will continue to provide a housing option in the rural area. Accordingly, it is recommended that Amendment #180 to the ROP, as shown in Attachment #3, be adopted.

## **11. Attachments**

Attachment #1: Location Sketch

Attachment #2: Darmar Farms Agricultural Land Holdings

Attachment #3: Amendment #180 to the Regional Official Plan

Respectfully submitted,

Original signed by

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Brian Bridgeman, MCIP, RPP  
Commissioner of Planning and  
Economic Development

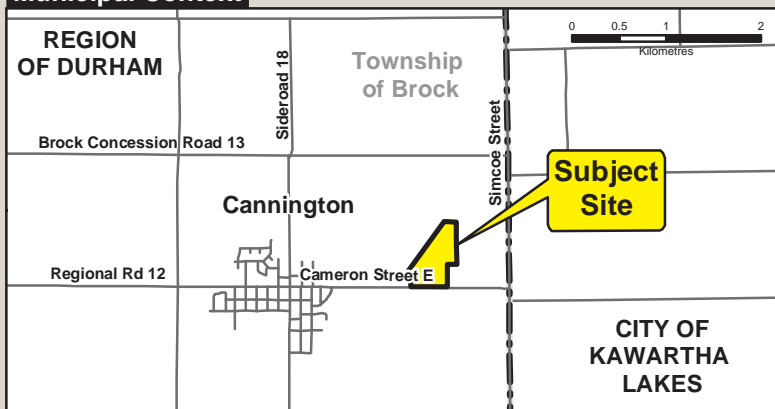
Recommended for Presentation to Committee

Original signed by

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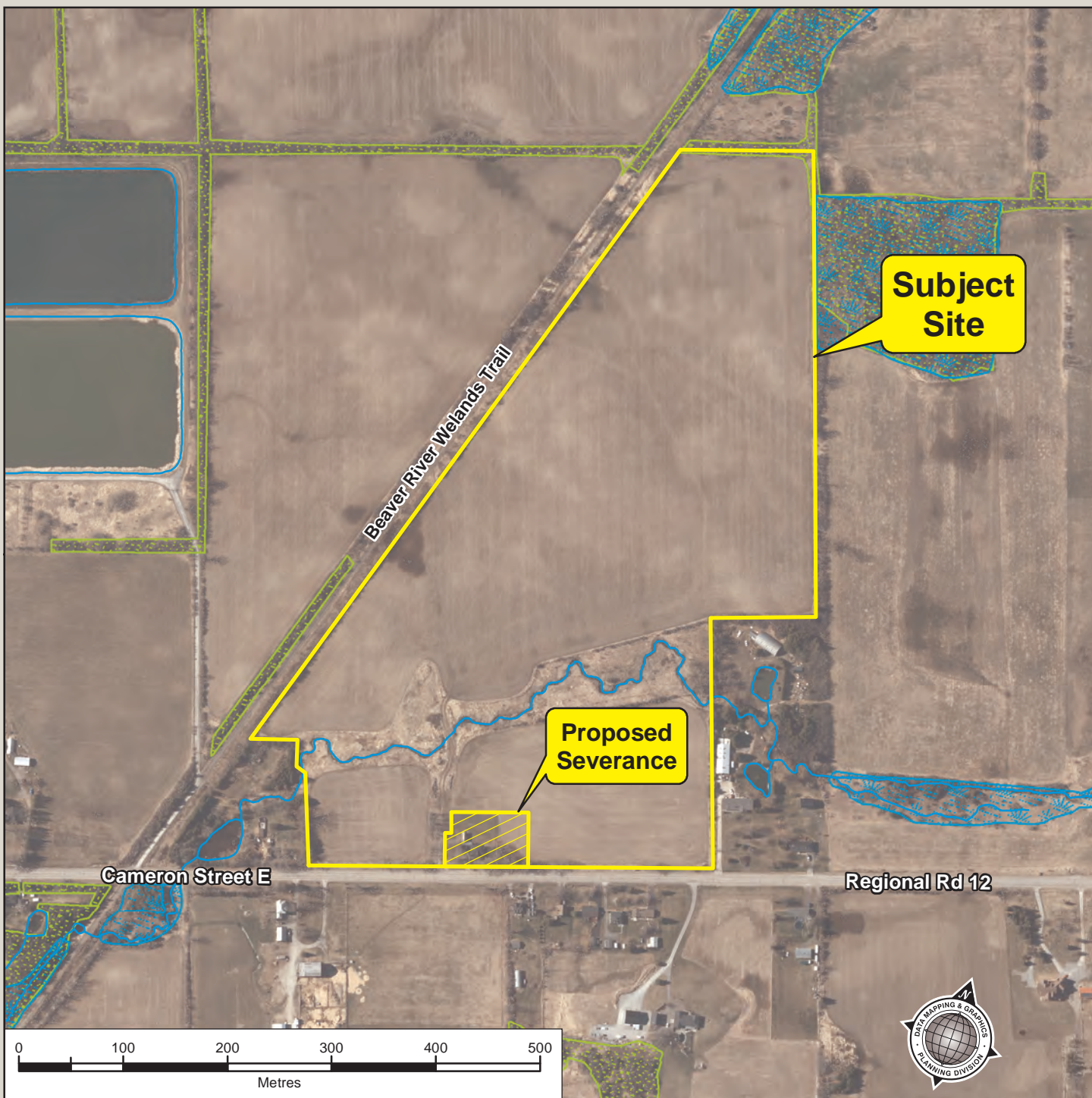
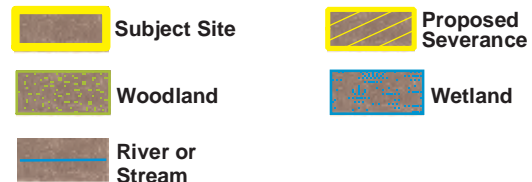
Elaine C. Baxter-Trahair  
Chief Administrative Officer

## Municipal Context



Attachment #1  
 Commissioner's Report: #2020-P-16  
 File: OPA 2020-001  
 Municipality: Township of Brock

## Legend

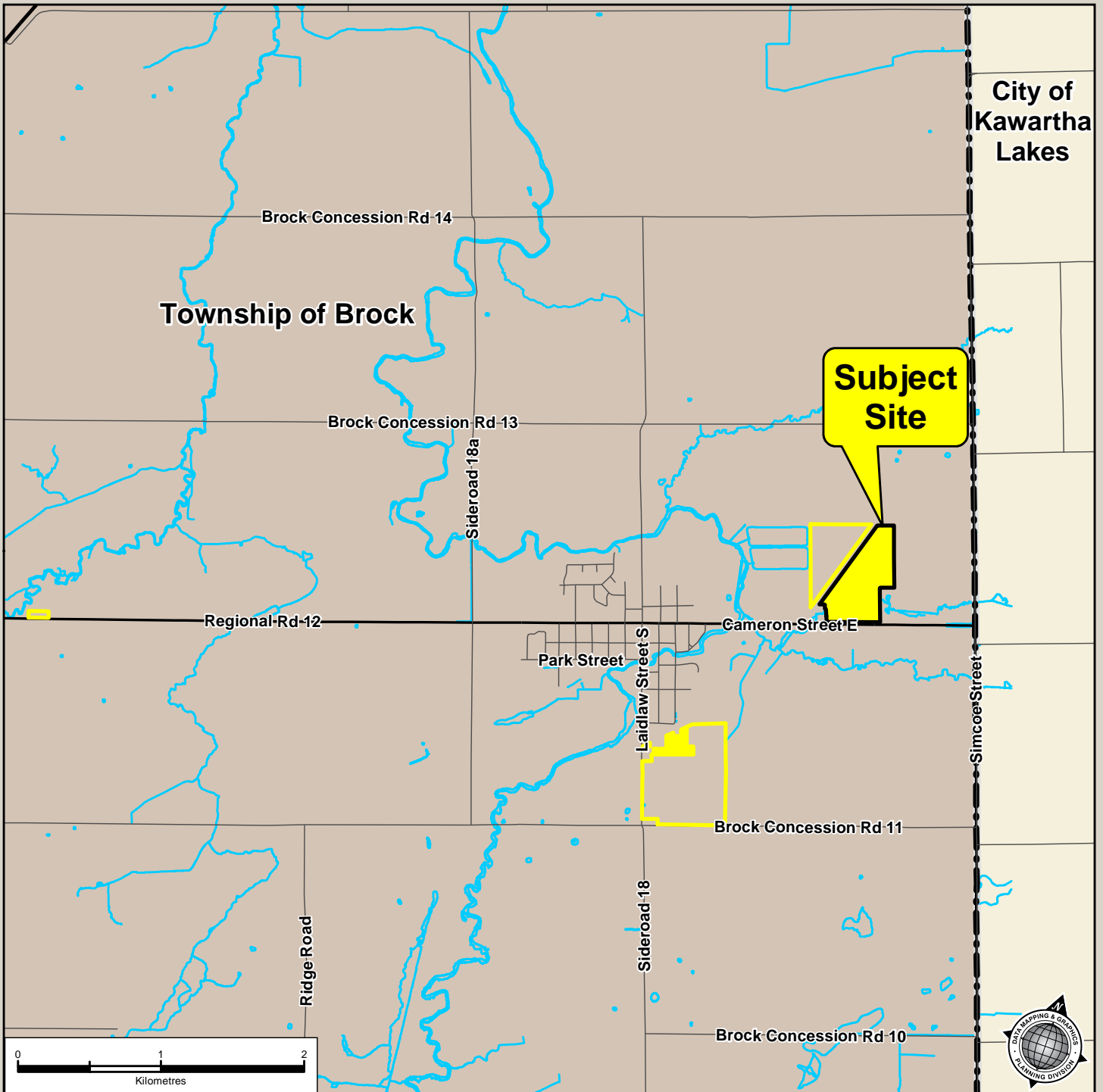


## Municipal Context



## Attachment #2 Commissioner's Report: #2020-P-16 File: OPA 2020-001 Municipality: Township of Brock

### Legend



Amendment 180 to the Regional Official Plan

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- Purpose and Effect: The purpose and effect of this Amendment is to permit the severance of a dwelling rendered surplus to a farming operation as a result of the consolidation of non-abutting farm parcels on lands designated “Prime Agricultural Areas,” in the Township of Brock.
- Location: The subject site is located at 396 Cameron Street East, in the Township of Brock. The property is legally described as Part Lot 23, Concession 12 (former Township of Brock) in the Township of Brock.
- Basis: The subject site has been consolidated with other non-abutting farm parcels owned by the applicant. The residential dwelling on the subject site is not required by, and is surplus to, the farm operation. This amendment conforms to the Durham Regional Official Plan, the Greenbelt Plan, and the Growth Plan for the Greater Golden Horseshoe and is consistent with the Provincial Policy Statement.
- Amendment: The Durham Regional Official Plan is hereby amended by adding the following policy exception to Section 9A.3.2:  
*“9A.3.2 zz) A surplus dwelling is severed from the parcel identified as Assessment No. 18-39-030-009-13600 and 18-39-030-003-20800 located in Part of Lot 23 Concession 12, in the Township of Brock, subject to the inclusion of provisions in the zoning by-law to prohibit further severances and the construction of any dwelling on the retained parcel.”*
- Implementation: The provisions set forth in the Durham Regional Official Plan regarding the implementation of the Plan shall apply in regards to the Amendment.
- Interpretation: The provisions set forth in the Durham Regional Official Plan regarding the interpretation of the Plan shall apply in regards to this Amendment.



# The Regional Municipality of Durham

## Report

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To: Planning and Economic Development Committee  
From: Commissioner of Planning and Economic Development  
Report: #2020-P-17  
Date: September 8, 2020

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**Subject:**

Decision Meeting Report

Application to amend the Durham Regional Official Plan, submitted by D.S. & B. Farms Inc. to permit a severance of a dwelling rendered surplus to a farming operation as a result of a consolidation of non-abutting farm parcels, in the Township of Brock, File: OPA 2020-002.

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**Recommendation:**

That the Planning and Economic Development Committee recommends to Regional Council:

- A) That Amendment #179 to the Durham Regional Official Plan, to permit the severance of a dwelling rendered surplus as a result of the consolidation of non-abutting farm parcels, be adopted as contained in Attachment #3 to Commissioner's Report #2020-P-17; and
  - B) That "Notice of Adoption" be sent to the applicant, the applicant's agent, the Township of Brock, the Ministry of Municipal Affairs, and all other persons or public bodies who requested notification of this decision.
- 

**Report:**

**1. Purpose**

- 1.1 On January 30, 2020, Clark Consulting Services Ltd., on behalf of D.S. & B. Farms Inc. submitted an application to amend the Regional Official Plan (ROP) to permit

the severance of a 0.93 hectare (2.3 acre) parcel of land containing a dwelling rendered surplus from a 43.4 hectare (107.24 acre) agricultural parcel as a result of the consolidation of non-abutting farm parcels in the Township of Brock.

## **2. Site Location/Description**

- 2.1 The subject site is located at C1565 Concession Road 1, in the former Township of Thorah (Attachment #1). The property is legally described as Part of Lot 9, Concession 1, former Township of Thorah, in the Township of Brock.
- 2.2 The subject site is generally rectangular in shape and has access to Concession Road 1. It is approximately 44.33 hectares (109.54 acres) in size, of which approximately 30 hectares (74.13 acres) is being used for cultivation. A woodland is located on the northwest portion of the site and a watercourse (the Beaver River) traverses the eastern parts of the site. The subject lands are generally flat. A residential dwelling with two accessory structures is located on the southern part of the site.
- 2.3 The surrounding uses located adjacent to the subject site include:
  - a. North – agricultural lands, woodlands and wetlands;
  - b. East – agricultural lands, Beaver River, woodlands and wetlands;
  - c. South – agricultural lands; and
  - d. West – agricultural lands, woodlands and wetlands.

## **3. Reports Submitted in Support of the Application**

- 3.1 A Planning Justification/Agricultural Assessment Report, prepared by Clark Consulting Services, dated November 12, 2019, has been submitted in support of the application. The report concludes that the proposed amendment is consistent with the Provincial Policy Statement (PPS), and conforms to the Greenbelt Plan and the ROP. The report also concludes the proposed severance will comply with the Minimum Distance Separation (MDS) requirements. A Site Screening Questionnaire completed by GHD identified no environmental concerns on the subject site.

#### **4. Provincial Policies**

- 4.1 The subject site is located within the Protected Countryside designation of the Greenbelt Plan.
- 4.2 Both the Greenbelt Plan and the Provincial Policy Statement (PPS) permit the severance of a residence surplus to a farming operation as a result of farm consolidation, provided that the planning authority ensures that a residential dwelling is not permitted on the proposed retained farm lot created by the severance.
- 4.3 The PPS and the Greenbelt Plan also require the creation of lots to comply with MDS requirements.

#### **5. Durham Regional Official Plan**

- 5.1 The subject site is designated “Prime Agricultural Areas” in the ROP with portions of the site containing Key Natural Heritage and Hydrologic Features (KNHHF). Lands within the Prime Agricultural Areas designation are to be used primarily for agriculture and farm-related uses. Severance applications for agricultural uses are considered in accordance with the relevant policies of Sub-Section 9A of the ROP.
- 5.2 Policy 9A.2.10 of the ROP permits the severance of a farm dwelling rendered surplus as a result of a farmer acquiring a non-abutting farm, provided that:
  - a. the dwelling is not needed for a farm employee;
  - b. the farm parcel is of a size which is viable for farming operations;
  - c. for sites within the Protected Countryside of the Greenbelt Plan Area, the dwelling was in existence as of December 16, 2004; and
  - d. the farm parcel is zoned to prohibit any further severances and the establishment of any residential dwelling.

No further severances shall be permitted from the acquired parcel.

#### **6. Planning Analysis**

- 6.1 The applicant is a private farm corporation which owns a total of 11 parcels under the name D.S. & B. Farms Inc. that encompasses approximately 557 hectares (1,376 acres) and farms cash crops. Seven parcels are located in the Durham Region (Attachment #2).

- 6.2 The subject farm parcel is proposed to be acquired by D.S. & B. Farms Inc. and contains an existing dwelling that will not be utilized by a farm employee and will be rendered surplus to the needs of the farm operation. The proposed retained parcel is of a size that will remain viable for farming.
- 6.3 The surplus farm residence on the site was built prior to 2004. The proposed severance complies with the provisions of the PPS, the Greenbelt Plan and the ROP. The severed parcel will be limited in size to accommodate the surplus farm dwelling and existing private wells and septic system.
- 6.4 The proposed severed parcel complies with MDS requirements. The subject site will be appropriately rezoned to prohibit the development of a new residential dwelling on the proposed retained agricultural parcel. Any further severances and/or new residential dwellings on the retained farm parcel will be prohibited in accordance with Provincial and Regional policies.

## **7. Public Meeting and Submissions**

- 7.1 In accordance with the Planning Act, a notice of public meeting regarding the application was published in The Brock Citizen newspaper, mailed to those who own land within 120 metres (400 feet) of the subject site, and a public meeting was held on June 2, 2020. Commissioner's Report #2020-PED-8 provides information on the application.
- 7.2 The Region received one general telephone inquiry in response to our consultation process.

## **8. Consultation**

- 8.1 On July 13, 2020, the Township of Brock adopted a resolution supporting the approval of the subject application to amend the ROP. The Township of Brock intends to bring forward an implementing Zoning By-law at a future meeting. The proposed Zoning By-law Amendment will prohibit the development of a residential dwelling on the retained agricultural parcel and will prohibit any future severances.
- 8.2 The lot configuration of the proposed severed land will be further refined in the related zoning by-law and consent applications.
- 8.3 The Ministry of Municipal Affairs and Housing, Lake Simcoe Region Conservation Authority, the Regional Health Department, the Regional Works Department and

Durham Agricultural Advisory Committee have no concerns with the approval of the amendment application.

## **9. Notice of Meeting**

- 9.1 Written notification of the meeting time and location of the Planning and Economic Development Committee was sent to all that requested notification, in accordance with Regional Council procedure.
- 9.2 The recommendation of the Planning and Economic Development Committee is scheduled to be considered by Regional Council on September 30, 2020. If Council adopts the proposed Amendment, notice will be given by the Regional Clerk and Council's decision will be final unless appealed to the Local Planning Appeal Tribunal (LPAT).

## **10. Conclusion**

- 10.1 The proposed amendment is consistent with the PPS and conforms with the policies of the Greenbelt Plan and the ROP. It has been demonstrated that the subject dwelling is surplus to the farm operation. The proposed Zoning By-law Amendment will set restrictions to prohibit any further severance and/or a new dwelling to be constructed and the proposal maintains the intent of the ROP in protecting agricultural lands for agricultural purposes. Furthermore, the proposed severance of the farm dwelling will be limited to the minimum size needed to accommodate the retained residential dwelling and will continue to provide a housing option in the rural area. Accordingly, it is recommended that Amendment #179 to the ROP, as shown in Attachment #3, be adopted.

