



Township of Georgian Bay – Office of the Mayor

May 2, 2022

(SENT BY MAIL AND EMAIL)

Kristina Hubert
Species at Risk Specialist
Ministry of the Environment, Conservation and Parks
300 Water Street, 5th Floor, North Tower
Peterborough, Ontario K9J 3C7

Dear Sir or Madam:

Re: Submissions of The Township of Georgian Bay respecting the overall benefit permit application for the property known as 380 Macey Bay Road - s. 17(2)(c) Endangered Species Act

Background

This letter is submitted at the direction of Council of the Township of Georgian Bay respecting the application for an overall benefit permit under the Endangered Species Act concerning a proposed 180-unit Park Model Trailer Park proposed by Macey Bay Developments Corp. to be constructed at 380 Macey Bay Road.

By way of brief background, this particular site is surrounded by an important provincially significant wetland, namely Tobies Bay, (some of which is included in the property), is adjacent to Georgian Bay Islands National Park in the southwest, is on lands that form part of the UNESCO designated World Biosphere and is adjacent to sensitive aquatic designations in nearby Type 1 Fish Habitat and a protected breeding ground for Muskellunge. This property was used for commercial purposes in a modest way from the early 1900's for a small fishing camp, and later expanded into a trailer park that included approximately 110 travel trailers and a few park model trailers occupying the lower central portion of this site by the early 2000's. The northern area of the site remained essentially undeveloped and in its natural state throughout.

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The travel trailer park operated on the site until approximately 2005 when, we understand, it was closed for violation of MOE orders respecting its septic lagoon. It was subsequently purchased by a developer in 2010 who planned to build approximately 84 homes. Two un-serviced model homes and a clubhouse /sales office were constructed. We understand the property was re-sold in 2012 to a company related to the current owner. The current purchaser decided not to proceed with the building of the homes and instead wished to proceed with a trailer park that would contain 180 park model trailers.

We believe that up until 2017, the Ministry of Natural Resources was the approving authority for development of this site and had rejected requests of approval on the basis that the proposed development was excessive for this site. As far as we are aware, the Ministry is now only involved through the Endangered Species Act.

The opposition to the proposed development by reason of its excessive size by constituents in the Township has been and remains intense.

Submissions

Dealing specifically with Section 17(2)(c)(i) of the Endangered Species Act, we believe that the proposed development will not assist in the protection of a species specified in a proposed permit so we are assuming that the developer has agreed to pay to the agency a species conservation charge that will be required by a permit if it is granted.

With respect to 17(2)(c)(ii) the Minister must be of the opinion that reasonable alternatives have been considered including alternatives that would not adversely affect the species, and that the best alternative has been adopted.

The developer has indicated that other alternatives are “not financially viable” as a reason for the Minister to conclude that the best alternative has been adopted. Council submits that financial viability should NOT be a consideration in this case, and that the best alternative has not been adopted. Smaller commercial developments successfully operated on this site from the early 1900’s through to 2005. The overall benefit permit process is not intended to rescue developers from what may have been poor business decisions. Many alternatives are in fact available, which would include but not be limited to downsizing, leaving the northern section in its undeveloped state, donating all or part of the property to a conservation or land trust agency, or changing the nature of the development.

With respect to 17(2)(c)(iii), the Minister must be of the opinion that reasonable steps to minimize adverse effects on the species are required by conditions of the permit.

We believe that a development of the proposed size and density will have a devastating, irreversible impact on the endangered species on this site. The steps proposed by the developer, in our view, can be considered as superficial and will likely lead to the extirpation of endangered species on this site and neighbouring properties for generations to come.

In this regard, we are attaching a letter prepared by North South Environmental commenting on the deficiencies in the studies conducted by the developer and the mitigation measures which they suggest. North South Environmental also suggest certain conditions if a permit is granted.

The Township is also of the view that the overall benefit permit should be withheld until a waterfront plan is submitted by the developer so that the overall environmental impact of this project can be assessed as a whole, before it proceeds. Despite multiple requests, this developer has consistently refused to provide the all-important plan for the development of the waterfront. This undisclosed plan will dramatically affect patterns of traffic of vehicles and people within the development of which we are not yet aware, that may well have a great impact on the proposed mitigating measures put forward by the developer thus far. The waterfront includes and is adjacent to environmentally sensitive areas, Type 1 Fish Habitat and protected Muskellunge breeding area. The available waterfront footage for this property is extremely small in comparison to the overall size of the development, which will mean intense overuse and congestion in various sections of the waterfront and adjacent areas. All relevant information is not yet available and upon which the consideration of the application should be based.

