



Report to Council

Department: Infrastructure Services

Division: Drainage

Date: May 19, 2020

Prepared by: Norm Nussio, Manager Operations Drainage

Report Number: Drainage-2020-04

Subject: Adoption of Section 77(3) Engineer Letter of Opinion for the Essex Outlet Drain

Number of Pages: 3

Recommendation(s)

That Drainage Report -2020-04 entitled "Adoption of Section 77(3) letter of opinion for the Essex Outlet Drain" as prepared by Norm Nussio, Manager, Operations and Drainage, dated May 4th, 2020 be received and supported; and

That By-Law 1913, being a by-law to adopt the Section 77(3) Engineers Letter of Opinion to relocate the Essex Outlet Drain within the MTO corridor, be read a first, a second and a third time, and finally passed on May 4, 2020.

Purpose

The Ministry of Transportation (MTO), in moving forward with the expansion of Highway #3 King's Highway within the boundaries of the Town of Essex. The MTO has identified the need to relocate the Essex Outlet Drain in order to accommodate flows from the Town of Essex and avoid conflict with the proposed overpass structure at the Highway #3 and Victoria intersection. Currently the Essex Outlet Drain crosses under Highway #3 in a concrete box

culvert and outlets into the open drain on the west side of Highway #3 in front of the Pollution Control Plant on North Malden Road. The Ministry is proposing to route the drain around the new overpass structure and tie the storm water system back into the Essex Outlet Drain on the east side of Highway #3, in front of Pollution Control Plant on North Malden Road (refer to the attached appendix for design).

Background and Discussion

Section 77(2) of the Drainage Act (the "Act") re: Moving Drainage Works off Road

Where any road authority desires to relocate a drainage works or part thereof that is on or adjacent to a road under its jurisdiction, then upon the report of an engineer appointed by the municipality that recommends or identifies that the drainage works or part thereof can be moved to a specified new location without impairing the capacity or efficiency of such drainage works or adversely affecting any person or property, the council of a local municipality may authorize such relocation within the boundaries of the municipality at the expense of the road authority.

Section 77(3) of the Act re: Written Opinion in Lieu of Report

However, where the relocation of a drainage works or part thereof referred to in subsection 77 (2) is to be affected within the lands under the jurisdiction of the road authority, the engineer has the option to prepare a written opinion instead of a report. Further Section 25(2) of the *Public Transportation and Highway Improvements Act ("PTHIA")* provides that the MTO can designate one or more engineers of the Ministry to be the engineer authorized to carry out the provisions of any Act for the purpose of drainage for the King's Highway and has all the same powers and shall perform all the duties required of an engineer appointed by a municipality.

Accordingly, since the project will affect the drain only within lands under the jurisdiction of the MTO, Administration deems it acceptable that a Letter of Opinion by the MTO engineer can be provided in lieu of an engineer's report. Further that, pursuant to Section 25 (2) of the

PTHIA, there is no need for the Town to additionally retain an engineer to be appointed by the Town, as the MTO may serve as the appointed engineer under the Drainage Act for the relocation of the Essex Outlet Drain within the MTO's corridor.

Finally, since the Essex Outlet Drain relocation is within the jurisdiction of the MTO Road Authority and the capacity of the drain will remain unchanged, the costs to relocate the drain would be borne solely by the Ministry.

Financial Impact

There will be no financial impact to the Town of Essex for the relocation of the drain.

Link to Strategic Priorities

- ☒ Manage, invest and plan for sustainable municipal infrastructure which meets current and future needs of the municipality and its citizens.
- ☐ Create a safe, friendly and inclusive community which encourages healthy, active living for people of all ages and abilities.
- ☐ Provide a fiscal stewardship and value for tax dollars to ensure long-term financial health to the municipality.
- ☐ Manage responsible and viable growth while preserving and enhancing the unique rural and small town character of the community.
- ☐ Improve the experiences of individuals, as both citizens and customers, in their interactions with the Town of Essex.

Report Approval Details

Document Title:	Section 77 Essex outlet Drain.docx
Attachments:	<ul style="list-style-type: none">- Letter of Opinion - Essex Outlet.pdf- Appendix B - Final Hwy 3 Culvert Hydrology and Condition Report.pdf- Appendix A - Essex Outet Drain - Recommended Plan.pdf
Final Approval Date:	May 8, 2020

This report and all of its attachments were approved and signed as outlined below:



Kevin Girard, Director, Infrastructure Services - May 4, 2020 - 1:22 PM



Chris Nepszy, Chief Administrative Officer - May 8, 2020 - 10:44 AM