## **11. Attachments**

Attachment #1: Location Sketch

Attachment #2: Inventory of D.S. & B. Farms Inc. Land Holdings

Attachment #3: Amendment #179 to the Durham Regional Official Plan

Respectfully submitted,

Original signed by

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Brian Bridgeman, MCIP, RPP  
Commissioner of Planning and  
Economic Development

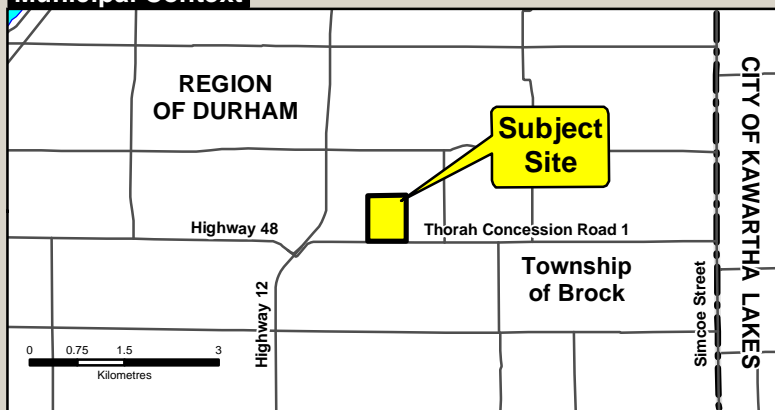
Recommended for Presentation to Committee

Original signed by

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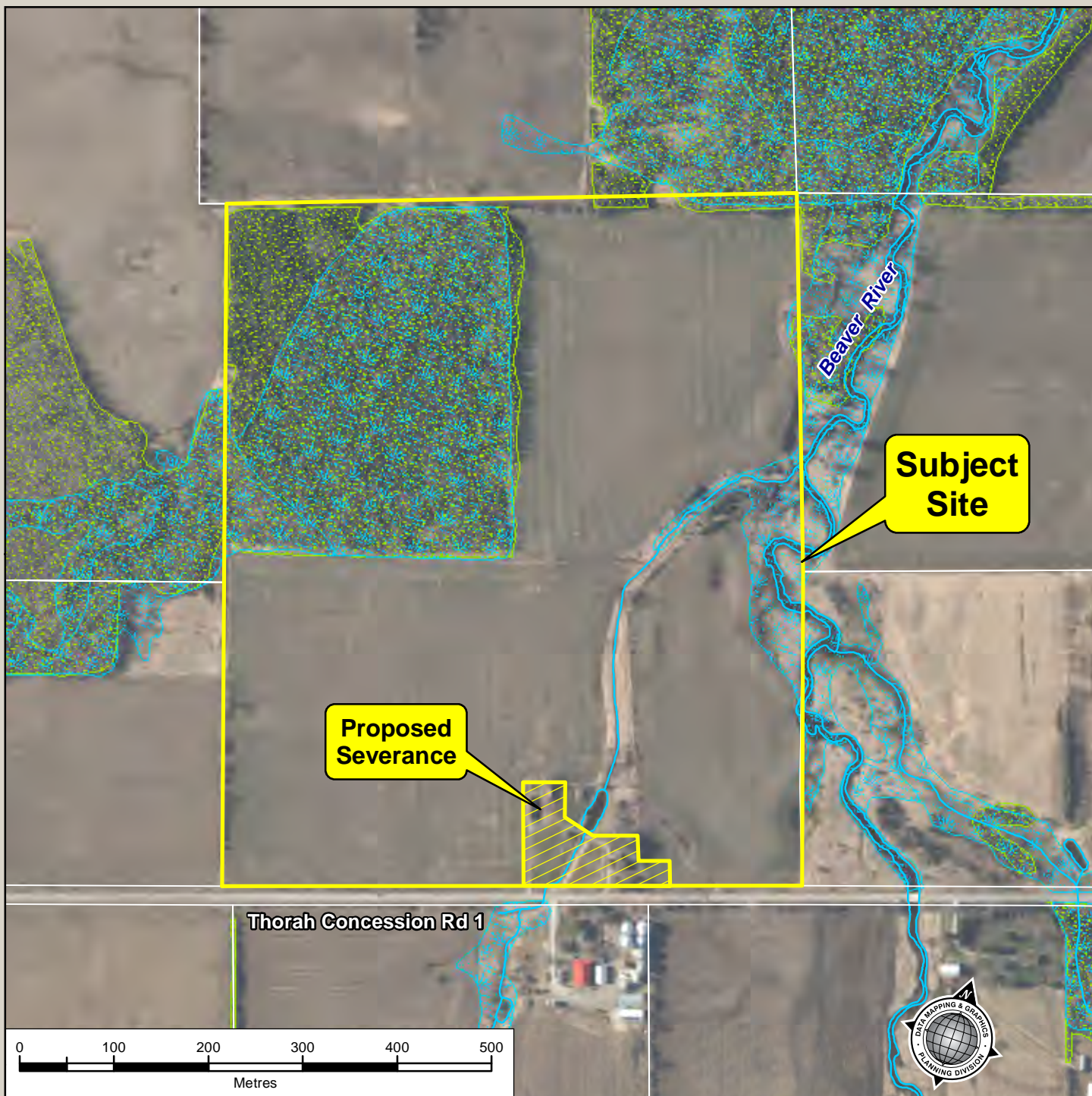
Elaine C. Baxter-Trahair  
Chief Administrative Officer

## Municipal Context



Attachment #1  
 Commissioner's Report: #2020-P-17  
 File: OPA 2020-002  
 Municipality: Township of Brock

## Legend

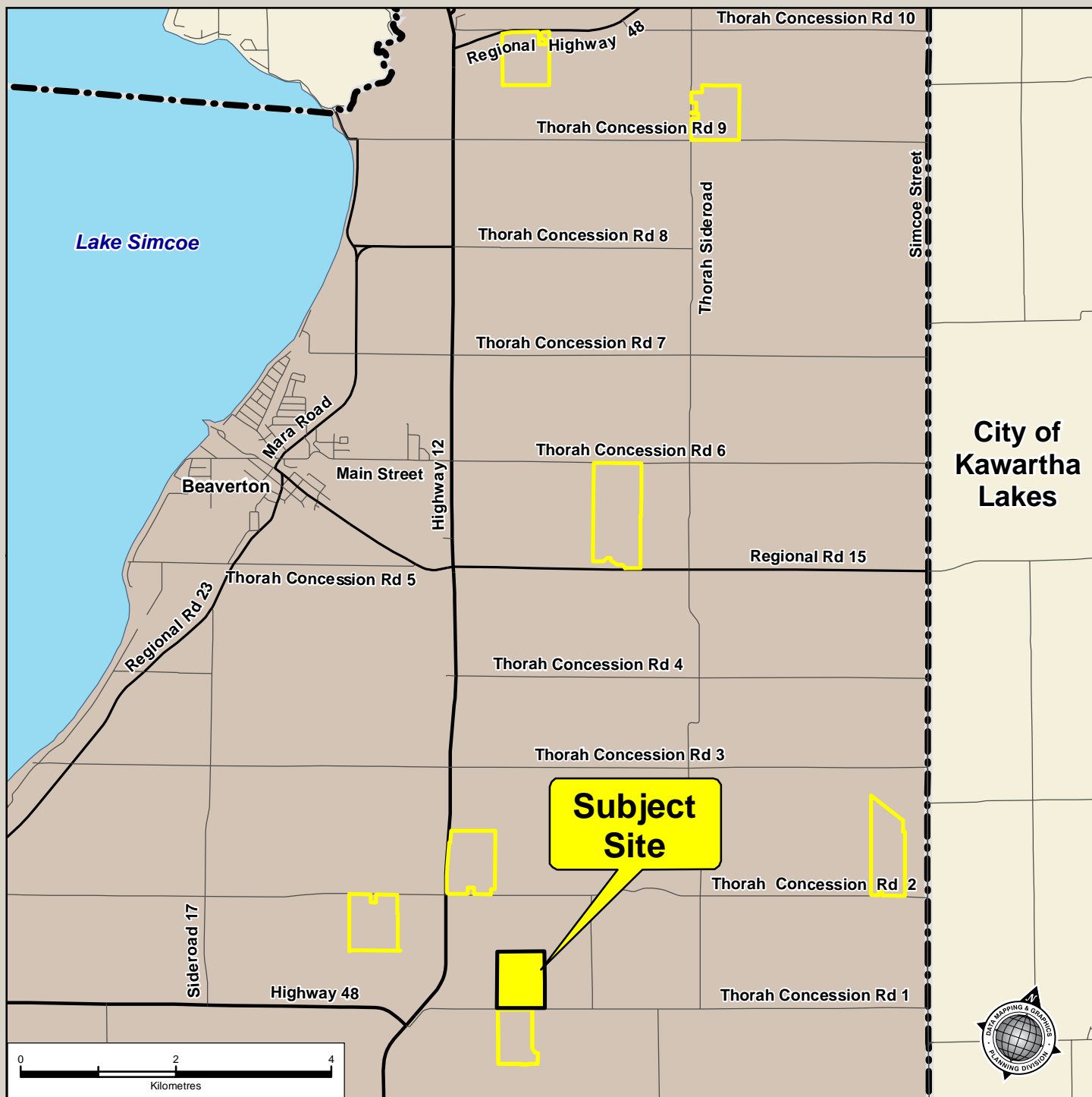


## Municipal Context



## Attachment #2 Commissioner's Report: #2020-P-17 File: OPA 2020-002 Municipality: Township of Brock

### Legend



### Amendment 179 to the Regional Official Plan

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Purpose and Effect:	The purpose and effect of this Amendment is to permit the severance of a dwelling rendered surplus to a farming operation as a result of the consolidation of non-abutting farm parcels on lands designated “Prime Agricultural Areas,” in the Township of Brock.
Location:	The subject site is located on the north side of Concession Road 1 in the Township of Brock. The site is legally described as C1565 Concession Road 1, Part of Lot 9, Concession 1, in the former Township of Thorah, in the Township of Brock.
Basis:	The subject site has been consolidated with other non-abutting farm parcels owned by the applicant. The residential dwelling on the subject site is not required by, and is surplus to, the farm operation. This amendment conforms to the Durham Regional Official Plan, the Greenbelt Plan, and the Growth Plan for the Greater Golden Horseshoe and is consistent with the Provincial Policy Statement.
Amendment:	<p>The Durham Regional Official Plan is hereby amended by adding the following policy exception to Section 9A.3.2:</p> <p><i>“9A.3.2 yy) A surplus dwelling is severed from the parcel identified as Assessment No. 18-39-030-004-06600 located in Part of Lot 9, Concession 1, in the Township of Brock, subject to the inclusion of provisions in the zoning by-law to prohibit further severances and the construction of any dwelling on the retained parcel.”</i></p>
Implementation:	The provisions set forth in the Durham Regional Official Plan regarding the implementation of the Plan shall apply in regard to the Amendment.
Interpretation:	The provisions set forth in the Durham Regional Official Plan regarding the interpretation of the Plan shall apply in regard to this Amendment.



# The Regional Municipality of Durham Report

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To: Planning and Economic Development Committee  
From: Commissioner of Planning and Economic Development  
Report: #2020-P-18  
Date: September 8, 2020

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**Subject:**

Decision Meeting Report

Proposed Amendment to the Durham Regional Official Plan for lands in the Municipality of Clarington, File: OPA 2020-003

---

**Recommendation:**

That the Planning and Economic Development Committee recommends to Regional Council:

- A) That Amendment #181 to the Durham Regional Official Plan, to permit a site-specific policy exception to permit urban residential and related uses for lands in the southwest quadrant of Bloor Street and Courtice Road, be adopted as contained in Attachment #3; and
  - B) That "Notice of Adoption" be sent to the Municipality of Clarington, the Ministry of Municipal Affairs and Housing, and all other persons or public bodies who requested notification of this decision.
- 

**Report:**

**1. Purpose**

- 1.1 The purpose of this report is to recommend approval of a Regional Official Plan Amendment to permit certain urban uses within the southwest quadrant of Bloor Street and Courtice Road, consistent with the Regionally-approved policies and designations of the Municipality of Clarington Official Plan. Permitted uses may

include residential, commercial, home-based occupations, parks, schools and community facilities. The proposed amendment would restrict these uses to areas outside of environmental areas. The future development of this area will be subject to more detailed land use designations and policies of the Southeast Courtice Secondary Plan (currently in process), and through the requirements of the implementing zoning by-law. This Regional OPA will bring the Regional Official Plan (ROP) and the Clarington Official Plan into alignment with each other.

## **2. Location**

- 2.1 The subject lands are generally bound by Bloor Street to the north, Courtice Road to the east, the Southeast Courtice Secondary Plan boundary to the south, and an environmental feature to the west, within the Courtice urban area (see Attachment #1).

## **3. Background**

- 3.1 This Regional Official Plan Amendment was initiated in response to the Municipality of Clarington's request to make the necessary changes to the ROP to implement the outcome of the Municipality of Clarington's Official Plan Review, generally known as Amendment No. 107 (OPA 107).
- 3.2 OPA 107 was a substantial amendment intended to bring Clarington's Official Plan into conformity with the ROP, as well as the applicable Provincial policy documents in effect at the time (e.g. the Growth Plan, Greenbelt Plan, Oak Ridges Moraine Conservation Plan, etc.). It also redesignated the lands described in Section 2.1 above from 'Light Industrial' to 'Urban Residential', and from 'Light Industrial' to 'Regional Corridor'.
- 3.3 OPA 107 was adopted by Clarington Council in November of 2016 and then forwarded to the Region for approval. As part of its adoption by Clarington Council, the Municipality also requested the Region to make the necessary changes to the ROP to implement OPA 107 after the Region issued its final approval.
- 3.4 The Region issued its final approval of OPA 107 on June 19, 2017. However, following the Region's approval, a number of appeals were made to the Local Planning Appeal Tribunal (LPAT). Although none of the appeals of OPA 107 were specifically in relation to the subject lands, action on the Municipality's request would need to be held in abeyance until the LPAT matters could be successfully resolved. The LPAT issued its final decision on the remaining appeals on March 16, 2020.

- 3.5 The ROP designates the subject lands Employment Areas with a Regional Corridor overlay. To ensure that the ROP and the Clarington OP are properly aligned, the recommended amendment in Attachment # 3 proposes to add a notwithstanding clause into the ROP to permit the same uses in the ROP as are identified for this area in the approved Clarington OP.

#### **4. Policy Context**

- 4.1 As part of the Region's approval of OPA 107, the policies contained in Attachment #2 were considered with respect to these lands.
- 4.2 In addition, the ROP provides policies pertaining to growth, development, protection of natural heritage features, transportation requirements etc. that must be included within area municipal Official Plans.

#### **5. Analysis**

- 5.1 The Municipality of Clarington undertook the preparation and review of various background studies as part of OPA 107.
- 5.2 To support the redesignation of the subject lands, the Municipality of Clarington undertook a detailed employment land supply study as part of background studies for OPA 107. The study determined that the Municipality has a sufficient supply of employment land to last beyond a 50-year time horizon and that by the end of 2031, it would have approximately 260 to 300 hectares of vacant employment land. This analysis was reviewed and accepted by the Region during its approval of OPA 107.
- 5.3 In order to promote the range of housing and employment options within the Municipality, the Municipality of Clarington's analysis concluded that the subject lands would be appropriately designated for a mix of residential and commercial uses.

#### **6. Public Meeting and Submissions**

- 6.1 In accordance with the Planning Act, a notice of public meeting regarding this application was published in the appropriate newspaper, mailed to those who own land within the subject lands, as well as all property owners within 120 metres (400 feet) of the subject lands. The public meeting was held on June 2, 2020. Commissioner's Report #2020-P-9 provides information on the application.
- 6.2 The Region received one phone call and three email inquiries regarding this application. All persons requested further information and explanation on the

proposed amendment. Subsequently, the residents did not identify any concerns with the application.

## **7. Consultation**

- 7.1 The redesignation of the subject lands was supported by Clarington Council through the adoption of OPA 107 in November of 2016. Clarington staff provided written correspondence to the Region on June 2, 2020 indicating that they are supportive of the proposed Regional Official Plan amendment. Clarington staff's correspondence clarified that in order to properly align the proposed amendment with the proposed Southeast Courtice Secondary Plan, the proposed wording should include the area south of a proposed east-west collector road. This has been incorporated in the proposed Amendment.
- 7.2 The proposed Amendment was circulated for Agency review and comment on May 1, 2020.
- 7.3 The Central Lake Ontario Conservation Authority, the Regional Works Department, the Transportation Planning Branch, Durham Region Transit, and Ontario Power Generation have indicated no concerns with the approval of the proposed amendment.
- 7.4 The Ministry of Municipal Affairs and Housing (MMAH) had not commented on the proposed amendment at the time of writing this report. However, MMAH was actively involved in the OPA 107 approval and appeal processes, and did not identify any concerns with the proposed designation of the subject lands.

## **8. Notice of Meeting**

- 8.1 Written notification of the meeting time and location of the Planning and Economic Development Committee meeting was sent to all that requested notification, in accordance with Regional Council procedure.
- 8.2 The recommendation of the Planning and Economic Development Department is scheduled to be considered by Regional Council on September 30, 2020. If Council adopts the proposed amendment, notice will be given by the Regional Clerk and Council's decision will be final unless appealed to the Local Planning Appeal Tribunal (LPAT).

## **9. Conclusion**

- 9.1 The recommended amendment is consistent with the Provincial Policy Statement, and conforms with the Growth Plan and the policies of the ROP. The recommended

amendment implements the approval of Clarington OPA 107, while still providing for a supply of Employment Area lands within Clarington to 2031. The mix of residential and commercial space supports the local economy, provides for a pedestrian-friendly and transit supportive community, and the opportunity for an orderly transition to a potential Major Transit Station Area within Courtice, directly to the south.

- 9.2 The recommended amendment will finalize the Region's decision made through Clarington's OPA 107 process and aligns the Regional Official Plan with the Municipality of Clarington's Official Plan. Accordingly, it is recommended that Amendment #181 to the ROP, as shown in Attachment #3, be adopted.

## 10. Attachments

Attachment #1: Location Sketch

Attachment #2: Policy Context

Attachment #3: Draft Amendment #181 to the Durham Regional Official Plan

Respectfully submitted,

Original signed by

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Brian Bridgeman, MCIP, RPP  
Commissioner of Planning and  
Economic Development

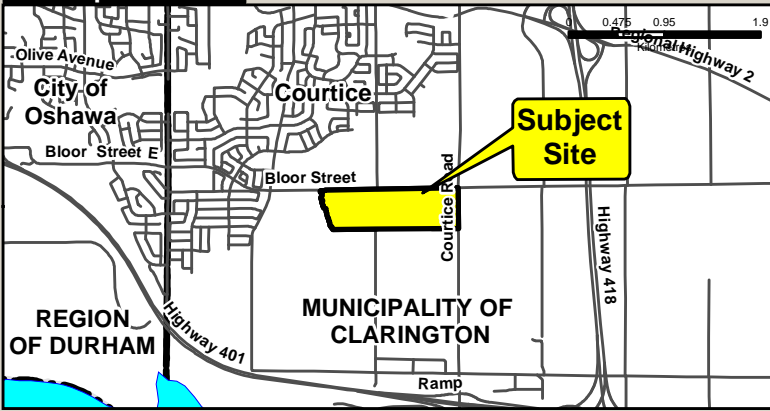
Recommended for Presentation to Committee

Original signed by

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Elaine C. Baxter-Trahair  
Chief Administrative Officer

## Municipal Context



Attachment #1  
 Commissioner's Report: #2020-P-18  
 File: OPA 2020-003  
 Municipality: Municipality of Clarington

## Legend



## **Policy Context**

In the Region's approval of OPA 107, as it applies to the subject lands, the following policies were considered:

### **1. Provincial Policy Statement**

- 1.1 The Provincial Policy Statement directs growth and development to settlement areas by requiring sufficient land to be made available to meet the projected needs of a community for up to 25 years. Settlement Areas are urban and rural areas, which include cities, towns, villages and hamlets which are required to accommodate for the following uses:

- a mix and range of residential types, including affordable housing;
- employment and institutional uses; and
- recreation, park and open space etc.

- 1.2 Land use patterns within settlement areas shall be based on densities and a mix of land uses which efficiently use land and resources, are active-transportation and transit-supportive, support intensification and redevelopment, and use infrastructure and public service facilities efficiently.

- 1.3 The development of the subject lands will be in accordance with Regional and local official plan policies which prescribe how the above policy principles are to be met.

### **2. The Growth Plan for the Greater Golden Horseshoe**

- 2.1 The Growth Plan identifies how planning authorities will manage growth. The Plan requires planning authorities to plan for a diverse mix of uses, which create complete communities. They should be transit supportive, improve the social equity of its residents, have convenient access to local stores, services and public service facilities, and include second units and affordable housing.

- 2.2 The Growth Plan includes policies to ensure that intensification and redevelopment occurs in strategic growth areas, such as Regional Corridors. These policies support an increase in transit capacity, which is to be accomplished in part by increasing the population densities of these areas.

### **3. Regional Official Plan**

- 3.1 Section 2.3.51 of the Regional Official Plan (ROP) sets out the various criteria that area municipalities must include in their Official Plans. These policies were used in the Region's assessment and approval of the land use designations on the subject lands within OPA 107.

- 3.2 The Region's Urban Structure is primarily organized into Living Areas, Employment Areas and Centres. The Regional Official Plan identifies a variety of residential, institutional, employment and other uses which may be permitted within these designations.
- 3.3 The Urban System also includes Strategic Growth Areas, such as Regional Corridors. These Corridors form the key connections between Centres and are considered the main arteries of the Region's urban structure. They provide for the movement of people and goods between the Centres to support their vitality, and are intended to be transit supportive and developed at higher densities.
- 3.4 The subject lands include a Regional Corridor, which will be developed with a mix of uses at transit supportive densities.

