

Ministry of the Environment

Ministère de l'Environnement

Office of the Minister

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OCT 09 2013

ENV1283MC-2013-2224

Bhajan Sarker, P.Eng
Project Manager
Infrastructure and Source Water Planning
Hamilton Water Division
Public Works Department
City of Hamilton
400-77 James St. North
Hamilton ON L8R 2K3

Dear Mr. Sarker:

On May 14, 2013, I received one Part II Order request, asking that the City of Hamilton be required to prepare an individual environmental assessment for the proposed Hamilton West Harbour Shoreline and Breakwater Improvements (Project), located in the City of Hamilton.

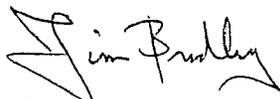
I am taking this opportunity to inform you that I have decided that an individual environmental assessment is not required. This decision was made after giving careful consideration to the issues raised in the request, the Project documentation, the provisions of the Municipal Engineers Association's Municipal Class Environmental Assessment (Class Environmental Assessment), and other relevant matters required to be considered under subsection 16(4) of the Environmental Assessment Act. The reasons for my decision may be found in the attached letters to the requesters.

With this decision having been made, the City of Hamilton may now proceed with the Project, subject to any other permits or approvals required. The City of Hamilton must implement the Project in the manner it was developed and designed, inclusive of all mitigating measures and environmental and other provisions therein. In accordance with the Class Environmental Assessment, any commitments made to affected agencies or members of the public must be fulfilled and implemented as part of the proposed Project.

Mr. Bhajan Sarker
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Lastly, I would like to ensure that the City of Hamilton understands that failure to comply with the Act, the provisions of the Class Environmental Assessment, and failure to implement the Project in the manner described in the planning documents, are contraventions of the Act and may result in prosecution under section 38 of the Act. I am confident that the City of Hamilton recognizes the importance and value of the Act and will ensure that its requirements and those of the Class Environmental Assessment are satisfied.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Jim Bradley". The signature is stylized with a large initial "J" and a long, sweeping underline.

Jim Bradley
Minister

Attachment

c: Requester

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COPY

Thank you for your interest in the proposed Hamilton West Harbour Shoreline and Breakwater Improvements (Project). I welcome your comments on this Project.

On May 14, 2013, you requested that the City of Hamilton (City) be required to prepare an individual environmental assessment for the Project. I am taking this opportunity to inform you that I have decided that an individual environmental assessment is not required.

In making this decision, I have given careful consideration to the Project, the issues raised in your request, the Project documentation, the provisions of the Municipal Engineers Association's Municipal Class Environmental Assessment (Class Environmental Assessment), and relevant matters to be considered under section 16 of the Environmental Assessment Act.

The City has demonstrated that it has planned and developed this Project in accordance with the provisions of the Class Environmental Assessment. I am satisfied therefore that the purpose of the Act, "the betterment of the people of the whole or any part of Ontario by providing for the protection, conservation and wise management in Ontario of the environment", has been met for this Project.

Your concerns together with the reasons for my decision are set out in the attached table.

With this decision having been made, the City can now proceed with the Project, subject to any other permits or approvals required.

Again, thank you for bringing your concerns to my attention, and please accept my best wishes.

Yours sincerely,

A handwritten signature in black ink that reads "Jim Bradley".

Jim Bradley
Minister

Attachment(s)

