



**STAFF REPORT
ACTION REQUIRED**

**Essroc Quay Lake Filling and Naturalization – City-Initiated
Zoning By-law Amendment– Final Report**

Date:	February 7, 2017
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	30 – Toronto-Danforth
Reference Number:	16 264974 SPS 27 OZ

SUMMARY

The purpose of this report is to zone two water lots surrounding Essroc Quay in the Port Lands that will be subject to lake filling as part of the Essroc Quay Lake Filling and Naturalization project which is component of the Port Lands Flood Protection project.

This report recommends approval of a City-initiated amendment to Zoning By-law 438-86 in accordance with the former City of Toronto Official Plan and consistent with Provincial Policy Statement.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council amend Zoning By-law 438-86 for the water lots adjacent to Essroc Quay substantially in accordance with the draft Zoning By-law Amendment attachment to be available at the February 22, 2017 meeting of Toronto and East York Community Council.
2. City Council authorize the City Solicitor to make stylistic and technical changes to the draft Zoning By-law Amendment as may be required.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

At its meeting on July 6, 7 and 8, 2010, City Council adopted the report of May 31, 2010 from the Deputy City Manager Cluster B, entitled "Lower Don Lands Project".

<http://www.toronto.ca/legdocs/mmis/2010/ex/reports/2010-06-14-ex45-cr.htm#EX45.15>. This report sought City Council support for a number of studies and plans completed by Waterfront Toronto and the TRCA for the lands south of the rail corridor, east of Small Street, west of the Don Roadway and north of the Ship Channel known as the "Lower Don Lands", including supporting the preferred alternative of the Don Mouth Naturalization and Port Lands Flood Protection Environmental Assessment (DMNP EA) and its submission to the Minister of the Environment for approval.

At its meeting of September 21 and 22, 2011, City Council endorsed the protocol for the revitalization of the Port Lands. This protocol commenced the Port Lands Acceleration Initiative (PLAI) by the City of Toronto, Waterfront Toronto and TRCA. The initiative included a review of the studies endorsed by City Council related to the Lower Don Lands Project.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.EX9.6>

At its meeting of October 2, 3 and 4, 2012, City Council adopted the report of August 24, 2012 from the Deputy City Manager Cluster B, entitled "Port Lands Acceleration Initiative – Final Report". City Council endorsed the Summary of Findings of the PLAI process and enabled the finalization and submission of the DMNP EA to Ministry of the Environment and Climate Change (MOECC) for approval, based on the revised flood protection scheme identified through the PLAI. Staff were also directed to amend the Lower Don Lands Infrastructure Master Plan. The Council action also initiated the Port Lands Planning Framework and precinct planning, the utilization of development charges for infrastructure, and comprehensive public consultation to address all of these items.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.EX22.1>. The Lower Don Lands Infrastructure Master Plan amendment was completed in 2014. The DMNP EA received MOECC approval in January, 2015.

At its meeting of May 7, 2013 City Council adopted the report of April 9, 2013 from the Deputy City Manager Cluster B, entitled "Port Lands Acceleration Initiative – Update". City Council adopted recommendations that revised the precinct boundaries for Cousins Quay (now called Villiers Island) and Film Studio District and ensured coordination of the Port Lands Planning Framework with the South of Eastern Strategic Direction.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.EX31.8>

At its meeting on July 8, 2014, City Council adopted the Port Lands Acceleration Initiative Phase 2 – Progress Report. Council directed City staff to initiate discussions with federal and provincial officials for one-third funding to accelerate the design and construction of Port Lands Flood Protection. <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PG34.11>

At its meeting on July 7, 2015 City Council adopted the report of June 22, 2015 from the Deputy City Manager Cluster B, "Waterfront Strategic Review" with recommendations to support, in principle, the undertaking of a second phase of waterfront revitalization supported by tri-government funding and governance. Flood protection was identified as a priority capital project

and the Mayor was asked to contact his provincial and federal counterparts to initiate a "Call to Action" negotiation process regarding funding for flood protection and other Waterfront 2.0 projects. <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.EX7.6>