We greatly appreciate your consideration of the above. Please let us know if you require any further information or explanations.

Yours very truly,

Peter Koetsier, Mayor
Township of Georgian Bay
Encs.

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22nd April 2022

Ms. Julie Bouthillette
Township of Georgian Bay
99 Lone Pine Road
Port Severn, ON L0K 1S0

RE: Input to Mitigation of SAR Habitat for Macey Bay Trailer Park Site

Dear Ms. Bouthillette,

Thank you for asking us to provide our input to the Ministry of Environment, Conservation and Parks regarding mitigation for impacts on Species at Risk (SAR) habitat at Macey Bay. The following provides a summary of our involvement in the past, our concerns regarding previous studies and mitigation proposed for impacts on Species at Risk, and our recommendations for conditions that should be attached to a permit under Section 17 (2) (c) of the Endangered Species Act, 2007.

Introduction

A site plan application has been submitted to the Township of Georgian Bay for a park model trailer park on the property known as the Macey Bay Site. The Macey Bay Site is located off Honey Harbour Road with frontage on Macey Bay Road and Georgian Bay. The site is 67 ha in area, of which 19 ha are proposed to be developed.

It is our understanding that the proposal includes 180 park model unit trailers (PMU), some of which will be 100 m² in size, consisting of: 18 PMUs with 1 bedroom, 126 PMUs with 2 bedrooms and 36 PMUs with 3 bedrooms. In addition, there are two existing cottages: one two-bedroom cottage and one three-bedroom cottage, plus a large building formerly used as a sales centre and club house and a large enclosed garage/maintenance building. Amenities include a beach, and a swimming pool for 50 visitors per day. Parking for all cars is proposed in a central area, with proposed transport from the parking area to the individual trailers by golf cart. The development is proposed to occur in three phases. The number of people on the site would likely be approximately 400.

North-South Environmental Inc. (NSE) was initially retained by the Township of Georgian Bay in September, 2017 to undertake a peer review of the environmental reports submitted by Gord Nielsen of Michalski Nielsen. Beacon Environmental conducted additional bird surveys in the summer of 2018 in response to these comments. NSE provided a response to Beacon's report on their additional surveys in October, 2018. A follow-up Addendum report was provided in May, 2019, that provided a response to proposed additional mitigation that stemmed from discussions in spring of 2019.

This current review was requested by the Township of Georgian Bay, in order to provide input to the Ministry of Environment, Conservation and Parks (MECP) regarding Species at Risk (SAR) habitat in view of a pending application to MECP for an Overall Benefit Permit. Much of the discussion of the site in the EIS was focused on SAR. MECP has been consulted to obtain an Overall Benefit permit for destruction of habitat for three Endangered and Threatened species known to occur on the property,; Eastern Whip-poor-will, Eastern Foxsnake and Blanding's Turtle. Several other species are known to occur or have the potential to occur, but are not the subject of a permit application: for example Massasauga and Spotted Turtle have also been identified as potentially using the site. Species at Risk bats also likely use the site but their habitat has not been evaluated. A bird considered rare in Ontario but not designated under the Endangered Species Act was noted on the site during 2018 surveys: Prairie Warbler.

In previous review comments, as instructed by the Township, we provided comment on SAR only as they related to the function of the Provincially Significant Wetland (PSW) on the property. However, in the previous review we noted that there were deficiencies in the survey methods for SAR that were insufficient to establish absence, and there were deficiencies in the proposed mitigation. It is my opinion that there remains the potential for negative impacts to SAR from the proposed development for which mitigation will be likely to be ineffective, because of the high density of development and number of people that will make use of the site. This letter provides more fulsome comment on those issues.

Methods

Background Review

The following reports were reviewed for this letter:

- Michalski Nielsen Associates Limited in association with Beacon Environmental Limited. 2016. Environmental impact assessment for Lakehouse Landing: Redevelopment of former Dreamers Trailer Park on Macey Bay. Report for HH (MB) Limited Partnership.
- Marchand, C. 2017. Functional Servicing review, Lakehouse Landing at Georgian Bay, Macey Bay Development. Report by Claude Marchand of Ainley and Associates Limited for Jamie Robinson, MHBC Planning.
- Bain, Thomas. Comments on Proposed Functional Servicing and Stormwater Management, Lakehouse Landing at Georgian Bay, Township of Georgian Bay, C.C. Tatham & Associates Ltd. - Consulting Engineers.
- Beacon Environmental Inc. August 22, 2018. Response to Environmental Impact Assessment Peer Review Prepared by North-South Environmental, May 11, 2018.