c: Bhajan Sarker, City of Hamilton
Megan Bellamy, Dillon

**Proposed Hamilton West Harbour Shoreline and Breakwater Improvements,
Class Environmental Assessment Project**

Minister's review of Issues Raised by

Issues	Response
<p>You are not satisfied with the Proponent's consultation throughout the Class Environmental Assessment process, or its receptiveness to public and stakeholder input during the process.</p>	<p>Consultation is documented in section 6 of the Environmental Study Report. Two Public Information Centres were held in June 2009 and June 2012.</p> <p>You have been involved in the consultation process by: participating in Public Information Centres and sending in comments during January 2007, May 2007, and June 2012; having an email exchange on September 2009; and personally met with the City on September 30, 2009 and June 17, 2013. The City contends that it has made an adequate effort to attempt to resolve your concerns.</p> <p>Examples of the City's responses to public input from the planning process include changing the initial plan to reconfigure and consolidate the yacht club locations within the West Harbour and confirming species at risk following the June 17th meeting with you.</p> <p>I am satisfied that the City has provided adequate consultation and opportunity for public input throughout the Class Environmental Assessment process and followed the Class Environmental Assessment requirements.</p>
<p>You are concerned that the 'do nothing' scenario was not considered and evaluated as an alternative.</p>	<p>In regards to shoreline improvements, a 'do nothing' option is identified in section 7.1.1 of the Environmental Study Report. It is stated that "a 'do nothing' option for the areas where these deficiencies occur was not considered a feasible option" because the lack of suitable shoreline protections would create an erosion hazard zone along the shoreline. The Hamilton Conservation Authority cannot issue a permit for new development for areas within an erosion hazard zone, so a 'do-nothing' option would restrict development in this area. For this reason, it was not considered further.</p> <p>In regards to breakwater improvements, a 'do nothing'</p>

	<p>option is identified in section 8.1.1 of the Environmental Study Report. It was stated that a 'do nothing' option would include using the existing breakwater. Breakwaters serve to reduce incoming waves from the open water, which prevents boats and floating docks from rocking to the point of causing damage. The existing breakwaters are insufficient to disrupt some of the more extreme waves directed towards the marina, and are not big enough to accommodate future expansion of the marina. A 'do nothing' option would not solve the problem, and it was not considered further for this reason.</p> <p>I am satisfied that a 'do nothing' alternative was appropriately considered during the Class Environmental Assessment process for both shoreline and breakwater improvements.</p>
<p>You are concerned that construction on the marina and shoreline could have long term adverse effects on fishery, waterfowl and other wildlife habitat, as well as the long-term ecology of the Harbour.</p>	<p>Significant excavation is not anticipated in most locations as the shoreline layout is not changing. In some locations there will be a need to drive new shoreline structures into the ground during construction. The standard practice is to drive these structures directly in front of the old ones, and then only remove the portions that interfere with the installation of other components, such as caps or tie rods. This minimizes the potential for negative impacts on water quality during construction. Other mitigation measures during construction will include in water silt fences, dust suppressants, conducting construction during low-water periods, and safe practices for the storage of equipment and materials.</p> <p>The ecology of the Harbour was considered during the Class Environmental Assessment through consultation with relevant agencies and stakeholders, including the Department of Fisheries and Oceans and the Hamilton Conservation Authority. The Conservation Authority has no outstanding concerns and has indicated that a permit must be approved by them before the City can initiate construction activities for the shoreline improvements. The Department of Fisheries and Oceans has indicated that the proposed breakwaters will not result in harmful alteration and no Fisheries Act approval would be required.</p> <p>There will also be enhancement to areas of emergent</p>

	<p>and submergent aquatic plants, and along the shoreline will be converted from vertical walls to a natural, sloping shoreline. It is anticipated that this will result in an overall net benefit to fish habitat. It is also in line with the objectives from the Hamilton Harbour Remedial Action Plan, which is overseen by the Bay Area Implementation Team representing 18 key government and industrial stakeholders, and co-chaired by Environment Canada and Ministry of the Environment West Central Regional staff.</p> <p>I am satisfied that negative impacts to the natural environment were properly identified and addressed during the Class Environmental Assessment, and adequate mitigation measures are proposed to address any issues.</p>
<p>You are concerned that the marina, upon full build out, will impact wind, air and water flow patterns.</p>	<p>The Harbour West Concept Plan provides a graphic representation to guide future studies and projects. Specifically for the purpose of the Project, the designs of the breakwater were proposed to allow for flexibility for expansion.</p> <p>The configurations and number of docks for the marina as presented in the Harbour West Concept Plan are conceptual. The final marina design is outside the scope of this Project and will be undertaken as a separate project.</p> <p>I agree with the City that the marina expansion is outside the scope of this Class Environmental Assessment study.</p>
<p>You are concerned that local residents could lose enjoyment and use of their property.</p>	<p>Section 9 of the Environmental Study Report addresses potential impacts and mitigation measures. Construction is identified as having potential to temporarily disrupt local residents and waterfront users. The closest resident is located approximately 150 metres from the proposed Project area. Mitigation measures will be undertaken including working within normal working hours and abiding with noise by-laws, using dust suppressants, and staging the work to reduce general disturbance during construction. Construction time for the breakwaters is expected to be six to eight months, while shoreline improvements will be implemented intermittently to accommodate relevant users of the Harbour facilities.</p>