At its meeting on November 8, 2016, City Council adopted the Port Lands Flood Protection: Due Diligence Review and Next Steps report, dated October 21, 2016. The purpose of the report was to outline the next steps to be undertaken as part of the City Council-mandated Port Lands Acceleration Initiative. This report identified the Essroc Quay Lake Filling and Naturalization project for immediate implementation with \$65 million in tri-governmental funding and enabled through the federal Clean Water and Wastewater Fund. The report explained the need for a City-initiated Zoning By-law Amendment for the Essroc Quay project to advance. <http://www.toronto.ca/legdocs/mmis/2016/ex/bgrd/backgroundfile-97552.pdf>

ISSUE BACKGROUND

The need for flood protection in the Port Lands has been identified in City of Toronto planning documents since the 1980s. The 2003 Central Waterfront Secondary Plan included the naturalized Don River Mouth proposal and identified the priority environmental assessment work needed to address flood protection and naturalization.

Work began in 2004 on the flood protection and naturalization solution, with a terms of reference completed in 2006 for the DMNP EA and initial completion of the DMNP EA in 2010. With the adoption of the 2012 PLAI report by City Council, amendments to the DMNP EA were initiated based on a modified preferred alternative identified through the PLAI. The DMNP EA was approved by the MOECC in January 2015. Significant public and stakeholder consultation occurred as part of the development and finalization of the DMNP EA, and through all the various initiatives since the DMNP EA's initiation in 2004. The consultation included the identification of lake fill around Essroc Quay.

The Essroc Quay lake filling project, while part of the proposed scope of work for the larger Port Lands Flood Protection project, is a self-contained and stand-alone project that will be advanced independently of the larger scope of work. The lake filling around Essroc Quay will form part of Villiers Island in the future. Once the new mouth of the Don River, Don Greenway, and other flood protection features are built, Villiers Island will be created. Additionally, it is expected that the Essroc Quay lake filling will take 18 months to complete, with the completion date for all of Villiers Island taking 6-7-years once the balance of provincial and federal funding is received. Villiers Island is currently the subject of Precinct Planning led by Waterfront Toronto.

Site and Surrounding Area

Essroc Quay is located on the south side of the Keating Channel, where it meets Toronto's Inner Harbour within the Lower Don Lands. The area subject to lake filling is comprised of two legal water lots and is outlined in Figure 1 below. The two water lots are owned by Ports Toronto.

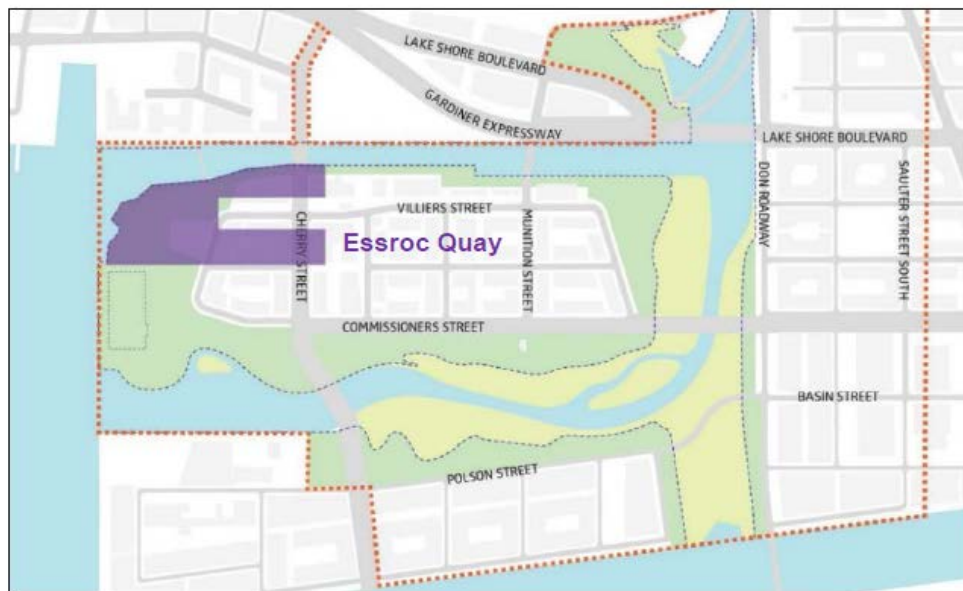
The Essroc Quay lands, around which the new land will be created, are currently vacant. Starting in 2013, the Toronto Port Lands Company (TPLC), Ports Toronto and Waterfront Toronto worked to re-locate Essroc Canada Inc. from its Cherry Street location to a new site just north of the Ship Channel in the East Port area. The re-location of Essroc Canada Ltd. was carried out as