Site Visit

A site visit was conducted on 13th September, 2017 in company with Gord Nielsen and Jamie Nairn, terrestrial biology consultants from Michalski Nielsen Associates Limited. The site visit entailed a walk around all parts of the site to view the features.

Significant Observations During Site Visit

One Species at Risk, an Eastern Foxsnake, was noted dead on the road approximately 20 m east of the site entrance during the site visit. The snake showed signs of trauma and had likely been hit by a car.

It was observed that a portion of the Tobies Bay Wetland had been omitted from the mapping, immediately adjacent to the entrance road. This portion of the wetland was vegetated by cattail, and the identification of the plant community was not in question. This community was contiguous with other parts of the wetland.

Comments on SAR Surveys

SAR Survey Methods

Our review of the EIS identified many deficiencies associated with the methods used to survey Species at Risk. These included:

- Our initial comments stated that bird surveys were conducted late in the season, after many bird species would have finished nesting. The early breeding period recommended by Canadian Wildlife Service and Birds Canada was omitted. While additional surveys were conducted in June of 2018, with several additional observations of SAR birds (Eastern Whip-poor-will) and bird species of Conservation Concern (Prairie Warbler), surveys specific to detecting SAR were not conducted.
- Dedicated studies of SAR turtles and snakes were not conducted to determine their movement patterns and areas of critical habitat.
- Initial Eastern Whip-poor-will surveys were conducted in the late breeding period, and at times when the moon was not visible, an important aspect of bird surveys for these nocturnal species whose breeding and calling displays are timed to coincide with bright moonlit nights.

While additional surveys were conducted in 2018, we do not feel they addressed the deficiencies in the survey effort, as they were focused only on birds. The number of surveys that have been conducted on the site in conditions conducive to detecting SAR snakes and turtles is not clear.

The under-reporting of Species at Risk on the site results in a decreased ability to understand where important habitat elements are located and how the habitats are being used by these species. In turn, this results in a reduced ability to identify mitigation that can appropriately address impacts on these species. It has been repeatedly said that the site was designed under the assumption that the entire site comprises habitat for Blanding's Turtle and Eastern Foxsnake. However, this is not reflected in the design of the site, since the development proposed for the development area is intense, introduces potential impact pathways and would likely create an ecological barrier.

Areas of critical habitat use have not been investigated, for example potential oviposition sites for snakes on rock barrens, and hibernacula for both Blanding's Turtle and Eastern Foxsnake. Movement between these areas has not been investigated. If the extent of their habitat use were known more

precisely, through species-specific studies (for example, using radiotelemetry) it would provide an understanding of what habitats were most important for protection, and what the movement patterns were between those critical habitats. For example, while the proponents have dismissed the potential for turtles to overwinter in the northern part of the central channel, because of the lack of emergent vegetation, we continue to argue that this part of the central wetland has abundant submergent vegetation (which is also used by overwintering Blanding's Turtles) and would likely be suitable for overwintering. Figure 1 at the end of this letter illustrates the abundance of vegetation in the northern part of the central channel in a photo taken during the September 2017 site visit.

It is possible that this site harbours additional snake and turtle SAR, for example Massasauga and Spotted Turtle, that would not have been detected by the current survey effort. Species at Risk bats likely occur on the site, but their habitat has not been evaluated.

Even the additional survey effort for SAR birds is likely insufficient. In 2018, Eastern Whip-poor-will were again not investigated using the timing outlined by protocols which note that this species is most active on moonlit nights. Despite the survey being conducted at the wrong time, one Whip-poor-will was noted near the north end of the site. However, there are dry openings (rock barrens and glades) throughout the site that could support breeding, and the lack of survey at the correct moon phase may not accurately reflect the number and extent of breeding pairs and habitat.

Comments on Proposed Mitigation

Development Footprint

Generally, the development footprint, within which there will be high intensity development, will be a hazardous area for SAR snakes and turtles, because of the high number and density of trailers, the large numbers of people and the likely very frequent use of golf carts on the internal roads. It is likely that nearly 400 people will make use of the park; a high density in the 19 ha proposed for development.

Since areas of natural habitat surround the park, vulnerable species will almost certainly need to cross the developed part of the site. Recommendations were provided for widening the buffers to the northern part of the central channel, but this widening was focused on providing additional areas for transforming amphibians, not for protection of SAR turtles and snakes, which are more mobile and range more widely.