	<p>Ultimately, improvements to the shoreline and breakwater will improve public safety along the waterfront and better protect boats and their occupants.</p> <p>Regarding concerns for temporary construction impacts, while there will be no restrictions of residents' use of their property, there will be potential for nuisance impacts from construction, such as dust and noise.</p> <p>I am satisfied that impacts on local residents will be temporary during construction, and sufficient mitigation measures are proposed to reduce these impacts.</p>
<p>You are concerned that shoreline construction could disturb contaminated silt left over from legacy industrial uses.</p>	<p>It is recognized that much of the waterfront consists of unknown fill. Soils will be tested by the City as required during the detailed design phase. None of the alternatives involve significant excavation so any impact is anticipated to be minimal. However, any soils identified as being contaminated will be dealt with as prescribed by Ground Water and Sediment Standards, under the Environmental Protection Act, and any applicable Ministry of the Environment waste regulations.</p> <p>During construction there is a potential for sedimentation and erosion to be caused by pile driving or other construction activities. In water silt fencing will be used where appropriate to minimize silt migration offsite. Where pile driving is needed, it is standard practice to drive these shoreline structures directly in front of the old ones and then remove only the portions of the old structures that interfere with the installation of other components. This will minimize the potential for construction impact on water quality.</p> <p>I am satisfied that there are sufficient mitigation measures proposed and that there are standards and regulations the City is required to follow in the event that contaminated soil is found on-site.</p>
<p>You are concerned that the models used to determine environmental impacts can be deficient. You contend</p>	<p>There is no wave calibration data in Hamilton Harbour that the City is aware of. The lack of calibration data at a specific location does not invalidate the use of the</p>

<p>the particular model used has not been tested on an inland lake or bay, and a long-term study using empirical data is required.</p>	<p>model and the Hamilton Conservation Authority has not identified concerns in this regard.</p> <p>Concern over the model used is documented in the Environmental Study Report. The wave model used for this Project is a tool that is commonly used by coastal engineers, and has been used for many years. The model has been calibrated in past projects against measured waves on Lake Ontario by a sub-consultant, Shoreplan Engineering Limited. The results produced by this model have been used to design many shoreline projects without site specific calibrations including the design of sloping structures, in many areas: inland lakes, such as Lake Ontario, and bays. Shoreplan Engineering Limited notes that these structures have performed well since their design. The shoreline designs have been accepted by government agencies including Conservation Authorities, the Ministry of Natural Resources, the Department of Fisheries and Oceans, and Transport Canada.</p> <p>I am satisfied that the model used in the Class Environmental Assessment is sufficient for the purposes of this project.</p>
<p>You are concerned that commercial development will require major construction and upheaval to the natural environment.</p>	<p>This Project addresses shoreline deterioration and the need for wave protection. The shoreline improvements will allow for development permits to be issued for lands behind the shore, since they will no longer be in an erosion hazard zone. These developments would be separate projects that are subject to their own relevant planning process, approvals, and permits.</p> <p>I am satisfied that the City has followed the Class Environmental Assessment process, and that the preferred alternative addresses the intent of the study. Additional construction and development are outside the scope of this study and would be subject to further review by the appropriate agencies.</p>