part of the City's consolidation strategy to relocate concrete and aggregate companies to the eastern Port Lands.

Villiers Island, once completed, will be bound by the Keating Channel to the north, Toronto's Inner Harbour to the west, Polson Slip to the south and the Don Roadway to the east and will include the existing Essroc Quay and the proposed lake fill.

The two water lots are comprised of four separate parts shown on the draft survey (Attachment 1). Parts 1 and 4 represent the top of bank, which is the highest point of the newly created landform. Parts 2 and 3 are the 'toe' of the lake fill, which is the lowest point underwater where the edge of the landform rests on the lake bed.

Figure 1: Essroc Quay Lake Filling and Naturalization Project Area



Provincial Policy Statement

The Provincial Policy Statement (PPS) 2014 provides policy direction on matters of provincial interest related to land use planning and development. The PPS supports the goal of enhancing the quality of life for all Ontarians. Key policy objectives include: building strong healthy communities; wise use and management of resources; and protecting public health and safety. The PPS recognizes that local context and character is important. Policies are outcome-oriented, and some policies provide flexibility in their implementation provided that provincial interests are upheld. City Council's planning decisions are required, by the *Planning Act*, to be consistent with the PPS.

Provincial Policy Statement policy 3.1.4 (d) states that development site alteration shall not be permitted within a floodway regardless of whether the area of inundation contains high points of land not subject to flooding. Policy 3.1.4 further states that, despite policy 3.1.2, which prohibits development in a floodway, development and site alteration may be permitted in certain areas associated with flooding hazard along river, stream and small inland lake systems, where

development is limited to uses which by their nature must locate within a floodway, including flood and/or erosion control works or minor additions or passive non-structural uses that do not affect flood flows.

Former City of Toronto Official Plan

The (former) City of Toronto Official Plan is the in force Plan for the Central Waterfront, including the Port Lands. The lands subject to lake filling are not designated in the Official Plan. Surrounding lands are designed *Port Industrial District*.

Section 2.74 of the Official Plan, Lake Fill Policies, states that creation of new lands in Lake Ontario or any bay, channel, slip or lagoon connected therewith shall only take place in accordance with the Provincial Fill Quality Guidelines, and where Council has indicated in the Zoning By-law, prior to the commencement of lake filling.

Section 2.75, Considerations in Passing By-laws, states that before approving an amendment to the Zoning By-law to permit the proposed use of any area for lake fill, for any purpose other than conservation lands or a bathing station, and prior to any lake filling, Council shall be satisfied that:

- a) there is a clear public benefit in creating the land;
- b) in the circumstances of the proposal, this is the best location for the land for its proposed use;
- c) there will be a minimal negative impact on the water quality and circulation, and, in particular, the Hearn Generating Station plume, the dispersal of effluent from the Main Sewage Treatment Plant, or the exchange of water between Toronto Bay and *Outer Harbour*, and Lake Ontario will not be impeded;
- d) the lake filling has been subject of a formal environmental assessment where required by law or by directive, decision or order of the Government of Canada, the Government of Ontario, or a Minister thereof, and if this is not applicable, an appropriate written analysis of the environmental impact, undertaken by the proponent, shows that the environmental (social, natural and economic) effects are desirable; and
- e) except where *water's edge lands* will be used for shipping or industries requiring direct access to the water:
 - i. advantage has been taken of the new shoreline for public recreation and there will be no decrease in overall recreational opportunities;
 - ii. existing recreational boating opportunities will not be reduced and new recreational boating facilities will be provided where appropriate;
 - iii. the lake filling will be carried out in a manner which maximizes public access to existing lands that normal publicly accessible; and
 - iv. the lake filling does not have a negative impact on fish habitat.