#### **4. Conclusion**

- 4.1 Provincial and Regional policy documents require a diverse mix of uses to ensure the efficient use of land and services required to create complete, transit-oriented communities.
- 4.2 The Municipality of Clarington has completed a detailed analysis which demonstrates that the land uses on the subject lands will be required within the 2031 horizon of the Regional Official Plan.
- 4.3 The subject lands will include a mix of residential and commercial uses and a mix of transit supportive uses at densities along Bloor Street which are consistent with the Provincial policies and the Regional Corridor policies of the ROP. The development of the subject lands will be subject to policies that will ensure that land use compatibility issues are avoided or mitigated.

### **Amendment #181 to the Durham Regional Official Plan**

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**Purpose and Effect:** The purpose of this Amendment is to permit residential, commercial, home-based occupation uses, parks, schools and community facilities as the only permitted uses in the area bounded by Bloor Street to the north, Courtice Road to the east, the Southeast Courtice Secondary Plan Boundary to the south and the Major Open Space designation to the west.

**Location:** The subject lands are located on the southwest quadrant of Bloor Street and Courtice Road, being Part of Lots 29-31, Concession 1, in the Municipality of Clarington.

**Basis:** The subject lands were designated to 'Urban Residential' and 'Regional Corridor' as part of Amendment 107 (OPA 107) to the Municipality of Clarington Official plan, which was the outcome of Clarington's Official Plan Review. OPA 107 was approved as modified by the Region of Durham in 2019. This amendment aligns the designations of the Regional Official Plan with the approved designations within OPA 107. This amendment also conforms to the Growth Plan for the Greater Golden Horseshoe and is consistent with the Provincial Policy Statement.

**Amendment:** The Durham Regional Official Plan is hereby amended by adding the following policy:

"8C.3.3 Notwithstanding Section 8C.2.1, or any other policy or designation of this Plan to the contrary, uses including residential, commercial, home-based occupation uses, parks, schools and community facilities are the only uses permitted within the area bounded by Bloor Street to the north, Courtice Road to the east, the Southeast Courtice Secondary Plan Boundary to the south and the Major Open Space designation to the west, being Part of Lots 29-31, Concession 1, in the Municipality of Clarington. The extent and scale of development shall be detailed in the area municipal official plan, secondary plan, and zoning by-law."

Implementation: The provisions set forth in the Durham Regional Official Plan regarding the implementation of the Plan shall apply in regards to the Amendment.

Interpretation: The provisions set forth in the Durham Regional Official Plan regarding the interpretation of the Plan shall apply in regards to this Amendment.



# The Regional Municipality of Durham

## Report

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To: Planning and Economic Development Committee  
From: Commissioner of Planning and Economic Development  
Report: #2020-P-19  
Date: September 8, 2020

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**Subject:**

Review of the Region of Durham's Soil and Groundwater Assessment Protocol, Files:  
L14-03-08 and D-04-27-02

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**Recommendation:**

That the Planning and Economic Development Committee recommends:

That this report be received for information.

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**Report:**

**1. Purpose**

- 1.1 On April 2, 2019, the Planning and Economic Development Committee initiated its review of the Region's Soil and Groundwater Assessment Protocol (SGAP), formerly known as the Site Contamination Protocol (refer to Report #2019-P-15). This report presents an updated Protocol, in draft, for review and comment by affected stakeholders including Area Municipalities.
- 1.2 The draft SGAP attached provides an updated framework for remediating potentially contaminated sites throughout the Region while helping to streamline the development approvals processes under the *Planning Act*.

**2. Background**

- 2.1 In 1996, the Province of Ontario assigned certain Provincial Plan Review Responsibilities to the Region of Durham including the responsibility to ensure that

human health and the natural environment are adequately protected through the planning process. To fulfil this provincially-assigned role, an internal Regional “Protocol” was developed to deal with the protection of public health and safety in relation to site contamination issues.

- 2.2 The Region’s Protocol has been regularly updated since 1997 (the year of the first Protocol), with the most recent update adopted in October 2014.
- 2.3 The existing SGAP applies to all *Planning Act* applications within the Region. Municipal decisions by the Region and the Area Municipalities must consider soil, and in some cases the groundwater, conditions associated with lands subject to a *Planning Act* application. This requirement is especially critical for “sensitive” land uses such as residential, parkland and certain types of institutional uses, where human habitation and outdoor recreation will take place.
- 2.4 The soil and groundwater standards for land use classifications are established by the Province. For instance, the standard of soil quality is higher for residential uses than it is for industrial uses however, all development, including non-residential development proposals, must be screened for sources of soil and groundwater contamination prior to the approval of any *Planning Act* application.

### **3. Research and Findings**

- 3.1 The Planning and Economic Development Department’s review of the existing SGAP so far has included a review of legislative and regulatory updates, an analysis of other jurisdictions within the province and consultation with the Region’s area municipalities and industry stakeholders.
- 3.2 Changes to the *Environmental Protection Act*, have also been incorporated into the draft SGAP update. Recent changes to environmental legislation introduced through Ontario Regulation 407/19 (O.Reg. 407/19) have generally reduced the requirements associated with brownfield redevelopment.
- 3.3 Consultation with stakeholders included meetings with representatives from the Ministry of the Environment, Conservation and Parks (MECP), the Area Municipalities; Conservation Authorities, the Region’s existing environmental Peer Review Consultants, Environmental Consulting firms and representatives from the Building Industry and Land Development Association (BILD).

- 3.4 Input received from stakeholders regarding the existing SGAP identified elements of the Protocol that were working well. Conversely, it also identified areas of the Protocol that were outdated and needed improvement.
- 3.5 Research and stakeholder consultation have generated discussions surrounding proposed changes to the SGAP which are intended to offer greater flexibility and streamline the Region's processes associated with site contamination screening and remediation of contaminated sites. To date, preliminary feedback on the proposed changes have been well received.
- 3.6 While staff acknowledge the Protocol is technical in nature and may be a challenge to read with its acronyms and terminology, the proposed changes to the SGAP streamline elements of the existing Protocol, provide clarification, and offer more flexibility in a variety of areas. Specific changes include the following:
- a. Record of Site Condition (RSC) updates in accordance with the *Environmental Protection Act*. Recent MECP legislative and regulatory updates regarding RSC requirements have been incorporated into the Protocol. Provincial requirements for the remediation of sites containing various exceedances such as road salt have now been exempted from the requirement of an RSC.
  - b. MECP RSCs and/or Certificate of Property Uses (CPU's) through Risk Assessments. These documents may now be submitted at a later stage of a development proposal, but not beyond the issuance of building permits for above ground construction, subject to criteria that requires the applicant to enter into appropriate agreements to the Region's satisfaction. The current SGAP requires applicants to submit an RSC and/or a CPU prior to Regional sign-off on a zoning by-law amendment, or as part of an area municipality's ("H") Holding Provision on a subject property until such time as the document(s) is received. The proposed change is intended to significantly reduce cost and time for proponents by facilitating below-grade construction prior to final approvals.
  - c. The Site Screening Questionnaire (SSQ) form has been updated to remove questions in the SSQ that are not consistent with O.Reg. 153/04, as amended. This approach has reduced the number of questions on the SSQ form by more than half (from 18 questions down to 8). These changes are intended to save time and eliminate the potential for ambiguity in the completion of the form.

- d. Greater flexibility in the content of ESA Reports. Environmental Site Assessment (ESAs) reports are still required to be prepared in accordance with O.Reg. 153/04. However, the draft SGAP provides the QPs with an option of submitting ESA reports that are consistent with O.Reg 153/04, so long as the reports can identify how the investigation and reporting requirements deviate from the Ministry's Regulation. The proposed change may result in cost reductions and time for proponents as well as provide flexibility to the Region's Peer Review Consultants when reviewing ESA reports;
- e. The Region's Reliance Letter and Certificate of Insurance requirements. The Region's Reliance letter has been contemporized in a variety of areas. One significant change includes the removal of the audit requirement clause. The clause often caused concern for reports submitted in support of development applications not subject to the provincial RSC process.
- f. Enhanced Timelines for Addressing Non-Potable Groundwater Requests. The timing of conditional approval letters for Non-Potable Groundwater Requests was often problematic for the development industry. The proposed Protocol extends the Region's conditional approval from 15 days to 6 months. The extension of time was deemed essential by proponents given RSC filing requirements are quite onerous and often cannot be achieved within 15 days.
- g. Greater flexibility for Evaluating Enhanced Investigation Properties (EIPs). Regional requirements surrounding the consideration of EIPs and the completion of the SSQ was often unclear and often required the services of a Qualified Person. The updated SSQ permits the completion of an SSQ by an Authorized Officer/Owner for minor development proposals (e.g. small accessory buildings, development within an existing building). Major development proposals (e.g. gas stations, automobile wreckers' yard or a bulk liquid dispensing facility) where sub-surface contamination exists and requires significant site alteration typically requiring MECP approval (in accordance with the SGAP) will still require a Qualified Person to complete the necessary due diligence review of a proposed development site. The updated process also allows for the consideration of the Region's Peer Review process where an EIP is identified as a potential contamination source.
- h. Streamlining the Region's Peer Review process. The review of Planning Applications often involves the review of technical reports. The Region's peer review process for technical reports addressing potentially contaminated sites

can be slowed by detailed technical reviews by the proponent's consultant and the Region's peer review consultant. The requirement for additional information is necessary for the complete analysis required to arrive at a final conclusion and recommendation. The proposed changes are intended to streamline the peer review process by enabling the Region's Peer Review Consultants to directly request/clarify any minor additional supplementary information required to complete the peer review assignment directly from the proponent's consultant. The proposed change eliminates the requirement for unnecessary meetings where only minor details may be required.

#### **4. Next Steps**

- 4.1 The proposed updated SGAP will be circulated to a variety of stakeholders, including: the Ministry of the Environment, Conservation and Parks; the Ministry of Municipal Affairs and Housing (MMAH); Area Municipalities; the Region's five Conservation Authorities; Works Department; Health Department; Legal Division; Risk Management Division; the Durham Environmental Advisory Committee (DEAC); the Building Industry and Land Development Association (BILD) as well as Environmental firms supporting Geoscientists and Qualified Professional Engineer firms (including the Region's existing environmental Peer Review Consultants) familiar with the Region's SGAP requirements. A 90-day comment period is being provided.
- 4.2 The Planning and Economic Development Department will report back to this Committee with a final Protocol that has considered input from all Regional stakeholders.

#### **5. Conclusion**

- 5.1 Following receipt of agency comments, a final SGAP will be prepared for endorsement by the Planning and Economic Development Committee and Council in early 2021.
- 5.2 This report and the draft Protocol were prepared in consultation with Regional Legal and Works staff.

#### **6. Attachments**

Attachment #1: Draft 2020 Durham Region's Soil and Groundwater Assessment Protocol

Attachment #2: Region of Durham Soil and Groundwater Assessment Protocol,  
Five Year Review Report (#2019-P-15)

Respectfully submitted,

Original signed by

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Brian Bridgeman, MCIP, RPP  
Commissioner of Planning and  
Economic Development

Recommended for Presentation to Committee

Original signed by

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Elaine C. Baxter-Trahair  
Chief Administrative Officer

# **Soil and Groundwater Assessment Protocol**

**September 8, 2020**

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## 1. Introduction

The *Planning Act* recognizes that the protection of public health, safety and ecological systems (e.g. the natural environment) is matters of provincial interest. Matters of provincial interest must be integrated with municipal planning decisions. The Ontario Provincial Policy Statement (PPS) requires that contaminated sites, either in land and/or, water be assessed and remediated, as necessary, prior to any activity on a site associated with a proposed use, such that there will be no adverse effects on human health and the natural environment.

In 1996, the Province of Ontario assigned certain Provincial plan review responsibilities to the Regional Municipality of Durham (**Region<sup>1</sup>**), including the responsibility of ensuring compliance with Ontario Regulation 153/04 made under the *Environmental Protection Act*, as amended (O.Reg. 153/04) in relation to site contamination issues to adequately protect human health and the natural environment through the planning process.

In support of its mandate, the **Region** adopted its first Soil and Groundwater Assessment Protocol<sup>2</sup> (Protocol) in 1997, which is periodically updated to reflect changes to legislation, policies and **development** practices.

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<sup>1</sup> Words that are in 14-point **blue**, bold calibri font are defined terms in the Glossary of Terms in Appendix Q.

<sup>2</sup> The Soil and Groundwater Assessment Protocol was originally called the Site Contamination Protocol.

## 2. Purpose

The purpose of this Protocol is to ensure that:

- planning applications submitted for approval anywhere in the **Region** are screened to confirm that site contamination issues are appropriately addressed in accordance with O.Reg. 153/04;
- the protection of human health and the natural environment are kept to the highest standard through Regional and Area Municipal review of **development** approval processes under the *Planning Act*;
- an effective **development** review and approval process that balances the need for due diligence with process efficiencies are established;
- meaningful guidance to Regional and Area Municipal staff are provided when reviewing and commenting on planning applications, in relation to site contamination matters;
- industry stakeholders are made aware of the **Region's** requirements when submitting a **Site Screening Questionnaire** and/or **Environmental Site Assessment (ESA)** and related reports that support planning applications, which may be impacted by site contamination; and
- a framework for processing requests to use non-potable groundwater standards as set out by the Ministry of the Environment, Conservation and Parks (**MECP**) is provided for sites in the **Region**.

This Protocol must be read in its entirety to ensure that relevant sections are appropriately applied.

### 3. Administration

This Protocol applies to any **development** application submitted under the *Planning Act* within the **Region** regardless of the municipal approval authority. The Regional Planning and Economic Development Department is responsible for reviewing site contamination matters for various planning applications. Where planning decisions are not reviewed by the **Region** but are made by the **Area Municipality**, the **Region** and Regional Council expects that such decisions will also be consistent with this Protocol.

Area Municipal Chief Building Officials are also responsible for reviewing matters pertaining to brownfield redevelopment proposals where a **Record of Site Condition (RSC)** is required subject to applicable law under the *Building Code Act*, 1992.

Regional and Area Municipal staff will administer this Protocol to ensure the protection of human health and the natural environment through the development review and planning approval processes.

The attached Appendices form part of this Protocol.

## 4. Development Application Requirements

**Development** applications located within the **Region** made under the *Planning Act* are required to comply with this Protocol.

### 4.1 Lot Creation

Where the Applicant submits an application to divide land (e.g. subdivision, condominium, land division and/or part lot control), the **Region** may impose conditions requiring compliance with this Protocol. Regional clearance of conditions will only be granted once the Applicant satisfies the requirements of this Protocol.

### 4.2 Land Use Approvals

Where the Applicant submits a **development** application to amend an official plan and/or zoning by-law not involving the division of land, the **Region** may request that the **Area Municipality** include policies or requirements regarding the use of a Holding (H) provision on the property through a zoning by-law amendment. The (H) provision may be lifted upon the Applicant satisfying all Regional requirements, including the requirements of this Protocol.

### 4.3 Other Site-Specific Applications

All other site-specific planning applications, regardless of the authority approving the application (excluding Minor Variances), must be accompanied by either a completed “Regional **Site Screening Questionnaire**” (**SSQ**) as set out in **Appendix B** or **Environmental Site Assessment (ESA)** work as set out in **Section 5.2** and **Appendix E**.

### 4.4 Pre-Consultation

Where pre-consultation occurs prior to the submission of a planning application, depending on the nature of the **development** proposal, the **Region** at its sole discretion may provide the Applicant with the option to submit an **SSQ** or an **ESA**.

However, where an **SSQ** identifies the potential for site contamination and the need for further environmental investigation, this Protocol will require the Applicant to submit (at a minimum) a **Phase One ESA** with the planning application.

## 5. Documentation Requirements

The following documentation may be required to achieve compliance with this Protocol.

### 5.1 Site Screening Questionnaire (SSQ)

An **SSQ** is a screening tool that identifies the potential for previous contaminating activities on, or in proximity to, a subject property. **SSQs** are intended for **development** proposals which do not require significant analysis or the completion of an **ESA**. **SSQs** are completed by either the Owner or an Authorized Agent for most planning applications. **Appendix B** outlines the requirements for an **SSQ**. The **Region** decides whether **SSQs** need to be signed by a **Qualified Person (QP)** and affixed with their seal depending on the complexity of the proposal. A copy of the **SSQ** is provided in **Appendix C**

The **SSQ** provides a series of questions to determine whether a subject property or lands in proximity to it (at least within 250 metres) could be considered potentially contaminated (see **Appendix D** for a list of **Potentially Contaminating Activities**).

### 5.2 Environmental Site Assessments (ESA)

ESAs are environmental investigation reports prepared by a **QP** and are required when site contamination is suspected on, or in proximity to, a subject property.

All ESAs must include documentation indicating they have been prepared by a **QP** in accordance with O. Reg 153/04. Alternatively, if a QP cannot prepare an ESA report in accordance with O. Reg 153/04, the **Phase One ESA** must demonstrate how the investigation is consistent with O. Reg 153/04 and how the investigation and report deviates from the requirements of O.Reg 153/04. The **Region** will not consider due diligence ESAs that are prepared in accordance with the Canadian Standards Association (CSA Z768-01, CSAZ769-00) to be adequate to satisfy this Protocol.

A **Phase One ESA** is required where an **SSQ** identifies the potential for site contamination or where an **SSQ** is not provided.

#### 5.2.1 Phase One Environmental Site Assessment (ESA)

A **Phase One ESA** requires a **QP** to conduct background research (e.g. aerial/orthophotography, title searches, site visits, interviews, zoning reviews,

Environmental Risk Information Services etc.) to determine whether **Potentially Contaminating Activities (PCAs)** previously occurred and are currently located on the subject property or neighbouring properties.

Depending on factors such as current site conditions, topography, surface and groundwater flow etc., a **QP** will recommend whether any identified **PCAs** should be further investigated in soil, groundwater and/or sediments to identify **Areas of Potential Environmental Concern (APECs)** on the subject property.

*1. No APECs Identified*

If the **Phase One ESA** does not identify any **APECs** on the subject property, the QP must complete and submit a Regional **Reliance Letter** and **Certificate of Insurance** (see **Appendices F** and **G**).

*2. APECs Identified*

If at least one **APEC** is identified on the subject property, a **Phase Two ESA** is required.

### **5.2.2 Phase Two Environmental Site Assessment (ESA)**

A **Phase Two ESA** consists of a detailed site investigation arranged by a QP. Samples of soil, groundwater and/or sediment are analyzed and compared to the applicable **MECP Site Condition Standards (SCS)** – Tables 1 to 9. The test results would ultimately determine whether soil, groundwater and sediment exceedances (through horizontal and vertical delineation testing) exist on a site (see **Appendix E**).

*1. No Exceedances Identified in Phase Two ESA*

Where the **Phase Two ESA** does not identify any exceedances, it must also be accompanied by a Regional **Reliance Letter** and **Certificate of Insurance** completed by the Applicant's QP (see **Appendices F** and **G**). However, where the **Reliance Letter** and **Certificate of Insurance** are not submitted to the satisfaction of the **Region** with the application(s), the **Region** may require that a condition be imposed on the approval of an application (e.g. land division, subdivision and/or condominium) or may request that a (H) Holding Provision be included in a zoning by-law to ensure that the documents are completed to the **Region's** satisfaction prior to **development**.

## 2. Exceedances Identified in Phase Two ESA

If a **Phase Two ESA** identifies exceedances, the following four options are available to achieve conformity with the Protocol:

### a. Site Remediation – Option 1

Where the proposal involves site remediation and the site is not being developed for a more sensitive use, the **QP** will be required to prepare an updated **Phase Two ESA** report in accordance with O.Reg. 153/04. The updated report must demonstrate that the subject property has been remediated and tested to ensure that it does not contain any exceedances, and that it has met the applicable **MECP SCS**.

### b. Record of Site Condition (RSC) – Option 2

An **RSC** is mandatory under the *Environmental Protection Act*, when a **development** proposes a **Prescribed Change in Use**.

Depending on the circumstance (see **Appendix H**), if a **QP** submits an RSC to be filed on the Environmental Site Registry, prior to Regional sign-off on a **development** application, the **QP** will only be required to provide the **Region** with the following:

- **MECP's** acknowledgement letter, noting that the **RSC** was filed on the Environmental Site Registry; and
- any associated new or updated documents that were revised and requested by **MECP**.

Where significant soil removal is proposed in support of a complex **development** application (e.g. where below-grade parking or significant below-grade infrastructure and excavation/removals is proposed), the **Region's** requirement for an **RSC** may be deferred until prior to the issuance of a building permit for any above-ground construction work, subject to a condition that Area Municipal staff (e.g. Planning and Building), the Applicant and the Applicant's **QP** provide implementation strategy for soil removal in consultation with the **Region's** Planning Division, for inclusion within an appropriate Area Municipal **development** agreement.

Once the **Region** receives the **RSC**, Regional clearances may be granted and Area Municipal building permits may be issued for above-ground work.