Development is proposed on the northernmost part of the site, which has not been developed in the past. This area is likely a particularly important part of the habitat for all SAR as it is less disturbed than other parts of the site and is in close proximity to wetland habitat. Bat habitat may be concentrated in this location. A Whip-poor-will was heard singing on this part of the site during the 2018 surveys. This location, as a narrow peninsula between wetlands, also likely makes it an important area for passage of snakes and turtles.

Roadkill Hazard

SAR snakes and turtles will almost certainly cross the developed portion of the site from one natural area to another. The proposed buffers would likely not encompass all areas where SAR snakes and turtles would cross and snakes and turtles would be vulnerable to road-kill. It is acknowledged that the use of golf carts instead of cars improves the ability of people to see SAR snakes and turtles, but there is no guarantee they would necessarily stop for them. A snake or turtle would be easily killed by a golf cart. SAR snakes and turtles would be vulnerable to poaching if they crossed the developed part of the site.

An Eastern Foxsnake was observed dead on the entrance road near the east end of the site during the site visit in September of 2017. It had been crushed by a vehicle. The entrance to the park site is at a narrow point between wetland lobes and SAR snakes and turtles would likely cross the road frequently in this location, and snakes would bask on the road. A crossing structure should be proposed for the entrance to allow passage for snakes under the road. Fencing should be used to divert snakes and turtles away from the entrance road and parking areas. Crossing structures in this location were suggested in our past reviews of the site, but the response was that the road was the Township's responsibility. However, the trailer park should attempt to assume some of the responsibility for this mitigation through discussions with the Township, as road-kill is an important source of mortality for snakes and turtles, and the trailer park will create a hazard to snakes in excess of what is normal for a township road because of the high density of people in this small area.

Occupancy-Related Impacts

Many impacts on wildlife are associated with the potential for encounters with people. Foxsnakes will use anthropogenic areas and will likely come into contact with people, and may be harmed by people who dislike snakes. Pets are likely to kill snakes. People may disrupt artificial habitat areas and buffers. Many species of wildlife (especially snakes and turtles) would be vulnerable to poaching.

Effectiveness and Integrity of Buffers

We have previously written about concerns over the effectiveness and integrity of buffers, especially given the number of people proposed for the park. The maintenance of buffer integrity is a significant concern in proximity to this development. Trailers will be in very close proximity to buffers, and we frequently observe impacts of encroachment of residential development on adjacent natural areas such as removal of vegetation, dumping of yard waste, extension of gardens, construction of structures etc. Proliferation of ad hoc trails is a common impact within natural areas adjacent to areas of intensive human use. We frequently observe debris, damage to vegetation and fire pits where people congregate in natural areas.

Conclusions and Recommendations

In our opinion the proposed development has potential to result in significant impact to the species beyond the partial loss of habitat. Further study is required and, informed by the outcome of this work, the redesign of the proposed development may be warranted to minimize impacts and provide sound mitigation measures to avoid, to the extent possible, further impacts to individuals or the

habitat retained on the subject property. In addition, the following recommendations for conditions that should be incorporated in the Net Benefit permit:

- A larger area of the previously undeveloped northern extent of the site should be protected.
- Wildlife crossing structures and fencing should be used at the road entrance to the park to allow snakes and turtles safe passage under the road and deter them from crossing areas where cars and trucks are frequent.
- Monitoring of each phase of the development should be rigorous, and results should be reported annually, with reporting timed to inform mitigation prior to each subsequent phase. Monitoring should include:
 - Monitoring of all road-killed animals, noting the date, timing and location of each road kill to inform better mitigation;
 - Compliance monitoring of the buffers to determine if they are being encroached on or otherwise impacted by park users;
- Should monitoring indicate that road kills are occurring at an unsustainable level in the first phase of development, additional mitigation should be recommended, as determined by the location and timing of road-kills. Consideration should be given for reducing the number of units proposed for the next phases of development, if monitoring indicates adverse impacts are occurring.

In summary, we question whether there is sufficient information on the use of this site by Species at Risk to fully assess the potential impacts of the development. Without that information, we question whether the proposed mitigation would actually achieve an Overall Benefit for these species.

Please do not hesitate to contact me if you would like to discuss this letter,

Yours Truly,



Sarah Mainguy



Figure 1.
Central
channel on the
northern part
of the site,
showing
submergent
and emergent
vegetation.
Photo taken
September
2017.