Official Plan

While the (former) City of Toronto Official Plan is in force for the Port Lands, the current Official Plan also contains policies related to lake filling that are generally consistent with the in-force policies and represent Council's most recent direction.

Section 3.4.16, Natural Environment, of the Official Plan states that lake filling in Lake Ontario will only be supported where: the land created will be used for public recreation purposes or essential public works; and the project has been subject of an Environmental Assessment which ensures that water quality and quantity will be protected or enhanced.

Central Waterfront Secondary Plan (CWSP)

In April, 2003, City Council adopted OPA 257, Central Waterfront Secondary Plan (CWSP) as an amendment to the (former) City of Toronto Official Plan. The CWSP was appealed to the Ontario Municipal Board and is approved in several areas but is not currently in effect in the Port Lands. However, it is the guiding document for revitalization in the Port Lands and broader Central Waterfront.

The purpose of the CWSP is to remove barriers and make connections, promote building a network of spectacular waterfront parks and public spaces, promote a clean and green environment and allow for the creation of dynamic and diverse new communities. The CWSP speaks to the renaturalization of the mouth of the Don River within the Port Lands.

Policy 28 of the CWSP states that lake filling will be considered only for stabilizing shores, improving open spaces, creating trail connections, preventing siltation and improving natural habitats and is subject to Provincial and Federal Environmental processes. Consideration will be given to the impact of such lake filling on recreational uses.

As part of a resolution for the appeals received on the CWSP, the Port Lands Planning Framework initiative is being undertaken as a high-level plan that will provide the basis for amending the CWSP as it relates to the Port Lands.

Zoning

The Port Lands remain under the former City of Toronto Zoning By-law 438-86.

The purpose of this City-initiated Zoning By-law is to assign zoning to two water lots adjacent to Essroc Quay. Presently, as the land does not exist, there is no zoning in place. Under Zoning By-law 436-86, the existing lands on Essroc Quay are zoned I3 D2, which permits a wide range of industrial-related uses.

Lands in the Port Lands are excluded from the harmonized City-wide Zoning By-law 569-2013.

Reasons for the Application

The (former) City of Toronto Official Plan provides policy direction outlining that prior to the creation of the new land appropriate zoning must be in place. Despite the policy direction, in general, it is good practice to ensure that new land created is subject to zoning and not left unregulated with respect to land use.

Community Consultation

Since the initiation of the DMNP EA and other planning associated with the Lower Don Lands in 2004, there has been extensive community consultation undertaken. The most recent occurred through the PLAI process which utilizes a robust and high standard of public consultation. A final public consultation meeting on the DMNP EA was held in July 2013.

The Essroc Quay lake filling has been identified throughout the planning and Environmental Assessment process as a vital component to the overall flood protection and naturalization solution identified in the DMNP EA. Initially, two large promontories were to be created. Through the Environmental Assessment process and consultation with stakeholders, the amount of fill proposed within the Inner Harbour was scaled-back to the current approved area.

COMMENTS

Provincial Policy Statement

The proposed City-initiated Zoning By-law Amendment is consistent with the PPS.

Until the majority of works associated with the Don Mouth Naturalization Project and Port Lands Flood Protection project are complete, the lake-filled lands will be subject to flooding. The lands will continue to be within the floodway or referred to as a one zone concept in the PPS. Only uses which by their nature must locate within the floodway, including flood and/or erosion control works or minor additions or passive non-structural uses which do not affect flood flows, are permitted. In order to ensure that the proposed Zoning By-law Amendment is consistent with the PPS, the list of permitted uses is limited and only contains non-structural uses to allow the flood protection works to occur. This approach is consistent with the policies contained within Section 3.1.4 of the PPS. It is anticipated that a future rezoning would occur once the balance of necessary flood protection works has been fully funded and construction advanced.