If the **MECP's** acknowledgement letter for the **RSC** was issued more than 18 months prior to the date of submission of the planning application, the **Region** will require the **QP** to prepare an updated letter identifying the property's current condition, and provide a recommendation whether any further environmental site investigation should be required.

c. Risk Assessment – Option 3

If the Applicant and their **QP** determines that it is unreasonable to remediate the subject property due to significant contamination to **MECP** SCS Standards, a **Risk Assessment (RA)** must be prepared and submitted to **MECP** for review and acceptance.

**MECP** may also require a **Certificate of Property Use (CPU)** in accordance with the *Environmental Protection Act* and O.Reg. 153/04 to ensure risk management mitigation measures detailed in the RA are complied with, and are registered on title. **RAs** typically include an **RSC**, but may include a Risk Management Plan and a Public Communication Plan.

Should the Applicant pursue an **RA**, the **Region** and its **Area Municipalities** must receive confirmation that **MECP** has processed a [Risk Assessment Pre-Submission form](#).

Similar to Option 2 above (**RSC**), the **Region's** acknowledgement of receipt of an RA may be deferred until prior to the issuance of a building permit for above-ground construction work subject to the same conditions. Additional information on the **Region's** RA process is provided within **Appendix H**.

Once the **MECP** approves the **CPU**, it would issue its notice of a **CPU** to the Regional and Area Municipal Clerks. Once processed, the **MECP** will require the Owner to incorporate property-specific risk management conditions/measurements on-title for the subject property.

d. Peer Review – Option 4

Where minor exceedances have been identified on the subject property through the **SSQ** or **Phase One ESA**, the **Region** may undertake a **peer review** as an alternative to site remediation.

The **Region** has established a roster of consultants to provide **peer review** services qualified to review **ESAs** under O.Reg. 153/04.

The **Peer Review Consultant** may request supplementary supporting information to assist in their review of **ESA** reports in order to determine the appropriateness of the Applicant's **QP's** recommendations.

Provided that the proposal does not propose a **Prescribed Change in Use**, the **Region** may consider a **peer review** option to review **ESAs** and any supplementary information at the owner's expense under the following circumstances:

- if the Applicant's **QP** determines that minor soil, groundwater and sediment exceedances on a property pose little or no risk to human health and the environment; or
- if Area Municipal staff disputes the **QP's** findings and the recommendations of an **SSQ** or any **ESA** work.

Upon successful completion of a **peer review** and the receipt of the **QP's** completed Regional **Reliance Letter** and a **Certificate of Insurance**, the **Region** may waive the RSC requirement.

For matters relating to a Regional Interest, **Area Municipalities** may circulate **ESA** materials to the **Region** for **peer review**. **Area Municipalities** also have the option to undertake their own **peer review** process using a suitably qualified environmental consulting firm, provided that matters surrounding human health and the natural environment are not compromised. Additional information on the **Region's Peer Review Consultants** Roster and related procedures are provided in **Appendix J**.

### Summary of Phase Two ESA Scenario Options

Development Scenario	No Exceedances (as determined by <b>Phase Two ESA</b> )	Exceedances (as determined by <b>Phase Two ESA</b> )
<b>Development</b> does not propose a <b>Prescribed Change in Property Use</b>	<b>Option 1</b> <ul style="list-style-type: none"> <li>No further investigation required</li> <li>Application may proceed</li> </ul>	<b>Option 4</b> <ul style="list-style-type: none"> <li><b>RSC</b> Required, but if exceedance is minor the applicant may request a <b>peer review</b> process at the owner's sole expense</li> </ul>
<b>Development</b> proposes a <b>Prescribed Change in Property Use</b>	<b>Option 2</b> <ul style="list-style-type: none"> <li><b>RSC</b> Required pursuant to O. Reg 153/04</li> </ul>	<b>Option 3</b> <ul style="list-style-type: none"> <li>O.Reg. 153/04 applies</li> <li>Remediation and <b>RSC</b> are mandatory</li> </ul>

#### 5.2.3 Non-Potable Requests

If a **development** is within the **Region's** serviced urban area, a **QP** may request to use non-potable groundwater **MECP Site Condition Standards (SCS)**, where water is provided from a municipal drinking water supply. The **Region** may approve the use of **MECP's** Tables 3, 7 and 9 groundwater SCS for a site, subject to the process and criteria outlined in **Appendix L** of this Protocol on a case-by-case basis. Additional information on non-potable requests are provided in **Appendix K**.

This Protocol requires QP's to submit non-potable requests to the Clerk of the **Region** and the **Area Municipality**. This request must be filed with the applicable supporting environmental documents and fees.

##### 1. *Regional Acceptance to use Non-Potable Site Condition Standards*

Where the Applicant meets the **Region's** non-potable request criteria (as identified under **Appendix L**), the **Region** may agree to use a non-portable standard and issue a non-objection letter. This letter would also be provided to **MECP** along with the supporting environmental reports and materials if the **development** proposal requires an **RSC** or an **RA**.

## 2. Regional Objection to the Non-Potable Site Condition Standards

Where a proposed **development** proposal cannot meet the **Region's** criteria for a non-potable request, the **Region** will issue a letter objecting to the request and will require the Applicant to use the potable groundwater **MECP SCS**.

### 5.3 Enhanced Investigation Properties (EIPs)

This Protocol assesses the appropriateness of evaluating **developments** impacted by **EIPs** as defined under O.Reg. 153/04. **EIP** uses consist of: **industrial** uses and the following **commercial** uses:

- a **garage** (i.e. an automotive repair facility);
- a **bulk liquid dispensing facility**; (including **gasoline outlets**); or
- a **dry-cleaning equipment operation**.

Following the submission of a **Phase One** and **Two ESA**, **EIP development** proposals are evaluated under two scenarios:

#### 5.3.1 Scenario 1: Major Development Proposals and EIPs

A **development** proposal may be considered a **Major Development Proposal** where site contamination exists, or where significant site alteration is required. Depending on the levels of contamination, the Applicant or their QP may apply to use Options 2, 3 or 4 as described in **Section 5.2.2.2** of this Protocol in addition to the criteria provided in **Appendix M**.

#### 5.3.2 Scenario 2: Minor Development Proposals and EIPs

**Minor Development Proposals** are proposals where the **EIP development** proposes minor or no site alteration (e.g. small accessory buildings, **development** within an existing building etc.). Under these circumstances, the requirement for an **ESA** associated with an **EIP** (in whole or in part) maybe waived at the **Region's** discretion on a case-by-case basis, provided that the Applicant can provide information to the satisfaction of the **Region** to demonstrate how the proposed **development** is considered minor.

### 5.3.3 Prescribed Change of Use Properties Previously Identified as an EIP

A property in whole or in part that was previously used as an **EIP** and an **RSC** was accepted/filed by the **MECP** on its Environmental Site Registry for sensitive property use (e.g. **residential, institutional, parkland** etc.) is no longer considered an EIP.

See **Appendix M** for more information on **EIP's**.

### 5.4 Multiple Consulting Firms Conducting Various ESA Work

This Protocol does not regulate an Applicant's ability to select an environmental consulting firm. Should an Applicant select multiple consulting firms to conduct ESA work for the same site (e.g. one firm prepares a **Phase One ESA**, whereas the other firm prepares a **Phase Two ESA**), the following is required:

1. That each environmental consulting firm involved in any environmental work on the subject property complete and submit a **Reliance Letter** and **Certificate of Insurance** in accordance with this Protocol; or
2. That the Applicant's preferred environmental consulting firm prepares and submits all supporting environmental work along with the associated **Reliance Letter** and **Certificate of Insurance** in accordance with this Protocol.

### 5.5 Regional Land Acquisition

All **development** applications that result in the transfer of land to the **Region** (e.g. **road** widenings, infrastructure improvements etc.) must ensure that the lands proposed to be conveyed to the **Region** are remediated or kept to a condition satisfactory for the **Region's** purposes. This may require demonstrated compliance in accordance with one of the following options on a case-by-case basis identified below:

1. That the acquired lands be transferred in a satisfactory state as determined by the **Region**; or
2. That the acquired lands are remediated to the applicable **MECP SCS**, which may require the following:

- a **QP** submitting an **RSC** to be filed on the Environmental Site Registry and that a receipt of the **MECP's RSC** in accordance with **Section 5.2.2.2 (b)** of this Protocol; or
- an Owner entering into an Indemnity Agreement with the **Region** (subject to Regional Council approval).

See **Appendix E** for more information on the Regional **ESA** process.

## **5.6 Miscellaneous Inquiries**

All other inquiries relating to potential site contamination that are not specifically described within this Protocol will be reviewed by Regional staff on a case-by-case basis, in keeping with the intent of this Protocol and in accordance with O.Reg. 153/04.

# Appendices

# Appendix A:

## Category of Sensitive Property Uses

### Category of Sensitive Property Uses

The *Environmental Protection Act* prohibits prescribed changes in property use subject to an **RSC** being filed on the Environmental Site Registry for the property, which includes the proposed property use (**Prescribed Change in Property Use**). Generally, an **RSC** is required where an Applicant proposes to change the property use to a more sensitive use. Where a property consists of **mixed-uses** between two or more different categories, the most sensitive **Site Condition Standards (SCS)** applies. Applicants should refer to the *Environmental Protection Act* and O.Reg. 153/04 for a complete list of the **Prescribed Changes in Property Use** that require an **RSC** under the *Act*.

In accordance with Section 3 of O.Reg. 153/04, the following categories illustrate property uses from least to most sensitive.

Categories of Property Uses		
Least Sensitive		Most Sensitive
Category 1	Category 2	Category 3
Industrial	Residential	Agricultural
Commercial	Parkland	Other
Community	Institutional	-

## Appendix B:

### Site Screening Questionnaire Requirements

Prior to the submission of a **development** application, the Applicant must assess the property's sub-surface conditions to determine if it is potentially contaminated. This initial assessment will be undertaken as set out below.

All site-specific planning applications regardless of the approval authority that requires Regional concurrence, must complete (at a minimum) an **SSQ** form.

The following provides the **Region's SSQ** requirements for **development** proposals requiring a planning application(s):

#### Planning Applications that Require Owner/Agent Signature

- Minor Official Plan Amendments that propose limited **physical development** and/or not requiring a **Record of Site Condition (RSC)** under O.Reg. 153/04, including the following;
  - Temporary sales trailers;
  - Uses within an existing **residential** building or accessory buildings (e.g. secondary dwelling units; duplexes; triplexes; rental housing conversions; and home-based businesses etc.) not proposing a **Prescribed Change in Property Use**;
  - Proposals within existing **industrial**, **commercial** and/or **community** buildings not proposing a prescribed change of use, which only recommends broadening the range of permitted uses on a property;
- Minor Zoning By-law Amendments that propose limited **physical development** (as noted above) and not requiring an **RSC** under O.Reg. 153/04;
- Consent/Land Division:
  - Easements (for more than 21 years);
  - Leases;
  - Mortgages;
  - Title corrections;
  - Re-establishment of lot lines that have inadvertently merged;
  - Minor lot line adjustments (to the **Region's** discretion), affecting both the severed and retained parcels;
- Site Plan Review (where approved **SSQ/ESA** reports were completed within 18 months of a complete application being received); and

- Part Lot Control Exemption (where approved **SSQ/ESA** reports were completed within 18 months of a complete application being received).

### **Planning Applications that Require Both Owner/Agent and QP Signatures**

- Major Official Plan Amendments (not going to a **Prescribed Change in Property Use** and requires **physical development**);
- Major Zoning By-law Amendments (not going to a **Prescribed Change in Property Use** and requires **physical development**);
- Draft Plans of Subdivision;
- Draft Plans of Condominium;
- Consent – both severed and retained parcels for:
  - New lot creation;
  - Major lot line adjustments (to the **Region's** discretion); and
- Any other **development** application at the **Region's** discretion not listed above, such as, but not limited to the following: Minister's Zoning Orders; Environmental Compliance Approvals; Class Environmental Assessments; or comments on a **development** proposal requested by any other external agency.

If the Applicant or the **QP** answers “Yes” to any question on the **SSQ**, a **Phase One ESA** will be required.

### **Environmental Site Assessment Exemptions for Consent Applications**

Where an Owner/Agent answers “Yes” on the **SSQ**, on Consent applications for the sole purpose of an easement, lease, mortgage or title correction the requirement for additional environmental work may be waived, provided that the following can be demonstrated to the satisfaction of the **Region**:

- Conformity to the current area municipal zoning by-law; and
- The **development** does not pose any **physical development**.

### **Minor Variance Applications**

If an Applicant submits a minor variance application, the **Region** encourages its **Area Municipalities** to use the **SSQ** form provided in **Appendix C**. However, **Area Municipalities** in consultation with the **Region**, may develop their own form for minor variance applications.

Where a minor variance application proposes a **prescribed change in property use** in accordance with O.Reg. 153/04, an **RSC** is mandatory.

# **Appendix C:**

## **Site Screening Questionnaire (SSQ) Form**



Regional Municipality of Durham  
Planning and Economic Development Department  
605 Rossland Road East  
Whitby, ON L1N 6A3  
Telephone: 905.668.7711  
Toll Free: 1.800.372.1102  
[www.durham.ca](http://www.durham.ca)

## Site Screening Questionnaire for Identifying Potentially Contaminated Development Sites in the Regional Municipality of Durham.

This form must be completed for all planning applications unless two original copies and a digital copy of the applicable Environmental Site Assessment (ESA) work prepared in accordance with Ontario Regulation (O.Reg.) 153/04, as amended, is submitted to the approval authority in support of this development proposal. If you have any questions about this questionnaire, please contact the Regional Municipality of Durham as identified above.

Landowner Name: \_\_\_\_\_

Mailing Address (Street No. and Name): \_\_\_\_\_

Location of Subject Lands (Municipal Address): \_\_\_\_\_

Lot(s): \_\_\_\_\_ Concession(s): \_\_\_\_\_ Registered Plan #: \_\_\_\_\_

Former Township: \_\_\_\_\_ Municipality: \_\_\_\_\_

Related Planning Application(s) and File Number(s) \_\_\_\_\_

1. What is the current use of the property? Check the appropriate use(s):

Category 1:      ☐ Industrial      ☐ Commercial      ☐ Community

Category 2:      ☐ Residential      ☐ Institutional      ☐ Parkland

Category 3:      ☐ Agricultural      ☐ Other

Note: daycare facilities and a property that contains a religious building(s) are considered institutional uses. See Ontario Regulation 153/04, as amended, for definitions.

2. Does this development proposal require a change in property use that is prescribed under the *Environmental Protection Act* and O.Reg. 153/04 (e.g. a change to a more sensitive use from Category 1 to Category 2 or 3 as identified under Question 1)?
- ☐ Yes                      ☐ No
3. Has the property or any adjacent lands ever been used as an Enhanced Investigation Property (e.g. industrial uses; chemical warehousing; automotive repair garage; bulk liquid dispensing facility, including a gasoline outlet and/or a dry-cleaning equipment)?
- ☐ Yes                      ☐ No
4. Has fill ever been placed on the property?
- ☐ Yes                      ☐ No
5. Is the property or any adjacent lands identified as a wellhead protection zone (to confirm, please check the Ministry of the Environment, Conservation and Parks' [Source Protection Information Atlas](#))?
- ☐ Yes                      ☐ No
6. Is the property within 250 metres from an active or decommissioned landfill/dump, waste transfer station or Polychlorinated Biphenyl (PCB) storage site?
- ☐ Yes                      ☐ No
7. Has the property ever stored/generated/accepted hazardous materials requiring Hazardous Waste Information Network (HWIN) registration or other permits?
- ☐ Yes                      ☐ No
8. Does the subject lands or lands abutting it previously or currently support one or more of the Potentially Contaminating Activities identified in Table 2 of Schedule D of O.Reg 153/04, as amended (see attachment)?
- ☐ Yes                      ☐ No

If Yes was selected in any of the questions above, a Phase One ESA (and possibly a Phase Two) at a minimum prepared in accordance with O.Reg. 153/04, is required. Please submit two hard copies and a digital copy of the Phase One and/or a Phase Two ESA with satisfies the requirements of O.Reg 153/04, as amended. ESA's maybe waived at the Region's discretion provided that the Applicant/Qualified Person (QP) can satisfactorily demonstrate that the response(s) does not pose a risk to human health and the environment.

The Region must be granted third party reliance on all ESA work through the completion of its Reliance Letter and Certificate of Insurance. Regional third-party reliance is not required if the Ministry of the Environment, Conservation and Parks (MECP) approves a Record of Site Condition and/or gives notice of a Certificate of Property Use where applicable.

\* In accordance with Appendix M, the Region may scope the Environmental Site Assessment requirements for minor development proposals on Enhanced Investigation Properties (e.g. accessory structures) or determine if additional environmental work is required.

**Declarations:**

A Qualified Person sign-off may not be required for all planning applications. Exemptions include, but are not limited to: land division applications for leases; mortgages; title corrections; re-establishment of lot lines (where title inadvertently merged) or minor lot line adjustments. For a full list of QP exemptions, please see Appendix B of the Regional Municipality of Durham's Soil and Groundwater Assessment Protocol.

To the best of my knowledge, the information provided in this questionnaire is true, and I do not have any reason to believe that the subject property contains contaminants at a level that would interfere with the proposed property use. I am a Qualified Person in accordance with Ontario Regulation 153/04 and carry the required liability insurance in accordance with Appendix F of the Regional Municipality of Durham's Soil and Groundwater Assessment Protocol.

**Qualified Person:**

Name (Please Print) \_\_\_\_\_

Signature: \_\_\_\_\_

Name of Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Date: \_\_\_\_\_

**Professional Seal:**

**Property Owner, or Authorized Officer:**

Name (Please Print) \_\_\_\_\_

Signature: \_\_\_\_\_

Name of Company (if Applicable): \_\_\_\_\_

Title of Authorized Officer: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Date: \_\_\_\_\_

Regional File Number: \_\_\_\_\_

Area Municipal File Number: \_\_\_\_\_

## **Appendix D:**

### **List of Potentially Contaminating Activities**

**Table 2 – Ontario Regulation 153/04**

**Records of Site Condition – Part XV.1 of the *Environmental Protection Act***

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

<b>Item</b>	<b>Potentially Contaminated Activity (PCAs)</b>
1.	Acid and Alkali Manufacturing, Processing and Bulk Storage
2.	Adhesives and Resins Manufacturing, Processing and Bulk Storage
3.	Airstrips and Hangars Operation
4.	Antifreeze and De-icing Manufacturing and Bulk Storage
5.	Asphalt and Bitumen Manufacturing
6.	Battery Manufacturing, Recycling and Bulk Storage
7.	Boat Manufacturing
8.	Chemical Manufacturing, Processing and Bulk Storage
9.	Coal Gasification
10.	Commercial Autobody Shops
11.	Commercial Trucking and Container Terminals
12.	Concrete, Cement and Lime Manufacturing
13.	Cosmetics Manufacturing, Processing and Bulk Storage
14.	Crude Oil Refining, Processing and Bulk Storage
15.	Discharge of Brine related to oil and gas production
16.	Drum and Barrel and Tank Reconditioning and Recycling
17.	Dye Manufacturing, Processing and Bulk Storage
18.	Electricity Generation, Transformation and Power Stations
19.	Electronic and Computer Equipment Manufacturing
20.	Explosives and Ammunition Manufacturing, Production and Bulk Storage

<b>Item</b>	<b>Potentially Contaminated Activity (PCAs)</b>
21.	Explosives and Firing Range
22.	Fertilizer Manufacturing, Processing and Bulk Storage
23.	Fire Retardant Manufacturing, Processing and Bulk Storage
24.	Fire Training
25.	Flocculants Manufacturing, Processing and Bulk Storage
26.	Foam and Expanded Foam Manufacturing and Processing
27.	Garages and Maintenance and Repair of Railcars, Marine Vehicles and Aviation Vehicles
28.	Gasoline and Associated Products Storage in Fixed Tanks
29.	Glass Manufacturing
30.	Importation of Fill Material of Unknown Quality
31.	Ink Manufacturing, Processing and Bulk Storage
32.	Iron and Steel Manufacturing and Processing
33.	Metal Treatment, Coating, Plating and Finishing
34.	Metal Fabrication
35.	Mining, Smelting and Refining; Ore Processing; Tailings Storage
36.	Oil Production
37.	Operation of Dry-Cleaning Equipment (where chemicals are used)
38.	Ordnance Use
39.	Paints Manufacturing, Processing and Bulk Storage
40.	Pesticides (including Herbicides, Fungicides and Anti-Fouling Agents) Manufacturing, Processing, Bulk Storage and Large-Scale Applications
41.	Petroleum-derived Gas Refining, Manufacturing, Processing and Bulk Storage
42.	Pharmaceutical Manufacturing and Processing
43.	Plastics (including Fibreglass) Manufacturing and Processing
44.	Port Activities, including Operation and Maintenance of Wharves and Docks
45.	Pulp, Paper and Paperboard Manufacturing and Processing

<b>Item</b>	<b>Potentially Contaminated Activity (PCAs)</b>
46.	Rail Yards, Tracks and Spurs
47.	Rubber Manufacturing and Processing
48.	Salt Manufacturing, Processing and Bulk Storage
49.	Salvage Yard, including automobile wrecking
50.	Soap and Detergent Manufacturing, Processing and Bulk Storage
51.	Solvent Manufacturing, Processing and Bulk Storage
52.	Storage, Maintenance, Fueling and Repair of Equipment, Vehicles, and Material used to Maintain Transportation Systems.
53.	Tannery
54.	Textile Manufacturing and Processing
55.	Transformer Manufacturing, Processing and Use
56.	Treatment of Sewage equal to or greater than 10,000 litres per day
57.	Vehicles and Associated Parts Manufacturing
58.	Waste Disposal and Waste Management, including thermal treatment, landfilling and transfer of waste, other than use of biosoils as soil conditioners
59.	Wood Treating and Preservative Facility and Bulk Storage of Treated and Preserved Wood Products*

The above-noted PCAs may change from time-to-time. Please refer to O.Reg.153/04 for the official list of PCAs.