Official Plan

The proposed Zoning By-law Amendment meets the lake filling policies contained within Section 2.7.5 of the (former) City of Toronto Official Plan and the policies contained within the current Official Plan in Section 3.4.16-17. There is a direct and clear public benefit in creating land for the purposes of flood protection, public park and facilitation of the overall vision for the Port Lands.

Between 2014 and 2016, the Due Diligence Report for the Port Lands Flood Protection Project was advanced and completed by Waterfront Toronto, City divisions, the Toronto and Region Conservation Authority (TRCA) and other partner agencies since 2014. The Port Lands Flood Protection Project represents the consolidation of two separate approved Environmental Assessments (EAs): The Don Mouth Naturalization and Port Lands Flood Protection Environmental Assessment (DMNP EA) and the Lower Don Lands Infrastructure Master Class EA. The first phase of the Port Lands Flood Protection Project involves the advancement of lake filling in the vicinity of Essroc Quay in order to carry out the overall Port Lands flood protection.

Lake filling around Essroc Quay is an important first step in implementing the DMNP EA, which will ultimately provide the safe conveyance of storm water from the Don River into Lake Ontario, as well as some localized storm water management and water quality improvements. It is necessary to facilitate the future re-alignment of Cherry Street and construction of a new bridge with a wider span over the Keating Channel, which will allow for the replacement of the existing Cherry Street Bridge. The existing span of the Cherry Street Bridge creates a narrow pinch point in the Keating Channel, thus restricting effective conveyance of storm water. The lake filling process results in the creation of a new land mass that will increase the amount of publicly accessible water's edge lands. Completing this work will also accommodate the construction of transit into the Port Lands.

Water quality and circulation, and impacts to fish habitat, have all been examined through the DMNP EA. The DMNP EA project will have no negative impacts on water quality and will optimize water and storm infrastructure and create new naturalized open spaces and aquatic habitat.

In the fullness of time, and once the balance of flood protection works are further advanced, the fill generally surrounding the Essroc Quay will be for a major, new signature park providing substantial public recreation opportunities. Existing recreational boating opportunities are not impacted. New opportunities for small boat launches will be created.

A comprehensive planning framework for the Port Lands is currently under development. The framework will provide enhanced land use direction for the Port Lands. At this time, it is appropriate for the Essroc lake filling to proceed in advance of the framework as the lake filling advances the objectives of the EAs for flood protection.

Zoning

Until the completion of the entire Don Mouth reconstruction and flood protection, the lake-filled lands will be subject to flooding. As Zoning By-law 438-86 does not contain a "hazard land" zoning category, staff's approach is to regulate the zoning within Section I2, Restrictive Exceptions, within the Zoning By-law. Rather than assigning the lands a specific zone, the schedule will identify the area as subject to lake filling and will restrict the uses.

Within this identified area, permitted uses are proposed to be limited to: public park; public harbor works including public wharves, lighthouses and beacons; and erosion and flood control works. Permanent structures are not permitted. The intent of allowing these three uses is to limit the permitted uses to non-structural uses to ensure compliance with the policies contained within the PPS and Official Plan. "Flood control and erosion works" has been added as a permitted use to ensure that the works and construction related to the lake filling do not conflict with the Zoning By-law.

CONCLUSION

City Planning staff recommend that the proposed Zoning By-law Amendment to zone the two water lots subject to lake filling surrounding Essroc Quay be approved. The proposed zoning conforms to the relevant Provincial Plans and Official Plan policies related to lake filling. The proposed zoning is appropriate and necessary to advance the Port Lands Flood Protection.

CONTACT

Kate Goslett, Planner

Tel. No. 416-395-7105

E-mail: Kate.Goslett@toronto.ca

SIGNATURE

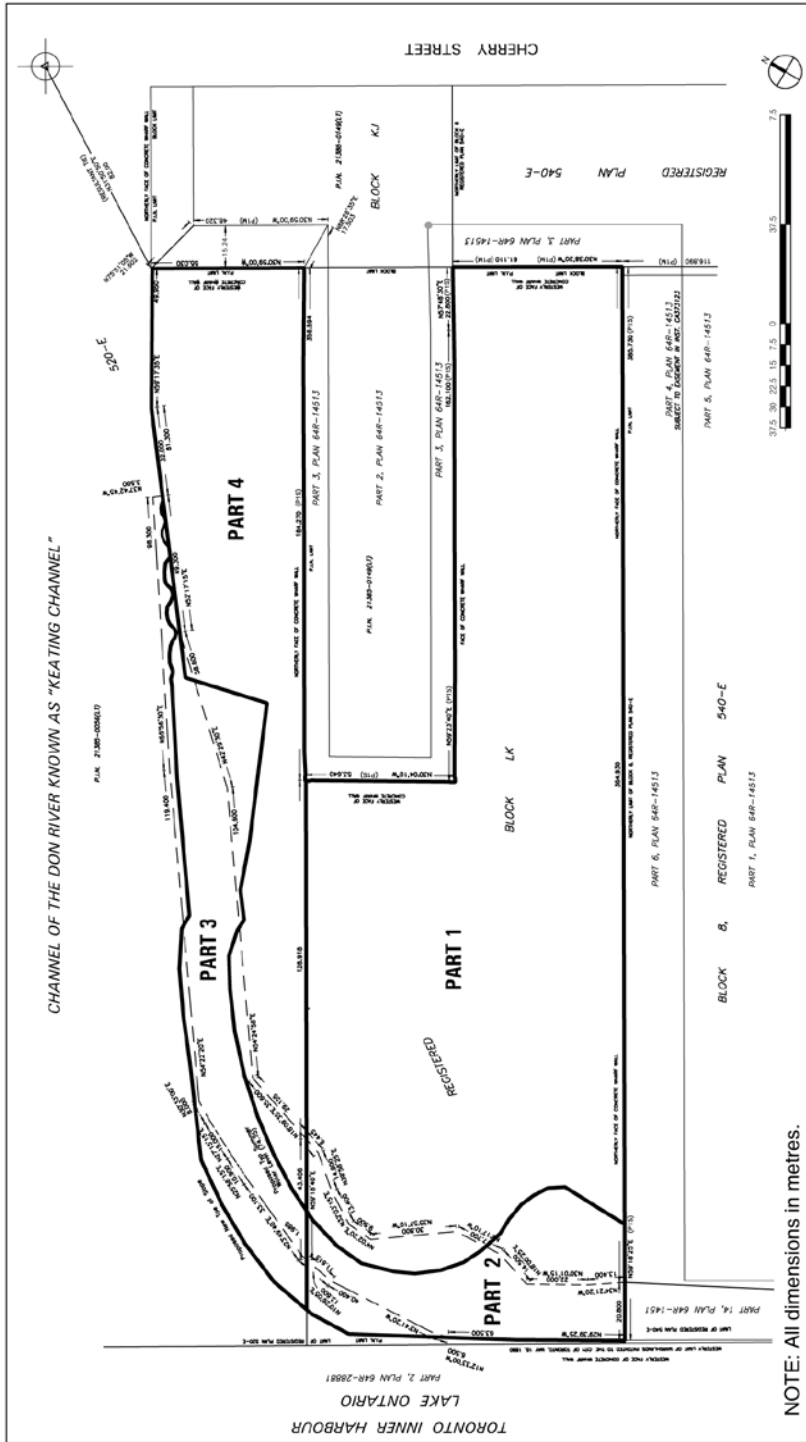
Gregg Lintern, MCIP, RPP
Director, Community Planning
Toronto and East York District

(P:\2017\Cluster B\pln\TEYCC\4461816031.doc) - vc

ATTACHMENTS

Attachment 1: Draft Survey showing Parts 1-4 subject to lake filling

Attachment 1: Draft Survey showing Parts 1-4 subject to lake filling



Esroc Quay - Port Lands

File # 16 264974 SPS 00 02



Parts 1-4 Subject to Lake Filling

Not to Scale
02/03/2017