# Appendix E:

## Detailed Environmental Site Assessment Processes

### Phase One Environmental Site Assessment (ESA) Report

A **Phase One Environmental Site Assessment (Phase One ESA)** involves the study of a property by a **Qualified Person (QP)**, a person defined by O.Reg. 153/04, to determine the likelihood that one or more soil, groundwater and/or sediment contaminants are present in or on a subject property. A **Phase One ESA** typically consists of records review, interviews and site visits/reconnaissance.

If a **QP** concludes that there are no **Potentially Contaminating Activities (PCA)** on or within 250 metres of the subject property, the **QP** will be required to complete and submit a Regional **Reliance Letter** and **Certificate of Insurance** (see **Appendices F and G**). Once received, no further site investigation will be required.

If a **QP** concludes that one or more PCAs on or within 250 metres of the subject property is considered an **Area of Potential Environmental Concern (APEC)** as described under the Terminology section of this Protocol in **Appendix Q**, a **Phase Two ESA** and the associated criteria identified under Section 5.2.2 of this Protocol will be required.

### Phase Two Environmental Site Assessment (ESA) Report

A **Phase Two ESA** involves the study of a property by a **QP** to determine the location and concentration of one or more contaminants in the soil and/or groundwater of a subject property. This is typically done through soil and/or groundwater testing in areas where **APECs** are identified on a subject property. Soil and/or groundwater samples are analyzed to determine whether the concentration of one or more contaminants exceed the applicable **MECP Site Condition Standards**.

Where a **Prescribed Change in Property Use** is proposed for a site, an RSC is mandatory pursuant to the *Environmental Protection Act* and O.Reg. 153/04. Under these circumstances, a **Phase Two ESA** may be submitted to the **Region** in support of any planning application.

Where a **Prescribed Change in Property Use** is not proposed at a site, the **Region** will require a **Phase Two ESA** where the Phase One ESA identifies one or more **APECs** on a subject property. Examples of various **APECs** are:

- A potential for site contamination that may be present because of current or historical uses and activities on the site;
- Exportation and importation of soil/fill moved to the subject property from an off-site location;
- An **Enhanced Investigation Property (EIP)**; and
- A **Potentially Contaminating Activity (PCA)** as set out in Table 2 of Schedule D of O.Reg. 153/04, as amended (**Appendix C**), is located on or within 250 metres of a subject property.

## Phase Two ESA Exemptions

Where a QP concludes that the **Phase One ESA** for a subject property does not identify the potential for site contamination or a prescribed change of use is not proposed, a **Phase Two ESA** requirement will be waived and the planning application may proceed toward approval, subject to all other requirements of the approval authority being met.

In addition, where a planning application does not propose a prescribed change of use and where **physical development** is not proposed, a **Phase Two ESA** requirement may be waived for a subject property based on its current site conditions, but not limited to: topography; the direction of surface and/or groundwater flow; and the completion of previous environmental work.

A **Phase Two ESA** will also not be required where an RSC was previously filed on the Environmental Site Registry on or after July 1, 2011 and a Phase One ESA Update Report or Update Letter confirms that the environmental conditions on the subject property have not changed the filing of the RSC on the Environmental Site Registry.

RSCs filed on the Environmental Site Registry before July 1, 2011 are no longer acceptable by the **Region** for the purposes of this Protocol. The July 1, 2011 date represents the date the **MECP** changed the **MECP Site Condition Standards (SCS)**.

Under these circumstances, **Updated ESA Documents** must be submitted to confirm that the site meets the current **MECP SCS** unless the **Updated ESA Documents** concludes that a **Phase Two ESA** is not required.

## Reliance Letters and Certificate of Insurance Forms

**Phase One** and **Phase Two ESA's** (including all supporting/updated documentation) must be accompanied by a **QP** signed and sealed Regional **Reliance Letter** (see **Appendix D**) granting third-party reliance on the report(s), and a completed Regional **Certificate of**

**Insurance** (see **Appendix G**). If the **QP** is unable to grant the **Region** third-party reliance on the **QP's ESA** work, the **Region** may require the Applicant to file an **RSC**. **QPs** are also required to carry liability insurance with a minimum indemnity limit of \$2 million per claim and \$4 million in aggregate.

The **Region** encourages these forms to be completed in their entirety through the submission of a planning application(s). However, these forms may be submitted prior to final approval provided that conditional approval can be granted through the application process.

**QPs** are not required to submit **Reliance Letter** or **Certificate of Insurance** forms to the **Region** when the **QP** confirms they are submitting the same ESA reports to **MECP**, or its successor as part of an **RSC** or **RA** approval process.

## **Environmental Site Assessment Reporting Requirements**

All **Environmental Site Assessment (ESA)** documents must:

- Be prepared by a **Qualified Person (QP)** in accordance with the *Environmental Protection Act* (EPA) and O.Reg. 153/04;
- Satisfy the regulatory requirements of O.Reg. 153/04, as amended; and
- Be based on current work (e.g. the date of the report must be completed within 18 months from when a planning application is deemed complete by the **Region** or the **Area Municipality**, where appropriate).

If an ESA document exceeds 18 months, the **Region** will require the **QP** to submit updated material or **Updated ESA Documents** (Phase One/Two) which validates that no significant changes to the site or its soil/groundwater/sediment conditions have occurred following the completion of the original **ESA** work.

The **Region** will not consider due diligence site assessments that are prepared in accordance with the Canadian Standards Association (CSA) requirements.

## **Appendix F:**

### **Regional Municipality of Durham Reliance Letter**



Reliance Letter  
Regional Municipality of Durham  
Planning and Economic Development Department  
605 Rossland Road East  
Whitby, ON L1N 6A3  
Telephone: 905.668.7711  
Toll Free: 1.800.372.1102  
[www.durham.ca](http://www.durham.ca)

**Reliance Letter (to be presented on Company ABC's letterhead)**

At the request of Property Owner or Developer's Name and for other good and valuable consideration, ABC Engineering Ltd. represents and warrants to the Regional Municipality of Durham ("Region") that the reports and work are completed in accordance with Ontario Regulation 153/04 (O.Reg.153/04), unless stated otherwise in the documents, for the purposes of filing a Record of Site Condition in accordance with O.Reg. 153/04 and was completed by or under the supervision of a Qualified Person within the meaning of the *Environmental Protection Act* and O.Reg. 153/04, as amended from time to time.

[ABC Engineering Ltd.] agrees that the Region and its Peer Review Consultants may rely upon the reports listed herein referenced by the Region as [File No. xxx], including the representations, assumptions, findings, and recommendations contained in the reports:

Phase I ESA, date, report type, author (QP), company (mandatory)

Phase II ESA, date, report type, author (QP), company (mandatory)

Other Environmental Site Assessment Documentation, RSC, PSF, RA, CPU (if applicable)

[ABC Engineering Ltd.] further agrees that that in the case of any inconsistency between this Reliance Letter and any limitations set out in the aforementioned reports, this letter shall take priority.

[ABC Engineering Ltd.] understands and agrees that it is appropriate to extend reliance to the Region in relation to the reports listed herein so as to assist the Region in its assessment of the environmental suitability of the site and/or request to use non-potable groundwater standards.

[ABC Engineering Ltd.] further agrees that it will promptly notify the Region upon receipt of notice by the Ministry of the Environment, Conservation and Parks that the Ministry intends to audit any report listed herein and if so, to provide the Region with written confirmation of the results of the audit (Only applicable if filing the report as part of RSC or RA).

[ABC Engineering Ltd.] represents and warrants that it complies with all applicable insurance provisions contained within O.Reg. 153/04, as amended.

[ABC Engineering Ltd.] shall provide the Region with proof of insurance and maintain a minimum Professional Liability insurance coverage of \$2,000,000 per claim and \$4,000,000 aggregate.

[ABC Engineering Ltd.] agrees that its liability to the Region shall not be limited to an amount less than the Region's minimum insurance requirements set out immediately above.

[ABC Engineering Ltd.] agrees that it shall be responsible to indemnify and save the Region harmless from any and all claims, demands, causes of action, costs, including defending against any legal proceedings or other damages howsoever arising from the Region's direct or indirect reliance upon the representations, findings, assumptions and conclusions contained in the reports prepared by [ABC Engineering Ltd.] listed herein save and except any damages, claims, demands, actions or causes or action arising out of or as a result of the negligent actions of the Region, its agents or employees.

**Signed and Sealed by Qualified Person:**

\_\_\_\_\_ Date: \_\_\_\_\_

**Signed by person authorized to bind Consulting Firm:**

\_\_\_\_\_ Date: \_\_\_\_\_

**Signed by Property Owner or Authorized Officer:** \_\_\_\_\_

Name (please print): \_\_\_\_\_

Name of Company (if applicable): \_\_\_\_\_

Title of Authorized Officer: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax/Email: \_\_\_\_\_

Date: \_\_\_\_\_

Note: Edits to this document are only permitted in areas underlined and marked in italics  
e.g. [ABC Engineering Ltd.]

## **Appendix G:**

### **Regional Municipality of Durham Certificate of Insurance**



**The Regional Municipality of  
Durham**  
**Finance – Insurance and Risk  
Management**

**Certificate of Insurance**

**Proof of liability insurance will be  
accepted on this form only.**

**This form must be completed and signed  
by your agent, broker or insurer.**

**All insurers shown must be licensed to  
operate in Canada**

**This is to certify that the Named Insured hereon is insured as described below**

Named Insured:

Address of the Named Insured

Location and operations of the Named Insured for which Certificate is issued: All  
operations performed for the Region of Durham

<b>Insuring company</b>	<b>Policy numbers</b>	<b>Limit of coverage</b>	<b>Effective date</b>	<b>Expiry date</b>
	Commercial General Liability	Per Claim / Annual Aggregate  Deductible, if any	D/M/Y	D/M/Y
	Excess Liability (if applicable)	Per Claim / Annual Aggregate	D/M/Y	D/M/Y

Provisions of Amendments or Endorsements of Listed Policy(ies)

**Professional Liability – Claims Made Basis – ☐Yes ☐No**

<b>Insuring company</b>	<b>Policy numbers</b>	<b>Limit of coverage</b>	<b>Effective date</b>	<b>Expiry date</b>
	Professional Liability	Per Claim / Annual Aggregate	D/M/Y	D/M/Y

Insuring company	Policy numbers	Limit of coverage	Effective date	Expiry date
		Deductible, if any		
	Excess Professional Liability (if applicable)	Per Claim / Annual Aggregate	D/M/Y	D/M/Y

Is the limit inclusive of indemnity and claims expenses - ☐Yes ☐No

If the policy is on a claims made basis have there been any claims notices given for this policy term – ☐Yes ☐No

Commercial General Liability is issued on an 'occurrence' basis form and is extended to include Personal Injury Liability, Contractual Liability, Non-Owned Automobile Liability, Owner's and Contractor's Protective Coverage, Products/Completed Operations, Contingent Employer's Liability, Cross Liability Clause and Severability of Interest Clause.

With respect to Commercial General Liability Insurance, The Regional Municipality of Durham is added as an Additional Insured but only with respect to its liability arising out of the operations of the Named Insured.

The policy(ies) identified above shall apply as primary insurance and not excess to any other insurance available to The Regional Municipality of Durham.

If cancelled or changed so as to reduce the coverage as outlined on this certificate, during the period of coverage as stated herein, thirty (30) days, prior written notice by registered mail will be given by the Insurer(s) to: The Regional Municipality of Durham, Attention: Insurance and Risk Management, Finance Department, 605 Rossland Road East, Whitby, ON, L1N 6A3

I certify that the insurance is in effect as stated in this certificate and that I have authorization to issue this certificate for and on behalf of the insurer(s).

Date

\_\_\_\_\_

Name, Address, Fax and  
Telephone Number of  
Certifying Party

\_\_\_\_\_

\_\_\_\_\_

Signature of Authorized  
Representative or Official

Print Name of above  
Authorized Representative  
or Official

\_\_\_\_\_

## Appendix H:

### Detailed Record of Site Condition Process

#### Records of Site Condition (RSC)

Under Part XV.1 of the *Environmental Protection Act* (EPA), **RSCs** are submitted by a **QP** to the Ministry of the Environment, Conservation and Parks (**MECP**). The RSC provides a “snapshot” in time summary of the environmental condition for the subject property.

**RSCs** are filed on the **MECP’s** Environmental Site Registry. Documents submitted in support of an **RSC** filing may include ESA reports, remediation reports, **Risk Assessment** reports, reports prepared in response to a **MECP** order or a **MECP** request and any other reports relating to the presence of a contaminant on, in or under the property.

In cases where an **RSC** is required by the *Environmental Protection Act*, or this Protocol, a copy of the **RSC** and supporting documentation, including the **MECP’s** acknowledgement letter, updated reports and any audit and review correspondence including orders or **Certificates of Property Use (CPU)** issued by **MECP** must be submitted to the **Region** and the **Area Municipality** before Regional final clearance of conditions or approval can be provided. To determine whether the **MECP** has previously accepted/filed an **RSC**, please see the following links:

- for **RSC’s** filed [between October 1, 2004 and June 30, 2011](#); and
- for **RSC’s** filed [since July 1, 2011](#).

Notwithstanding the foregoing, in some cases the requirements associated with the filing of an **RSC** and the municipality’s receipt of the **RSC** for a subject property may vary and may be secured through the following:

- through official plan policy which directs the submission of the required documentation through a subsequent planning approval such as a zoning by-law amendment (rezoning), a subdivision or site plan application;
- as a condition imposed through a rezoning application which precludes the removal/lifting of a Holding (H) Zone provision;
- as a condition of approval to be fulfilled prior to final approval of a related application (e.g. subdivision, condominium, consent);

- on a case-by-case basis in consultation with the **Area Municipality**, the Applicant and the Applicant's **QP** which coordinates a strategy to the **Region's** satisfaction through an appropriate subsequent planning application process prior to any building permit approvals for aboveground construction; and
- as a requirement of applicable law under the *Building Code Act*, 1992, as amended prior to the issuance of a building permit (where there are no approvals required under the *Planning Act*, excluding Minor Variances).

Where an **RSC** may not be achievable, or there may be other measures that could be applied to address specific environmental issues, the Applicant's **QP** must contact the York-Durham District **MECP** office to discuss available options.

### **Detailed Site Assessment**

The following **development** scenarios are intended to assist the Applicant and their **QP** to determine whether an **RSC** is required in accordance with this Protocol. See **Appendix I** for a chart which details each scenario.

#### **Scenario A – Development does not Propose a Prescribed Change in Property Use and No Exceedances**

For **developments** not proposing a **Prescribed Change in Property Use**, an **RSC** is not required where the **Site Screening Questionnaire (SSQ)** or **Phase One ESA** does not reveal any exceedances or where the **Phase Two ESA** reveals that the sub-surface conditions are within the applicable **MECP Site Condition Standards (SCS)**. Under these circumstances, the Applicant will not be required to conduct further environmental investigations, provided that they provide the following:

- a **Region** of Durham **SSQ** form is completed in accordance with **Appendix C**; or
- a professional statement in an **Environmental Site Assessment (ESA)** confirming no further investigations and that the site is suitable for proposed property use and supported with the following Regional documents:
  - **Reliance Letter** (completed in accordance with **Appendix F**); and
  - **Certificate of Insurance** (completed in accordance with **Appendix G**).

## **Scenario B – Development does not Propose a Prescribed Change in Property Use and Exceedances**

An **RSC** is optional if the **Phase Two ESA** findings reveal sub-surface conditions which exceed the **MECP SCS** but does not propose a **Prescribed Change in Property Use**. In accordance with Section 5.2.2.2 of this Protocol, the Applicant has the following options:

- update the **Phase Two ESA** (post remediation);
- an **RSC**;
- a **Risk Assessment (RA)**; or
- arrange to have the **Region peer review** the reports.

Whichever option the Applicant and the Applicant's **QP** selects, the **Region** will require the submission of the associated supporting materials prior to the Municipality issuing its final approval for the proposed **development**.

## **Scenario C – Development Proposes a Prescribed Change in Property Use**

In accordance with the O.Reg. 153/04, an **RSC** is mandatory if the **development** proposes a **Prescribed Change in Property Use**, regardless whether or not exceedances are discovered on the subject property. This scenario will require the Applicant to provide the **Region** (and the **Area Municipality**, if requested) a copy of the **RSC** filed on the Environmental Site Registry, the written acknowledgement provided by the **MECP**, along with any additional supporting materials before the planning application can be approved.

## **Scenario D – Minor Variances which Propose a Prescribed Change in Property Use**

As noted in **Appendix B**, where a more **Prescribed Change in Property Use** is introduced through a Minor Variance application an **RSC** is also mandatory.

## **Detailed Site Assessment for Mixed-Use Properties**

This Protocol is developed in accordance with O.Reg 153/04. The following scenarios provide updated regulatory changes for **mixed-use development** proposals that may require an **RSC** (for the complete list of regulatory changes, please refer to O.Reg. 153/04).

## Scenario E – Conversion of an Existing Low-Rise Commercial/Community Building to Accommodate Mixed-Uses

An **RSC** is not required to convert an existing low-rise **commercial** and/or **community** building into a **mixed-use development** which also includes **residential/institutional** use(s) provided that the following criteria is met:

- a Regional **SSQ** Form is completed in accordance with **Appendix C**; or
- a professional statement in an **Environmental Site Assessment (ESA)** confirming no further investigations and that the site is suitable for proposed property use and supported with the following:
  - Regional **Reliance Letter** (completed in accordance with **Appendix F**); and
  - **Certificate of Insurance** (completed in accordance with **Appendix G**).

In either scenario above, the **QP** must also demonstrate the following:

- that the building has no more than six storeys before the change and will be no more than six storeys after the change;
- that **residential** and/or **institutional** uses are restricted to floors above the ground floor;
- that the existing building envelope must remain unchanged and no proposed horizontal and/or vertical addition(s) to the exterior portions of the building; and
- that the subject property containing the existing building is not used or has not been historically used in whole or in part as an **Enhanced Investigation Property (EIP)** (e.g. **industrial**, a **garage**, a **bulk liquid dispensing facility**, and/or a **dry-cleaning equipment establishment**).

## Scenario F – Conversion of Existing Mixed-Use Buildings to Support Only Residential or Institutional Land Uses

An **RSC** is not required for **development** proposals on a subject property intending to convert an existing **mixed-use** building(s) supporting **community** or non-**EIP commercial** use(s) and **residential** or **institutional** uses to only include **residential** or **institutional** land uses provided that the following criteria is met:

- a Regional **SSQ** Form is completed in accordance with **Appendix C**; or

- a professional statement in an **Environmental Site Assessment (ESA)** confirming no further investigations and that the site is suitable for proposed property use and supported with the following:

In either scenario above, the **QP** must also demonstrate the following:

- that a part of the building was used for either **residential** or **institutional** uses and the other part of the building was used for either **commercial** or **community** uses before the proposed change in use to the building;
- that the existing building envelope remain unchanged and there would not be any horizontal and/or vertical addition(s) to the exterior portions of the building after the change in use to the building;
- that the subject property containing the existing building is not used or has not ever been used in whole or in part as an **EIP**; and
- if a fully **commercial/community** building was not previously converted into a **mixed-use** building.

### **Scenario G – Conversion of Existing Buildings Used for the Indoor Gathering of People for Religious Purposes**

In accordance with O.Reg. 153/04, religious buildings are categorized as **institutional** uses.

An **RSC** is not required to convert a religious building (used for the indoor gathering of people for religious purposes) to a **residential** use or a daycare establishment in the same building.

In accordance with O.Reg 153/04, an **RSC** is mandatory if a property used for **industrial/commercial/community** purposes is legally converted to a religious building.

### **Scenario H – Mixed-Use - All Other Change of Uses**

An **RSC** is mandatory for all other **mixed-use development** proposals that are not described in Scenarios E to G above.

### **Approaches to Remediating Sites and Filing an RSC**

Various approaches to remediating contaminated sites in Ontario are provided below:

1. a site can be remediated to meet the Typical Background Conditions which are set out in Table 1 of the **MECP Site Condition Standards (SCS)**;

2. a site can be remediated to meet Generic Site Condition Standards for the proposed use(s) which are set out in Tables 2 through 9 of the **MECP SCS**; and
3. a site can be remediated or meet the **Property Specific Standards** developed through a **Risk Assessment** prepared by a **QPRA**.

All approaches are based on **MECP SCS** for soil, groundwater and sediment as part of O.Reg. 153/04. Tables 1 to 9 in the **MECP SCS** set out prescribed contaminants and the maximum concentration for various property uses. Each approach is described below.

### **Approach 1 – Remediating to Table 1 Standards**

Table 1 soil standards are typical background conditions derived from the Ontario Typical Range values for specific property uses and reflect typical province wide background concentrations in soils that are not contaminated. The groundwater standards in Table 1 are considered to be the most pristine and were derived to provide the highest level of protection to human health and ecosystems.

### **Approach 2 – Remediating to Table 2 through 9 Standards**

Tables 2 through 9 of the **MECP SCS** are generic conditions where the Province has utilized a set of assumptions to develop standards that can be applied to all sites throughout the Province for different property uses. Each Table is applied to specific circumstances (e.g. proximity to bedrock and bodies of surface water).

Tables 2, 4, 6 and 8 of the **MECP SCS** are typically used in rural areas, where properties are serviced by private wells (potable groundwater). Tables 3, 5, 7 and 9 of the **MECP SCS** may be applied in municipally serviced urban areas, provided that the **QP** can demonstrate that surrounding property uses (e.g. within 250 metres of the subject property) will not adversely impact existing serviced private wells as discussed in detail under **Section 5.2.3** and **Appendix K** of this Protocol.

Based on the existing **MECP SCS** applicable to the **Region's** geography, this Protocol will recognize the use of all Full Depth Tables. Where the Applicant proposes to use the Stratified Soil **MECP SCS** (either Table 4 or 5 of the **MECP SCS**) in support of a planning application, the Applicant may be required to engage in the **Region's peer review** process.

### **Approach 3 - The Risk Assessment Process**

The **Risk Assessment** approach is used when the Applicant determines that it is unreasonable to remediate a **development** site to meet the generic standards set out in the **MECP SCS**. If pursued, the Applicant's **QP** will be required to prepare and submit all documents in support of a **Risk Assessment**. Similar to **RSC's**, these reports may consist of, but are not limited to the following: **ESAs**; remediation; **Risk Assessment**; any other reports prepared in response to an **MECP** order or an **MECP** request and any other reports relating to the presence of a contaminant on, in or under the property.

## Appendix I:

### Detailed Site Assessment Chart for Records of Site Condition

Scenarios	RSC Required	Materials Required to Satisfy the Region's Soil and Groundwater Assessment Protocol
Proposed <b>development</b> site <b>does not contain</b> site contamination and <b>does not propose</b> a <b>Prescribed Change in Property Use</b> (typically a more sensitive property use)	No	<ul style="list-style-type: none"> <li>A Regional <b>Site Screening Questionnaire (SSQ)</b> (completed in accordance with <b>Appendix C</b>)</li> <li>A professional statement in an <b>Environmental Site Assessment (ESA)</b> confirming no further investigations and that the site is suitable for proposed property use and supported with the following: <ul style="list-style-type: none"> <li>Regional <b>Reliance Letter</b>; and</li> <li><b>Certificate of Insurance</b></li> </ul> </li> </ul>
Proposed <b>development</b> site <b>does not contain</b> site contamination but <b>proposes</b> a <b>Prescribed Change in Property Use</b>	Yes	<ul style="list-style-type: none"> <li>Proof that an RSC (post July 1, 2011) was filed on the Environmental Site Registry. If the filing of the <b>RSC</b> exceeds 18 months, <b>Updated ESA Documents</b> from a <b>Qualified Person (QP)</b> will be required</li> </ul>
Proposed <b>development</b> site <b>contains</b> site contamination but <b>does not propose</b> a <b>Prescribed Change in Property Use</b>	Yes	<ul style="list-style-type: none"> <li>An updated <b>ESA</b> report, which documents the remediation methods undertaken on the subject property; or</li> <li>Proof that an <b>RSC</b> (post July 1, 2011) was filed on the Environmental Site Registry. If the filing of the <b>RSC</b> exceeds 18 months, <b>Updated ESA Documents</b> from a <b>QP</b> may be required; or</li> <li>Receipt of a <b>Certificate of Property Use</b>, where site contamination is intended to meet <b>Property Specific Standards</b> established through a <b>Risk Assessment</b>; or</li> </ul>

Scenarios	RSC Required	Materials Required to Satisfy the Region's Soil and Groundwater Assessment Protocol
		<ul style="list-style-type: none"> <li>The completion of a successful <b>peer review</b> paid entirely by the Applicant</li> </ul>
Proposed <b>development</b> site <b>contains</b> site contamination and <b>proposes</b> a <b>Prescribed Change in Property Use</b>	Yes	<ul style="list-style-type: none"> <li>Proof that a <b>Record of Site Condition</b> (post July 1, 2011) was filed on the Environmental Site Registry. If the filing of the <b>RSC</b> exceeds 18 months, <b>Updated ESA Documents</b> from a <b>QP</b> will be required.</li> </ul>
Existing <b>mixed-use Commercial / Community – Residential / Institutional Development</b> site <b>proposes</b> a more sensitive land use	No	<ul style="list-style-type: none"> <li>A Regional <b>SSQ</b> (completed in accordance with <b>Appendix C</b>); or</li> <li>A professional statement in an <b>ESA</b> confirming no further investigations and that the site is suitable for proposed property use supported with the following: <ul style="list-style-type: none"> <li>Regional <b>Reliance Letter</b>; and</li> <li><b>Certificate of Insurance</b>;</li> </ul> </li> <li>In either scenario above, the <b>QP</b> must also demonstrate the following <ul style="list-style-type: none"> <li>That the existing building envelope will remain unchanged and no addition(s) are proposed to the exterior portions of the building</li> <li>That the change to a <b>residential</b> and/or <b>institutional</b> use is restricted to floors above the ground floor;</li> <li>That the building has no more than six storeys before the change and will be no more than six storeys after the change; and</li> <li>That the subject property containing the existing building is not used or has not been ever used in whole or in part as an <b>EIP</b></li> </ul> </li> </ul>

Scenarios	RSC Required	Materials Required to Satisfy the Region's Soil and Groundwater Assessment Protocol
<p>Existing <b>mixed-use Commercial</b> / <b>Community – Residential</b> / <b>Institutional Development</b> site <b>proposes only Residential/Institutional</b> (sensitive) uses throughout the existing building</p>	<p>No</p>	<ul style="list-style-type: none"> <li>• A Regional <b>SSQ</b> (completed in accordance with <b>Appendix C</b>); or</li> <li>• A professional statement in an <b>ESA</b> confirming no further investigations and that the site is suitable for proposed property use supported with the following: <ul style="list-style-type: none"> <li>○ Regional <b>Reliance Letter</b>; and</li> <li>○ <b>Certificate of Insurance</b>;</li> </ul> </li> <li>• In either scenario above, the <b>QP</b> must also demonstrate the following <ul style="list-style-type: none"> <li>○ That a part of the building was used for either <b>residential</b> or <b>institutional</b> uses and the other part of the building was used for either <b>commercial</b> or <b>community</b> uses before the proposed change in use to the building;</li> <li>○ That the existing building envelope will remain unchanged and no addition(s) are proposed to the exterior portions of the building;</li> <li>○ That the subject property containing the existing building is not used or has not been ever used in whole or in part as an <b>EIP</b>; and</li> <li>○ That the existing <b>mixed-use</b> was not exempt from filing an <b>RSC</b> when the property was converted to <b>mixed-uses</b>.</li> </ul> </li> </ul>

Scenarios	RSC Required	Materials Required to Satisfy the Region's Soil and Groundwater Assessment Protocol
A <b>development</b> site that proposes to convert an existing <b>Industrial</b> / <b>Commercial</b> / <b>Community</b> use building to a place of worship	Yes  (After January 1, 2021)	<ul style="list-style-type: none"> <li>• A Regional <b>SSQ</b> (completed in accordance with <b>Appendix C</b>); or</li> <li>• A professional statement in an <b>ESA</b> confirming no further investigations and that the site is suitable for proposed property use supported with the following: <ul style="list-style-type: none"> <li>○ Regional <b>Reliance Letter</b>; and</li> <li>○ <b>Certificate of Insurance</b></li> </ul> </li> </ul>

## Appendix J:

### Peer Review Process for Brownfield sites

If the **QP** determines that exceedances on a subject site pose little or no risk to human health and the environment, the Applicant may submit a written request along with the associated fees and documents to the Regional Planning and Economic Development Department requesting the **Region** to conduct a **peer review** in support of the **development** proposal. The **Region** will review the request to confirm whether it is eligible for a **peer review**. Any application that proposes a **Prescribed Change in Property Use** is not eligible for **peer review** and must submit a letter or acknowledgement from the Ministry of the Environment, Conservation and Parks (**MECP**) that a **Record of Site Condition (RSC)** was filed on the Environmental Site Registry.

Should the **peer review** process be deemed appropriate, the **Region** will select the next **Peer Review Consultant** from the Council-approved roster and ask the Consultant to provide the following:

- cost estimates to review any **ESA** reports and any associated materials requested by the **Region** in support of the **development** proposal (per submission);
- any potential conflicts of interest;
- project Team list and their job title(s) assigned to the **peer review**;
- anticipated time schedule required to complete the **peer review**; and
- anticipated completion date of the **peer review**.

Regional **Peer Review Consultants** should consider the following questions as guidelines in support of their technical review response of the **ESA** work and any associated materials for the **development** proposal:

- were the **ESA** reports submitted prepared in accordance (or consistent) with Provincial legislation (i.e. O.Reg. 153/04) and Regional requirements? If a **QP** considers their report “consistent with” Provincial and Regional requirements, has the **QP** identified how their investigation and reporting requirements deviate from O.Reg. 153/04 and this Protocol?
- are any additional supporting documents/materials required?

- what, if any, are the potential or expected impacts on human health and the environment within the study area?
- are further environmental investigations required? (e.g. have **APECs** been properly identified and investigated and has suitable work been completed in accordance with O.Reg. 153/04?)
- are adverse off-site impacts (including potable wells) expected based on the on-site and study area investigations?
- do you agree that environmental conditions at the site are appropriate for the proposed property use(s) (e.g. **residential/parkland** or **industrial/commercial**)?
- is the Applicant's environmental work completed by their environmental consultant team comprehensive and does it satisfactorily demonstrate the soil, groundwater and sediment conditions of the subject property?
- does the study area outlined in the **ESA** reports sufficiently cover any potential off-site migration?
- do the environmental reports submitted accurately represent the environmental conditions on and off site?
- do you agree with the Applicant's **QP's** analysis, assessment results, conclusions and recommendations?
- does the Applicant's environmental consultant team meet regulatory **QP** credential requirements?

### **Amending the Terms of Reference where Necessary**

Upon receipt of the **Peer Review Consultant's** cost estimate, Regional staff will provide a letter to the Applicant for their acceptance of the cost estimate and the required fees (in accordance with the applicable Regional Planning Fee By-law), made payable to the **Region**.

If the Applicant signs and accepts the cost estimate and provides the associated fees, Regional staff will prepare a letter to its **Peer Review Consultant**, confirming the Applicant's concurrence to initiate the **peer review** process.

The **Peer Review Consultant** is required to complete and submit a copy of the draft **peer review** report to staff for review within 30 days from the date the assignment is awarded. Regional staff will review the draft report to ensure there are no concerns with its content prior to the Consultant finalizing the report.

If the **Peer Review Consultant** concludes that the **QP's** supporting documents satisfactorily demonstrates that the site conditions on the subject property represents minor exceedances to the **MECP Site Condition Standards (SCS)** and that the contaminants pose little to no risk to human health and the environment, the **Peer Review Consultant** should include an opinion statement noting the same.

If the **Peer Review Consultant** concludes that the **QP's** supporting documents cannot conclude or cannot satisfactorily demonstrate that the **SCS** represent minor exceedances to the **MECP SCS**, the Applicant's **QP** would have to prepare one or both of the following:

- conduct further analysis and resubmit additional supporting information and fees as requested by the **Peer Review Consultant** and the **Region**; or
- file an **RSC** on the Environmental Site Registry and or have a **Risk Assessment (RA)** accepted by **MECP**.

If the Applicant and their **QP** disagrees with the **Peer Review Consultant's** conclusions, a meeting with the consultants (at the Applicant's expense) may be required to determine an acceptable and expeditious course of action.

## **Appendix K:**

### **Non-Potable Groundwater Requests**

Section 35 of O.Reg. 153/04 identifies two standards for groundwater conditions: Potable and Non-Potable. “Potable Standards” apply to areas where the drinking water source is from private wells, whereas “Non-Potable Groundwater Standards” typically apply to areas where the predominant drinking water source is from a municipal water supply.

Requests to utilize the less stringent Non-Potable Groundwater Ministry of the Environment, Conservation and Parks’ **(MECP’s) Site Condition Standards (SCS)** are made by the Applicant’s **QP** and are submitted for properties in urban areas where municipal services are available and where reliance on private wells for drinking water or gardening is low. Since vulnerable groundwater areas exist within many of the serviced areas of the **Region**, requests to use Non-Potable Groundwater **MECP SCS** in municipally serviced areas are evaluated on a case-by-case basis.

The **Region** may approve the use of Tables 3, 7 and 9 ground water **MECP SCS** for a property prior to completion and filing of a **Record of Site Condition (RSC)** provided certain conditions are met. The procedure the **Region** will use to assess requests to use the non-potable groundwater standard is set out in **Appendix L**.

#### **Other Resources**

The York Durham District **MECP** office in the Town of Ajax can assist Applicants, **QP’s** and other stakeholders to identify properties with site contamination potential. The Ajax office can be contacted as follows

Ministry of the Environment, Conservation and Parks

230 Westney Road South, Fifth Floor

Ajax, Ontario L1S 7J5

General Inquiries: 905.427.5600

Toll Free: 1.800.376.4547

Fax: 905.427.5602

The Ministry of Municipal Affairs and Housing (MMAH) “[Brownfields Ontario](#)” website also provides additional resources and can answer questions surrounding brownfields and site contamination.

## **Appendix L:**

### **Non-Potable Groundwater Request Standards and Procedures**

The Ontario Ministry of the Environment, Conservation and Parks (**MECP**) allows municipalities to develop their own procedures surrounding Non-Potable Groundwater Requests. This Protocol assesses the appropriateness of Non-Potable Requests through the use of Tables 3, 7 or 9 of **MECP Site Condition Standards (SCS)** within the **Region**.

The process ensures that appropriate **Environmental Site Assessment (ESA)** documentation is submitted with a request and that any **brownfield sites** and potentially contaminated sites are appropriately identified and remediated if necessary. This process also ensures that there are no adverse impacts to public or private drinking water supplies within the **Phase One Study Area** in urban areas. In accordance with O.Reg. 153/04, the **Region** must respond to Non-Potable Requests within 30 days of receipt.

#### **Circulation of Written Notification/Requests**

If a **Qualified Person (QP)** seeks permission to use the Non-Potable Groundwater **MECP SCS** for a property, they must submit a written notice/request to the Clerk of both the **Region** and the **Area Municipality**.

The Regional Legislative Services Division will circulate the request and supporting materials to the Regional Planning Division for review and comment.

#### **Coordinated Regional Response**

There are two scenarios for a **QP** to file a Non-Potable Request. These scenarios consist of Requests requiring or not requiring a **Record of Site Condition (RSC)** and/or **Risk Assessment (RA)**.

The **Region** will not process incomplete Non-Potable Groundwater Requests. For a Non-Potable Groundwater Request to be considered complete, the following materials must be included at a minimum:

- a covering letter indicating the request, address, Applicant's name and groundwater standard proposed;
- the **Environmental Site Assessment** Report(s);
- the required processing fee, in accordance with the applicable Regional Planning Division's Fee By-law; and

- any associated supporting documents under the heading “Procedures for Non-Potable Requests Not Requiring an RSC or an RA” (if required by the **Region**).

If the supporting materials noted above have not been prepared to the **Region’s** satisfaction, Regional staff will issue an objection letter to the Applicant’s **QP** and the applicable Area Municipal Clerk in response to the use of the Non-Potable Groundwater Standards request. Once the supporting materials are updated and submitted, the **Region** will reevaluate the Non-Potable Groundwater Request.

If the Applicant’s **QP** provides the **Region** with satisfactory supporting materials, Regional staff will issue a follow-up letter to the Applicant’s **QP**, and the applicable **Area Municipality** either objecting or not-objecting to the Non-Potable Groundwater Standard request.

### **Procedures and requirements for Non-Potable Requests Requiring an RSC or an RA**

Non-Potable Groundwater Requests requiring an **RSC** and/or an **RA** submission to **MECP** must include the following:

- a covering letter indicating the request, address, Applicant’s name and groundwater standard proposed;
- the **Environmental Site Assessment** Report(s) prepared by the **QP**;
- the required processing fee, in accordance with the applicable Regional Planning Division’s Fee By-law; and (if applicable)
- any associated supporting documents.

Following Regional review of the above-noted materials, a letter either objecting to or not objecting to the Applicant’s **QP’s** request for the use of the non-potable standard will be issued to the Applicant’s **QP** and the applicable **Area Municipality**.

If the **Region** issues a non-objection letter (in accordance with the Evaluation Criteria below) granting conditional approval to consider the use of Non-Potable Groundwater Standards, the Applicant’s **QP** must submit the Regional letter to **MECP**. The Applicant’s **QP** must provide the **Region** with **MECP’s RSC** Acknowledgment Letter and/or a copy of the **RA** Submission within 6 months of the Request being granted Conditional Approval.

If the Regional receipt of **MECP’s** clearance letter exceeds 6 months, in accordance with O.Reg. 153/04, its Conditional Approval will lapse and the **QP** will be required to update their Non-Potable Groundwater Request with the **Region**.

## Procedures for Non-Potable Requests Not Requiring an RSC or an RA

Non-Potable Groundwater Requests not requiring an **RSC** and/or an **RA** submission to **MECP** must include the following:

- all **ESA** reports, processing fees and any associated supporting documents noted above;
- a completed Regional **Reliance Letter** and **Certificate of Insurance** from the **QP** in order for the **Region** to rely on all of the supporting documents;
- a well record survey provided by **MECP's** Well Record Mapping;
- a description of the methodology used to demonstrate that residences, businesses and **other uses** in the above noted areas do not rely on groundwater-based water sources [e.g. no private wells on or within 250 metres (m) of the subject property used for drinking water purposes, this could be more than 250 m depending on nearby **Potentially Contaminated Activity (PCA)** property uses, soil conditions, topography, direction of groundwater flow, etc.]. **MECP** water well records may also be used to assess potential groundwater usage within the **Phase One Study Area**;
- a description of previous and proposed uses of the subject property;
- a description of the type and nature of any contamination and representation of any proposed/required remediation of the site;
- the use and servicing details of **residential** dwellings, businesses and other properties within 250 metres (m) of the subject property;
- confirmation that the subject property will not create adverse impacts on Wellhead Protection Areas;
- confirmation that the subject property is not located within an **Area of High Aquifer Vulnerability** on the Oak Ridges Moraine;
- a professional opinion statement by **QP** confirming that the site will be developed in accordance with the applicable **MECP SCS** or applicable Site-Specific **RA** Standard Levels;
- confirmation that present or future surface water or groundwater sources of drinking water will not be adversely affected including water for **agricultural** and aquaculture uses; and
- any other information deemed reasonably necessary by the **Region** or the applicable **Area Municipality**.

Following the **Region's** review of the above-noted materials, a letter either objecting to or not objecting to the Applicant's **QP's** Non-Potable Groundwater Request will be issued to the Applicant's **QP** and the applicable **Area Municipality**.

A letter objecting to the Non-Potable Request may be issued for a **development** proposal under the following circumstances:

- if it proposes a threat that will impact potable water supply;
- if it is located within a Wellhead Protection Area; and
- if it is located in an **Area of High Aquifer Vulnerability** within the Oak Ridges Moraine.

If the **Region** issues a non-objection letter in response to the Non-Potable Groundwater request (in accordance with the Evaluation Criteria below), the **development** proposal may proceed (provided that there are no other outstanding matters of Regional Interest) eliminating any concerns surrounding potential groundwater exceedances.

Any proposed cleanup/remediation of **brownfield sites** and potentially contaminated sites in the rural area must use the "potable groundwater" **MECP SCS** to protect the Regional groundwater resources. This includes **Areas of High Aquifer Vulnerability**, which extend beyond wellhead protection areas. Please note that Non-Potable Groundwater Requests will not be considered within the Regional rural and unserved areas.

### **Evaluation Criteria**

Requests to utilize the non-potable groundwater standard will be considered when the supporting documentation confirms:

- that the site and all properties within 250 m of the subject property are supplied by a municipal drinking water system or that there are no wells within 250 m of the subject property used for drinking water purposes. The Applicant's **QP** may recommend a study area of more than 250 m, if a nearby **PCA** has the potential to impact the subject property based on its property use history and/or soil conditions, topography, direction of groundwater flow, etc. The Applicant's **QP** may utilize other methods to confirm that there are no potable wells affected by on site contamination. For example, a registered notice could be sent to all property owners within the study area to advise residents of the proposed use and the request to use non-potable groundwater **MECP SCS** to remediate the property;

- it is reasonable and appropriate to use the less stringent Table 3, 7 or 9 **MECP SCS** for the site;
- the on-site conditions will not detrimentally impact: Wellhead Protection Areas; **Areas of High Aquifer Vulnerability**; areas of natural significance and water bodies; and
- that the present and future surface water and groundwater sources of drinking water will not be adversely affected, including water for **agricultural** and aquaculture uses.

# Appendix M:

## Procedure to Assess Enhanced Investigation Properties

### Assessing Enhanced Investigation Properties (EIPs)

This Protocol will assess the appropriateness of evaluating **development** proposals concerning EIPs as defined under O.Reg. 153/04, as amended, within the **Region**. EIP uses typically consist of: **industrial** uses and the following **commercial** uses: a **garage** (i.e. an automotive repair facility), a **bulk liquid dispensing facility** (including **gasoline outlets**), or the operation of **dry-cleaning equipment**.

This process intends to streamline **development EIP** proposals that are considered either major or minor in nature. Depending on the proposed level of **development**, this procedure is intended to ensure no adverse impacts to human health, and the environment within the **Phase One Study Area**.

**ESA** documentation submitted with the request must demonstrate that any **brownfield sites** and potentially contaminated sites are appropriately identified and remediated. This process ensures that there are no negative impacts to public or private drinking water supplies within the **Phase One Study Area**.

A flow chart which outlines the **Region's EIP** process is provided in **Appendix P**.

### Major Development Proposal Containing Site Contamination on an Enhanced Investigation Property

If a **major development** proposal intends to temporarily or partially remediate a site due to the nature of the permitted use (e.g. **gasoline outlets**, automobile wreckers yards, or a **bulk liquid dispensing facilities**) or were significant **physical development** is proposed, the Applicant has the option of completing the following:

- submitting an **RSC** or a **Risk Assessment** through **MECP**; or
- engaging in the **Region's peer review** process.

In addition to the mandatory **Phase One** and **Two ESA** reports, where an Applicant opts for a **peer review** process, the **Region** may request that the Applicant submit a Contaminant Management Plan (CMP), which outlines the following to address risk management:

- a list of the existing and/or proposed bulk fuels/chemicals stored, manufactured or processed on the subject property and within any buildings/structures;
- a procedure on how any potential risk of release of fuels/chemicals to abutting lands will be mitigated and managed; and
- a procedure demonstrating the proposed safety measures to be implemented on the subject property and abutting lands impacted by existing and/or proposed fuels/chemicals.

In addition to the CMP requirements noted above, the following additional records listed in Section 3(2)(14) of Schedule D, of O.Reg. 153/04 be also provided in support of a **peer review**:

- regulatory permits and records related to **Areas of Potential Environmental Concern (APEC)**;
- material Safety Data Sheets (MSDS);
- underground utility drawings;
- inventory of chemicals, chemical usage and chemical storage areas;
- inventory of above ground storage tanks and underground storage tanks;
- environmental monitoring data, including data created in response to an order or request of the Ministry;
- waste management records, including current and historical waste storage locations and waste generator and waste receiver information maintained pursuant to Regulation 347 of the Revised Regulations of Ontario, 1990 (General — Waste Management) made under the *Environmental Protection Act*, or its predecessors;
- process, production and maintenance documents related to **APECs**;
- records of spills and records of discharges of contaminants of which notice is required to be given to the **MECP** under the *Environmental Protection Act* and records of such spills and discharges required to be kept pursuant to Ontario Regulation 675/98 (Classification and Exemption of Spills and Reporting of Discharges) made under the *Environmental Protection Act*;
- emergency response and contingency plans, including spill prevention and contingency plans prepared pursuant to section 91.1 of the *Environmental Protection Act*, and Ontario Regulation 224/07 (Spill Prevention and Contingency Plans) made under the *Environmental Protection Act*;
- environmental audit reports; and

- a site plan of the facility showing all buildings, storage areas, areas of production and manufacturing.

For proposals relating to the bulk liquid dispensing facilities, the **Region** may also request the coordination of/documentation from the Technical Safety Standards Authority (**TSSA**).

#### **Minor Development Proposal within an EIP**

At the **Region's** discretion, an **SSQ** (at a minimum) may suffice where a **minor development** on an **EIP** site (e.g. small accessory structures, **development** within an existing building) is proposed. However, at the **Region's** sole discretion, depending on the **SSQ's** findings, an Applicant may be required to prepare ESA reports and file the applicable documents/materials identified above under **major developments**.

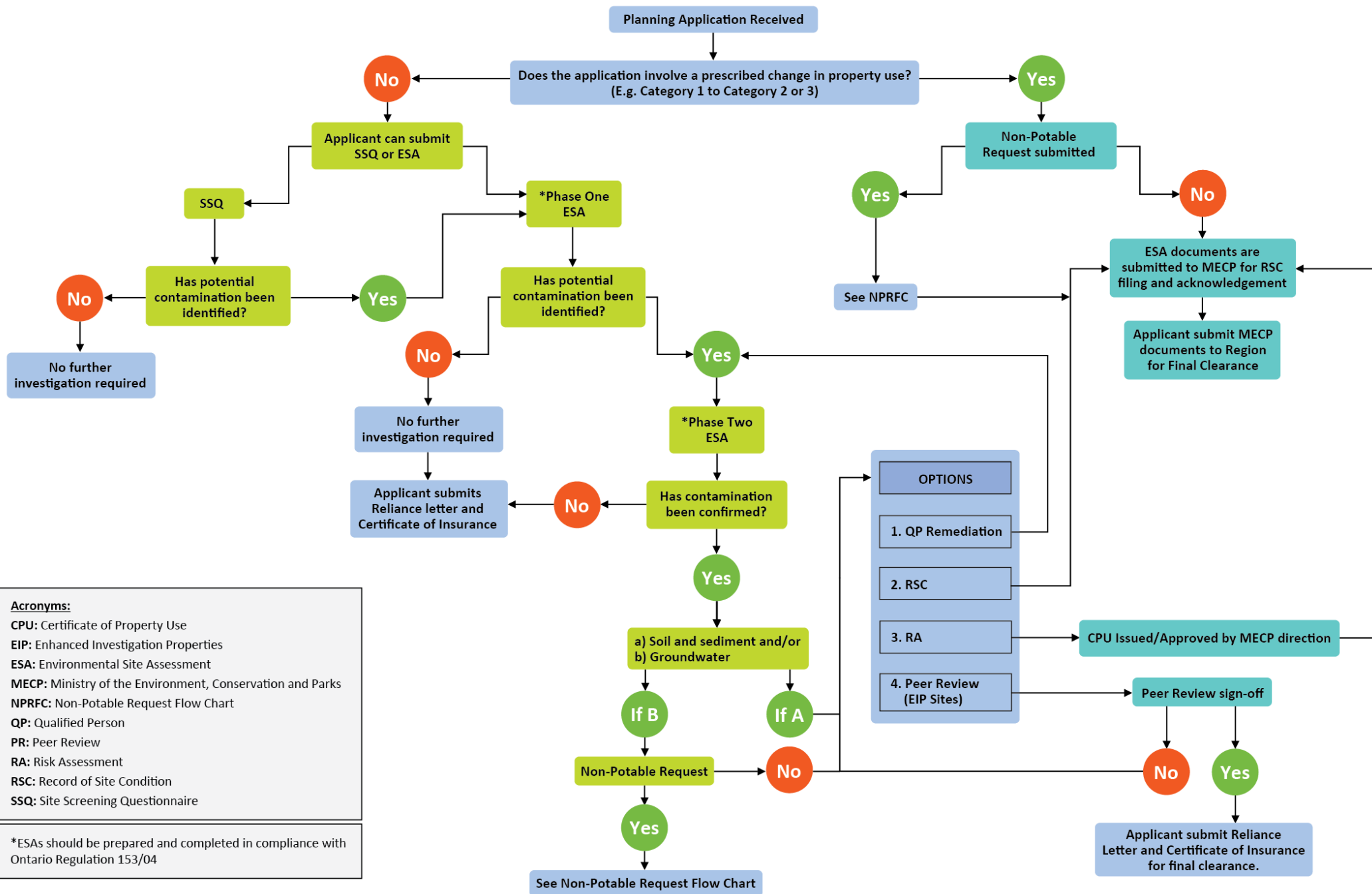
#### **Properties Previously used as Enhanced Investigation Properties**

Properties in whole or in part that were previously used as an **EIP** and have since filled an RSC on the **MECP's** Environmental Site Registry for a sensitive property use (e.g. **residential, institutional, parkland** etc.) are no longer considered an **EIP**.

## **Appendix N:**

### **Soil and Groundwater Assessment Protocol Flow Chart**

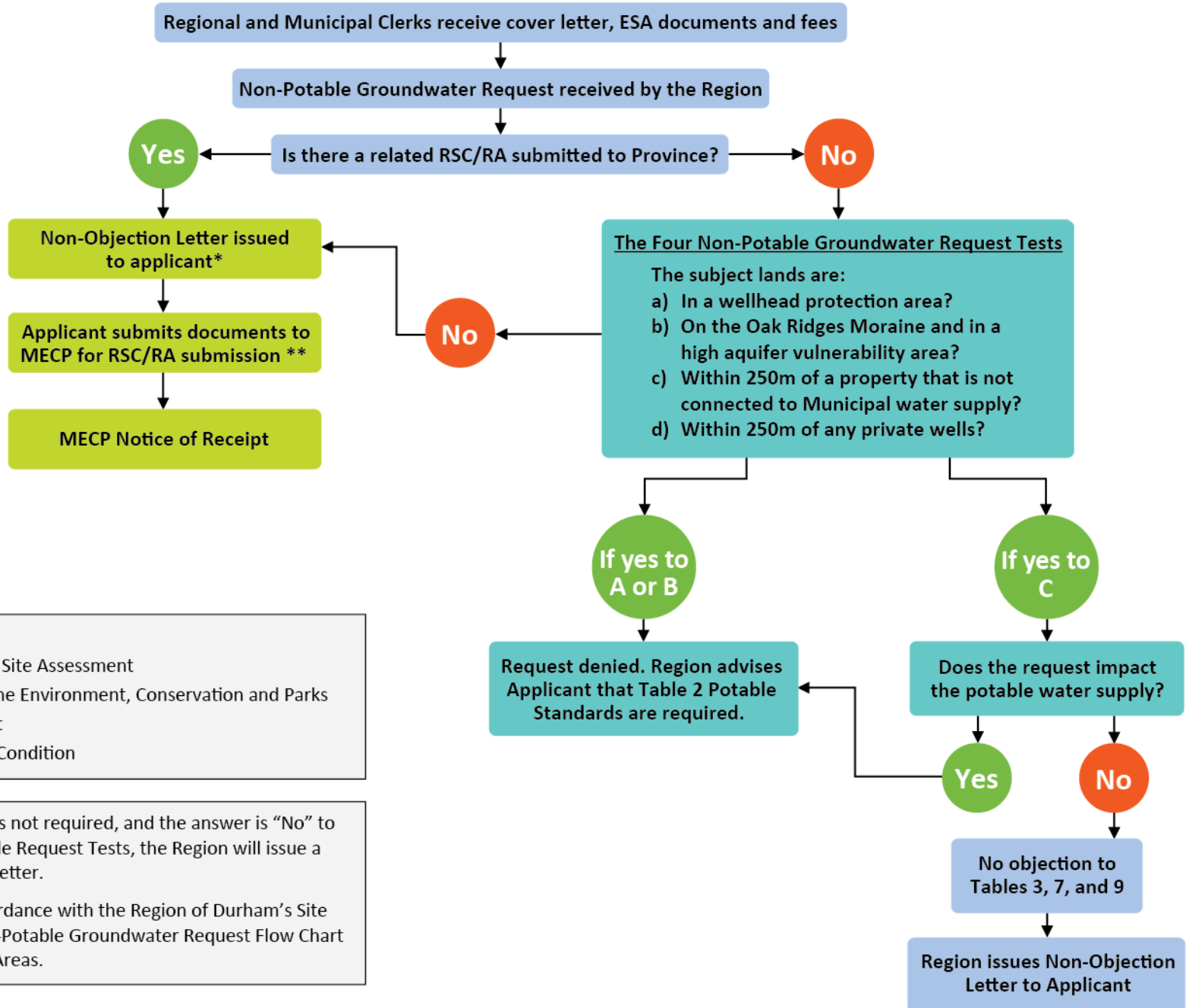
# Soil and Groundwater Assessment Protocol Flowchart



## **Appendix O:**

### **Non-Potable Request Flow Chart**

# Non-Potable Groundwater Request Flowchart for Urban Serviced Areas



## Acronyms:

**ESA:** Environmental Site Assessment

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

**RA:** Risk Assessment

**RSC:** Record of Site Condition

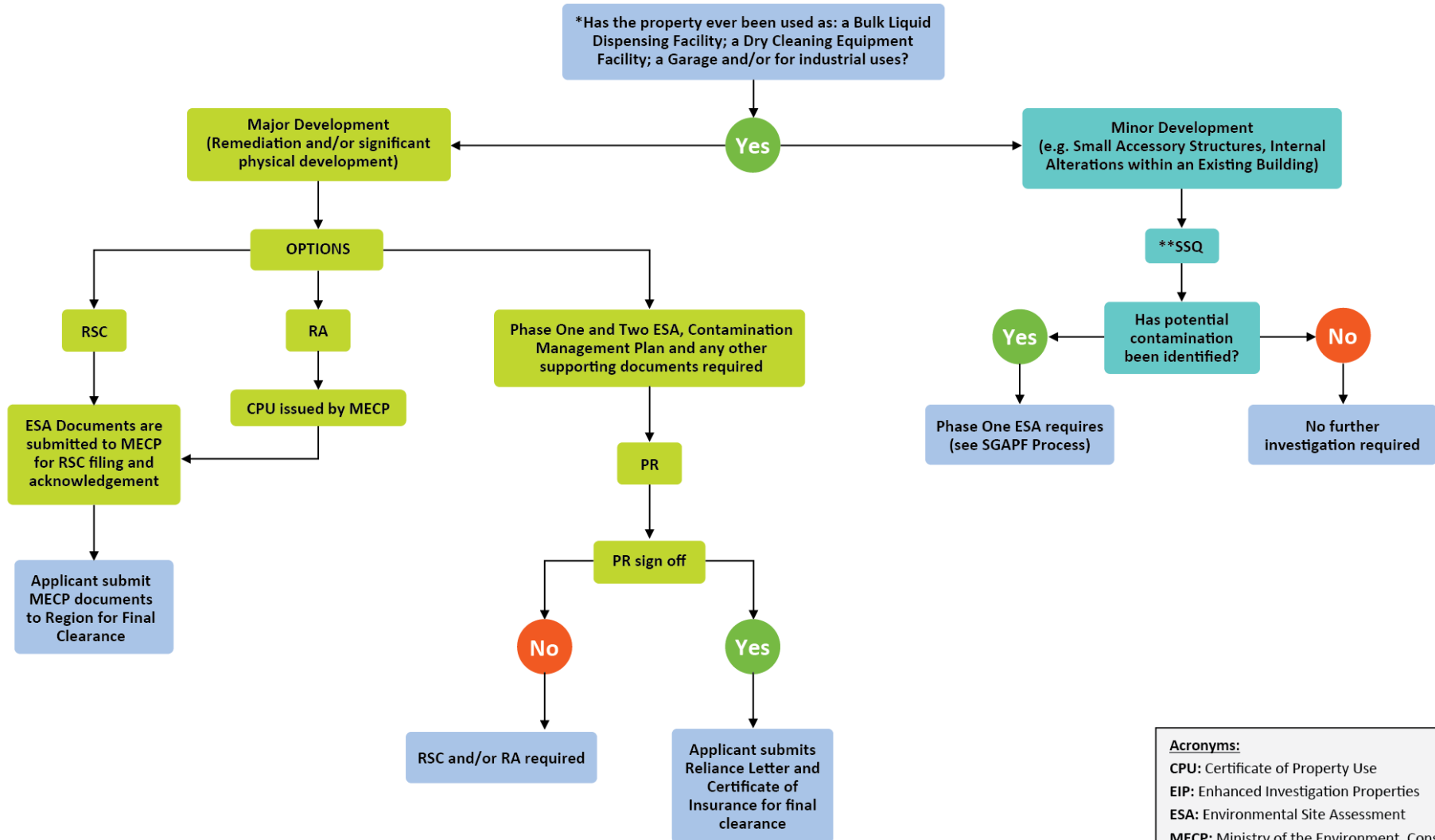
\* When an RSC/RA is not required, and the answer is "No" to the Four Non-Potable Request Tests, the Region will issue a final non-objection letter.

\*\* Prepared in accordance with the Region of Durham's Site Contamination Non-Potable Groundwater Request Flow Chart for Urban Serviced Areas.

## **Appendix P:**

### **Enhanced Investigation Properties Flow Chart**

# Enhanced Investigation Properties Flowchart



\*A property in whole or in part that was previously considered an EIP and has filed an RSC on the Environmental Site Registry for a sensitive property use no longer considered an EIP.  
 \*\*ESA reports maybe required depending on the SSQ's findings

**Acronyms:**  
 CPU: Certificate of Property Use  
 EIP: Enhanced Investigation Properties  
 ESA: Environmental Site Assessment  
 MECP: Ministry of the Environment, Conservation and Parks  
 PR: Peer Review  
 RA: Risk Assessment  
 RSC: Record of Site Condition  
 SGAPF: Soil Groundwater Assessment Protocol Flowchart  
 SSQ: Site Screening Questionnaire

## **Appendix Q:**

### **Glossary of Terms**

Applicable terminology referenced by O.Reg. 153/04 and the Protocol are provided below. The following definitions found under O.Reg. 153/04 are provided for convenience purposes only and may be subject to change from time-to-time. Please refer to O.Reg.153/04: Records of Site Condition – Part XV.1 of the *Environmental Protection Act*, where applicable to confirm the official terminology.

#### **Agricultural or Other Use**

Means any of the following in accordance with Part I of O.Reg. 153/04:

1. The use of land, or a building on the property for an agricultural purpose, including, but not limited to, animal husbandry, aquaculture, beekeeping, dairying, field crops, forestry, fruit farming, horticulture, market gardening, poultry raising and the operation of glass- or plastic covered greenhouses; or
2. Any other use of land or a building on the property, other than a commercial use, community use, industrial use, institutional use, parkland use or residential use.

#### **Area Municipalities**

Means any or all of the following municipalities within the Regional Municipality of Durham: the Town of Ajax; the Township of Brock; the Municipality of Clarington; the City of Oshawa; the City of Pickering; the Township of Scugog; the Township of Uxbridge; and the Town of Whitby.

#### **Area of High Aquifer Vulnerability**

Means lands (in accordance with the Durham Region Official Plan) whose uppermost aquifer is most vulnerable to contamination as a result of surface activities or sources, due to the thickness and permeability of the rock and soil above the aquifer. Vulnerability is expressed as an intrinsic susceptibility index calculated using methods established by the Ministry of the Environment Conservation and Parks. Lands with an index value of less than 30 are considered to be of high vulnerability.

On the Oak Ridges Moraine, means an Area of High Aquifer Vulnerability as prescribed in the Oak Ridges Moraine Conservation Plan.

**Areas of Potential Environmental Concern (APEC)**

Means the area on, in or under a Phase One Property where one or more contaminants are potentially present, as determined through the phase one Environmental Site Assessment, including through,

1. Identification of past or present uses on, in or under the Phase One Property; and
2. Identification of Potentially Contaminating Activity.

**Brownfield sites**

Means undeveloped or previously developed properties that may be contaminated. They are usually, but not exclusively, former industrial or commercial properties that may be derelict, underutilized, or vacant.

**Bulk Liquid Dispensing Facility**

Means premises at which solvents; gasoline or associated products are stored in one or more storage tanks and dispensed for sale.

**Certificate of Insurance**

Means a Regional form completed and signed by the QP's Insurer that meets the Region's minimum Professional Liability insurance coverage to the satisfaction of the Region.

**Certificate of Property Use (CPU)**

Means a legal document is issued by MECP to enforce risk management measures (RMM) for a contaminated site. The CPU is registered on the title of the property for notification purposes so future property owners, municipal officials, and occupants of a property will be aware of any property use restrictions, building restrictions or equipment installation required to ensure that contaminants remaining on a site meet the site-specific Risk Assessment standard levels. The CPU requires Owners to:

1. Prevent or eliminate any problems with contamination on the property;
2. Monitor contamination; and/or
3. Follow specified land use or building restrictions set out in the Risk Assessment.

## **Contaminants of Concern (COC)**

Means any of the following:

1. One or more contaminants found on, in or under a property at a concentration that exceeds the applicable Site Condition Standards for the property, or
2. One or more contaminants found on, in or under a property for which no applicable site condition standard is prescribed under Part IX (Site Condition Standards and Risk Assessment) and which are associated with Potentially Contaminating Activity.

## **Commercial**

Means any of the following uses of land or a building on the property for an enterprise or activity involving the exchange of goods or services, including the following uses:

1. Use as a hotel, motel, hostel or similar accommodation.
2. Use as an office building.
3. In respect of the classification of occupancies in Table 3.1.2.1 of Division B of Ontario Regulation 332/12 (Building Code) made under the Building Code Act, 1992, use that falls within,
  - a) Group D, business and personal services occupancies; or
  - b) Group E, mercantile occupancies.

## **Community**

Means any of the following uses:

1. Land on the property for a road.
2. A building on the property for,
  - a) Indoor recreational activities,
  - b) Travel purposes, such as use for a railway station or an airport passenger terminal, or like purposes,
  - c) An indoor gathering of people for civic, or social purposes.
3. In respect of the classification of occupancies in Table 3.1.2.1 of Division B of Ontario Regulation 332/12 (Building Code) made under the *Building Code Act*, 1992, use of a building on the property that falls within,
  - a) Group A, Division 1, assembly occupancies intended for the production and viewing of the performing arts,
  - b) Group A, Division 3, assembly occupancies of the area type, or
  - c) Group A, Division 4, assembly occupancies in which occupants are gathered in the open air and that is used for a stadium.

4. Use of a classroom in a building on the property by,
  - a) A university that is authorized to operate pursuant to section 3 of the *Post-Secondary Education Choice and Excellence Act*, 2000;
  - b) A college established under the Ontario Colleges of Applied Arts and Technology Act, 2002;
  - c) Any institution other than an institution mentioned in subparagraph i. or ii. above with authority to grant a degree or part of a degree under the *Post-Secondary Education Choice and Excellence Act*, 2000; or
  - d) A private career college as defined and approved under the *Private Career Colleges Act*, 2005.

### **Development**

Means the creation of a new lot, a change in land use, or the construction of buildings and structures, requiring approval under the *Planning Act*, but does not include:

1. Activities that create or maintain infrastructure authorized under an environmental assessment process;
2. Works subject to the *Drainage Act*; or
3. For the purposes of policy 2.1.4(a) underground or surface mining of minerals or advanced exploration on mining lands in significant areas of mineral potential in Eco Region 5E, where advanced exploration has the same meaning as under the Mining Act. Instead those matters shall be subject to policy 2.1.5(a).

### **Dry Cleaning Equipment**

Means dry cleaning equipment as defined in Ontario Regulation 323/94 made under the *Environmental Protection Act*.

### **Enhanced Investigation Property (EIP)**

Means a property that is being used or has been used, in whole or in part, for an industrial use or for any of the following commercial uses:

1. As a garage;
2. As a bulk liquid dispensing facility, including a gasoline outlet; or
3. For the operation of dry-cleaning equipment.

If the property is currently used for an agricultural or other use, or a community use, an institutional use, a parkland use or a residential use it is not an EIP if an RSC has been filed in the Registry since it was last used for an industrial or one of the specified commercial uses.

**Environmental Site Assessment (ESA)**

Means in accordance with Part II of O. Reg 153/04, an investigation in relation to land to determine the environmental condition of property, and includes a phase one Environmental Site Assessment and a phase two Environmental Site Assessment

**Garage**

Means a place or premises where motor vehicles are received for maintenance or repairs for compensation.

**Gasoline Outlet**

Means any premises to which the public is invited, at which gasoline or an associated product is sold and is put into fuel tanks or motor vehicles or floating motorized watercraft, or into portable containers.

**Industrial**

Means any of the following uses of land or of a building on the property for:

1. An enterprise or activity involving assembling, fabricating, manufacturing, processing, producing, storing, warehousing or distributing goods or raw materials;
2. In respect of the classification of occupancies in Table 3.1.2.1 of Division B of Ontario Regulation 332/12 (Building Code), use that falls within:
  - a) Group F, Division 1, high hazard industrial occupancies,
  - b) Group F, Division 2, medium hazard industrial occupancies, or
  - c) Group F, Division 3, low hazard industrial occupancies;
3. Research or development in association with an enterprise or activity described in paragraph 1;
4. The transportation of goods or people by railway or by airplane, but not including use for a gathering of people for travel purposes, such as use as a railway station or an airport passenger terminal;
5. A waste disposal site as defined in Section 25 of the *Environmental Protection Act*, except a site for organic soil conditioning as defined in regulation 347 of the Revised Regulations of Ontario, 1990 made under the Act;
6. In connection with sewage works described in subsection 53 (6.1) of the *Ontario Water Resources Act*;
7. Production of oil or gas, or mining or quarrying;

8. In connection with a water treatment facility;
9. In connection with a sewage treatment facility;
10. Use for the generation or transformation of electricity;
11. Use for the storage, maintenance, fueling or repair of equipment, vehicles or material used to maintain transportation systems;
12. Use as a salvage yard, including and automotive wrecking yard or premises;
13. Use of a building where both of the following circumstances apply:
  - a) The building was previously used for an industrial use, commercial use or community use.
  - b) The building is used for the cultivation, growing and harvesting of agricultural commodities, where the cultivation and growing of the agricultural commodities is achieved through hydroponics or other methods that do not rely on cultivating and growing the commodities using the soil from the property;

### **Institutional**

Means any of the following uses of land or a building on the property for:

1. A day-care centre. within the meaning of the *Child Care and Early Years Act*, 2014;
2. A school as defined in the *Education Act*;
3. A private school as defined in the *Education Act*; or
4. A building on the property for an indoor gathering of people for religious purposes.

### **MECP**

Refers to the Government of Ontario Ministry of the Environment, Conservation and Parks or its successors.

### **MECP Site Condition Standards (SCS)**

Refers to the “Soil, Groundwater and Sediment Standards for Use Under Part XV.1 of the *Environmental Protection Act*” published by the Ministry and dated April 15, 2011. It is anticipated that the Ministry’s criteria for the standards may be amended from time to time.

**Mixed-Use Property, most sensitive use**

Means if a property is used for more than one type of property use, the Site Condition Standards that are applicable to the property are the standards that are applicable to the most sensitive type of property use. O. Reg. 153/04, s. 3 (1).

The following rules apply in determining which type of property use is the most sensitive type of property use:

1. An agricultural or other use is the most sensitive of any type of property use;
2. A residential use, parkland use, or institutional use is more sensitive than an industrial use, commercial use or community use. O. Reg. 153/04, s. 3 (2).

**Parkland**

Means any of the following uses of land or of a building on the property for:

1. Outdoor recreational activities, including use for a playground or a playing field;
2. A day camp, an overnight camp or an overnight camping facility;
3. An outdoor gathering of people for civic or social purposes; or
4. In respect of the classification of occupancies in Table 3.1.2.1. of Division B of Ontario Regulation 332/12 (Building Code), use that falls within Group A, Division 4, assembly occupancies in which occupants are gathered in the open air other than use for a stadium.

**Peer Review**

Means a process the Regional Municipality of Durham may use to ensure the sufficiency and accuracy of environmental documents and opinions submitted through ESA reports to support a planning application.

**Peer Review Consultant**

Refers to an environmental consultant (Qualified Person Risk Assessment) hired by the Regional Municipality of Durham to provide technical advice on contaminated development sites.

**Phase One Environmental Site Assessment (Phase One ESA)**

Means an assessment of property conducted in accordance with the regulations by or under the supervision of a qualified person to determine the likelihood that one or more contaminants have affected any land or water on, in or under the property. In accordance with Part VII of O. Reg. 153/04, a Phase One ESA shall include the following components:

1. A records review
2. Interviews
3. Site reconnaissance
4. An evaluation of information from records review, interviews and site reconnaissance;
5. A Phase One ESA report; and
6. The submission of the Phase One ESA report to the owner of the Phase One Property.

### **Phase One Property**

Means the property that is the subject of a Phase One Environmental Site Assessment.

### **Phase One Study Area**

Means the area that includes a Phase One Property, any other property that is located, wholly or partly, within 250 metres from the nearest point on a boundary of the Phase One Property and any property that the Qualified Person determines should be included as part of the Phase One Study Area under clause 3 (1) (a) of Schedule D of O.Reg 153/04, as amended.

### **Phase Two Environmental Site Assessment (Phase Two ESA)**

Means an assessment of property conducted in accordance with the regulations by or under the supervision of a qualified person to determine the location and concentration of one or more contaminants in the land or water on, in or under the property. In accordance with Part VIII of O. Reg. 153/04, a Phase Two ESA shall include the following components:

1. The planning of a site investigation;
2. A site investigation;
3. A review and evaluation of the information gathered through the site investigation;
4. A Phase Two Environmental Site Assessment report; and
5. The submission of the Phase Two Environmental Site Assessment report to the owner of the Phase Two Property.

### **Phase Two Property**

Means the property that is the subject of a phase two Environmental Site Assessment.

## **Physical Development**

For the purpose of this Protocol means the creation of a new lot a change in land use, or the construction of buildings and structures requiring approval under the *Planning Act*.

## **Potentially Contaminating Activity (PCA)**

Means a use or activity set out in Column A of Table 2 of Schedule D of O.Reg. 153/04 that is occurring or has occurred in a Phase One Study Area.

## **Prescribed Change in Property Use**

Refers to a proposed change in property use that is prohibited by the *Environmental Protection Act* and O.Reg. 153/04 unless a Record of Site Condition is filed on the Environmental Site Registry. The change in property uses that are prohibited are generally changes to more sensitive uses either between different Categories (Category 1 – Industrial, Commercial or Community to Category 2 – Residential, Parkland, Institutional, and/or Category 3 – Agricultural/Other Use) and/or within the same Category (e.g. an Industrial land use to a Commercial Day Care Establishment). The higher the Category number the more sensitive the land use.

## **Property Specific Standards**

Refers to the development of Risk Assessment based site specific standards that are developed for a property when MECP Site Condition Standards are unobtainable physically or financially. The site-specific standards are approved by MECP at levels that protect the uses, such as residential, that are proposed for the property; see Risk Assessment (RA).

## **Qualified Person – Other than Risk Assessment (QP)**

Means an individual who may conduct or supervise an ESA in accordance with the *Environmental Protection Act* (EPA) and O. Reg. 153/04, as amended. Section 5 of O.Reg. 153/04 outlines the qualifications for a QP conducting a Phase One and/or Phase Two ESA.

## **Qualified Person – Risk Assessment (QPRA)**

Means an individual who may conduct or supervise a Risk Assessment. Section 6 of O.Reg. 153/04 outlines the qualifications for a QP conducting a Risk Assessment (RA).

**Region** means the Regional Municipality of Durham or its successor.

**Reliance Letter** means a Regional letter copied onto the QP's Environmental Consulting Firm's letterhead and signed by the QP and a person who can bind the Consulting Firm, which allows the Region to rely upon the findings of the ESA report and any associated documents. The Reliance Letter template form is provided in Appendix F.

**Record of Site Condition (RSC)** means a Record of Site Condition under Part XV.1 of the *Environmental Protection Act*. This document provides a summary of the environmental conditions of a property as certified by a QP at a certain point in time. It also provides the landowner with limited protection from environmental cleanup orders when filed in the Brownfields Environmental Site Registry (BESR).

## **Residential**

Means any of the following uses of land or of a building on the property for:

1. A home or mobile home, or as a residence not otherwise described in this definition, but not including use as a hotel, motel, hostel or similar accommodation;
2. In respect of the classification of occupancies in Table 3.1.2.1. of Division B of Ontario Regulation 332/12 (Building Code), use that falls within:
  - a) Group B, Division 1, detention occupancies;
  - b) Group B, Division 2, care and treatment occupancies; or
  - c) Group B, Division 3, care occupancies;
3. A health care facility as defined in Ontario Regulation 170/03 made under the *Safe Drinking Water Act*, 2002;
4. A place of custody or detention for the purposes of the *Youth Criminal Justice Act* (Canada) or a correctional institution established or continued under section 14 of the *Ministry of Correctional Services Act*, whether the institution is operated or maintained by the Crown or any other person;
5. A penitentiary as defined in the *Corrections and Conditional Release Act* (Canada) or as a prison as defined in the *Prisons and Reformatories Act* (Canada);
6. A residence associated with any of the following:
  - a) A university that is authorized to operate pursuant to section 3 of the *Postsecondary Education Choice and Excellence Act*, 2000;
  - b) A college established under the *Ontario Colleges of Applied Arts and Technology Act*, 2002;
  - c) A private career college as defined and approved under the *Private Career Colleges Act*. O. Reg. 153/04, s.1 (3); O. Reg. 511/09, s.1 (7,10,11,13); O. Reg. 179/11, s. 1 (2,3);
  - d) A private career college as defined and approved under the *Private Career Colleges Act*. O. Reg. 153/04, s. 1 (3); O. Reg. 511/09, s. 1 (7, 10, 11, 13); O. Reg. 179/11, s. 1 (2, 3); O. Reg. 333/13, s. 1; O. Reg. 407/19, s. 1 (3-9).

**Risk Assessment (RA)**

Means a decommissioning approach which is conducted by a specialized Risk Assessment QP (RA) to assess the risks posed to humans, plants, wildlife and the natural environment by exposure to on site contaminants. The QP (RA) may recommend engineered measures to manage, control the movement of, or reduce the concentrations of contaminants over time. The QP (RA) may also recommend site specific environmental standards for the site including various monitoring and maintenance requirements implemented through a risk management plan.

**Road**

Means the part of a common or public highway, street, avenue, parkway, square, place, bridge, viaduct or trestle that is improved, designed or ordinarily used for regular traffic and includes the shoulder.

**Site Screening Questionnaire (SSQ)**

Refers to a form that must be completed by a Qualified Person and/or the Owner/Proponent for all planning applications (with certain exceptions) and/or non-potable groundwater standard requests submitted to the Region for comment and/or approval. The SSQ is an effective tool to help identify potentially contaminated sites.

**TSSA**

Refers to the Technical Safety Standards Authority or its successors.

**Updated ESA Documents**

Means updated ESA work that is typically provided in a report or letter format, prepared by a QP when the last ESA report completed for a Phase One Property was conducted more than 18 months prior to the submission of the planning application. Completion of the updated ESA work must ensure that the investigated site conditions have not substantially changed since the most recent ESA report and will not pose any adverse impacts on human health and the environment to the satisfaction of the Regional Municipality of Durham.

If this information is required in an accessible format, please contact 1-800-372-1102 ext. 2564



## The Regional Municipality of Durham Report

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To: Planning and Economic Development Committee  
From: Commissioner of Planning and Economic Development  
Report: #2019-P-15  
Date: April 2, 2019

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**Subject:**

Region of Durham Site Contamination Protocol, Five Year Review, Files: L14-03-08 and D-04-27-02

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**Recommendation:**

That the Planning and Economic Development Committee recommends:

That this report be received for information.

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**Report:**

**1. Purpose and Background**

- 1.1 The purpose of this report is to advise the Planning and Economic Development Committee of the forthcoming review of the Region's Site Contamination Protocol (SCP).
- 1.2 The SCP update is intended to identify efficiencies and to provide an updated framework for remediating potentially contaminated sites throughout the Region and allow opportunities to streamline development approval processes under the *Planning Act*.
- 1.3 In 1996, the Province of Ontario assigned certain Provincial Plan Review Responsibilities to the Region of Durham including the responsibility to ensure that human health and the natural environment are adequately protected through the

planning process. To fulfil this provincially-assigned role, an internal Regional “Protocol” was developed to deal with the protection of public health and safety in relation to site contamination issues.

- 1.4 The Region’s first Protocol was adopted by Council in 1997; the current version of the SCP was included in Commissioner’s Report 2014-P-51 and adopted by Council in October of 2014. It is appropriate to review the document at this time to ensure that it reflects current legislation, standards, and best practices.
- 1.5 The existing SCP applies to all development applications in the Region. Prior to any development being undertaken, it is important for the approval authority (the Region or an Area Municipality as the case may be) to know the soil, and in some cases the groundwater, conditions of a property. This requirement is especially true for “sensitive” land uses like residential, parkland and certain types of institutional uses, where human habitation and outdoor recreation will take place. Soil and groundwater standards for various classifications of development are set by the Province. The bar of soil quality is higher for residential uses than it is for industrial uses, but even for non-residential development proposals, the Region is required to consider these types of site conditions before approvals are given.

## **2. Next Steps**

- 2.1 The Planning and Economic Development Department’s review of the SCP will include: consultation with stakeholders; the review of applicable Provincial legislative updates and trends; as well as undertake a comparative analysis of other municipalities and identify various SCP best practices.
- 2.2 Stakeholder consultation will include: The Ministry of the Environment, Conservation and Parks (MECP); The Ministry of Municipal Affairs and Housing (MMAH); Area Municipalities; Conservation Authorities within the Region’s six watersheds; Works Department; Legal Division; Risk Management Division; the Region’s SCP Peer Review Roster; as well as Geoscientist and Professional Engineer firms familiar with the Region’s SCP requirements.
- 2.3 A draft SCP will be presented to the Planning and Economic Development Committee by the Summer of 2019. The report will present research findings and provide an overview of stakeholder feedback.
- 2.4 Planning Division staff will report back to this Committee and Council with staff’s final recommendations in the fall of 2019.

### **3. Conclusion**

3.1 A copy of this report will be forwarded to all relevant agencies and stakeholders.

Respectfully submitted,

Original signed by

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Brian Bridgeman, MCIP, RPP  
Commissioner of Planning and  
Economic Development

## **Resolutions from Advisory Committees**

### **Durham Agricultural Advisory Committee**

1. Bruce Sargent, Farm Boy Productions – Virtual Farm Tour Video Discussion

That we recommend to the Planning and Economic Development Committee:

That the DAAC Farm Tour scheduled for September 17, 2020 be cancelled due to the COVID-19 pandemic and that a Virtual Farm Tour be held in its place.

2. Improving Connectivity in Ontario (ICON) Program

That we recommend to the Planning and Economic Development Committee:

That the Durham Agricultural Advisory Committee supports the Region of Durham's application to the Improving Connectivity in Ontario (ICON) program for the establishment of a Regional Broadband Network and that a letter of support as provided in Attachment #2 to the August 18, 2020 DAAC agenda be forwarded to Planning and Economic Development staff as part of the submission to the Ministry of Infrastructure regarding the Region of Durham application to the ICON Program; and

That the Planning and Economic Development Committee be so advised.