Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act (Our File: TW/078/2016)

On October 18, 2016, the Department of Transportation and Works received your request for access to the following records:


As discussed by telephone with ATIPP Coordinator Michelle Murray on November 7, 2016, the above access request was narrowed to correspondence from January 2015 to October 17, 2016.

I am pleased to inform you that a decision has been made by the Deputy Minister of Transportation and Works to provide access to some of the requested information. In particular, access is granted to the following records:

- Responsive records include correspondence in the form of email and email attachments regarding correspondence between the Department of Transportation and Works and the City of St. John’s, Kendall Engineering, and Althus Group concerning “Holden, Condon, O’Keefe Properties” from January 2015 to October 17, 2016, as identified in your request above.
Access to the remaining records, and/or information contained within the records, has been refused in accordance with the following exceptions to disclosure, as specified in the *Access to Information and Protection of Privacy Act* (the *Act*):

- **30. (1)(a)** – *The head of a public body may refuse to disclose to an applicant information that is subject to solicitor and client privilege or litigation privilege of a public body.*

- **40. (1)** – *The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party’s personal privacy.*

As required by 8(2) of the *Act*, we have severed information that is unable to be disclosed and have provided you with as much information as possible.

In accordance with your request for a copy of the records, the appropriate copies have been enclosed. Please be advised that you may appeal this decision and ask the Information and Privacy Commissioner to review the decision to provide partial access to the requested information, as set out in section 42 of the *Act* (a copy of this section of the *Act* has been enclosed for your reference). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner. Your appeal should identify your concerns with the request and why you are submitting the appeal.

The appeal may be addressed to the Information and Privacy Commissioner as follows:

Office of the Information and Privacy Commissioner  
2 Canada Drive  
P. O. Box 13004, Stn. A  
St. John’s, NL. A1B 3V8  
Telephone: (709) 729-6309  
Toll-Free: 1-877-729-6309  
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the *Act* (a copy of this section of the *Act* has been enclosed for your reference).

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Completed Access to Information Requests website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.
If you have any further questions, please contact me by telephone at (709) 729-5351 or by email at FrankWalsh@gov.nl.ca.

Sincerely,

[Signature]

Frank Walsh
ATIPP Coordinator
Department of Transportation and Works

Enclosures
Legal advice

30. (1) The head of a public body may refuse to disclose to an applicant information

(a) that is subject to solicitor and client privilege or litigation privilege of a public body;

or

(b) that would disclose legal opinions provided to a public body by a law officer of the Crown.

(2) The head of a public body shall refuse to disclose to an applicant information that is subject to solicitor and client privilege or litigation privilege of a person other than a public body.
Disclosure harmful to personal privacy

40. (1) The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party's personal privacy.

(2) A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy where

(a) the applicant is the individual to whom the information relates;

(b) the third party to whom the information relates has, in writing, consented to or requested the disclosure;

(c) there are compelling circumstances affecting a person's health or safety and notice of disclosure is given in the form appropriate in the circumstances to the third party to whom the information relates;

(d) an Act or regulation of the province or of Canada authorizes the disclosure;

(e) the disclosure is for a research or statistical purpose and is in accordance with section 70;

(f) the information is about a third party's position, functions or remuneration as an officer, employee or member of a public body or as a member of a minister's staff;

(g) the disclosure reveals financial and other details of a contract to supply goods or services to a public body;

(h) the disclosure reveals the opinions or views of a third party given in the course of performing services for a public body, except where they are given in respect of another individual;

(i) public access to the information is provided under the Financial Administration Act;

(j) the information is about expenses incurred by a third party while travelling at the expense of a public body;

(k) the disclosure reveals details of a licence, permit or a similar discretionary benefit granted to a third party by a public body, not including personal information supplied in support of the application for the benefit;

(l) the disclosure reveals details of a discretionary benefit of a financial nature granted to a third party by a public body, not including

(i) personal information that is supplied in support of the application for the benefit,
(ii) personal information that relates to eligibility for income and employment support under the Income and Employment Support Act or to the determination of income or employment support levels; or

(m) the disclosure is not contrary to the public interest as described in subsection (3) and reveals only the following personal information about a third party:

(i) attendance at or participation in a public event or activity related to a public body, including a graduation ceremony, sporting event, cultural program or club, or field trip, or

(ii) receipt of an honour or award granted by or through a public body.

(3) The disclosure of personal information under paragraph (2)(m) is an unreasonable invasion of personal privacy where the third party whom the information is about has requested that the information not be disclosed.

(4) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy where

(a) the personal information relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation;

(b) the personal information is an identifiable part of a law enforcement record, except to the extent that the disclosure is necessary to dispose of the law enforcement matter or to continue an investigation;

(c) the personal information relates to employment or educational history;

(d) the personal information was collected on a tax return or gathered for the purpose of collecting a tax;

(e) the personal information consists of an individual's bank account information or credit card information;

(f) the personal information consists of personal recommendations or evaluations, character references or personnel evaluations;

(g) the personal information consists of the third party's name where

(i) it appears with other personal information about the third party, or

(ii) the disclosure of the name itself would reveal personal information about the third party;

(h) the personal information indicates the third party's racial or ethnic origin or religious or political beliefs or associations.
(5) In determining under subsections (1) and (4) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body shall consider all the relevant circumstances, including whether

(a) the disclosure is desirable for the purpose of subjecting the activities of the province or a public body to public scrutiny;

(b) the disclosure is likely to promote public health and safety or the protection of the environment;

(c) the personal information is relevant to a fair determination of the applicant's rights;

(d) the disclosure will assist in researching or validating the claims, disputes or grievances of aboriginal people;

(e) the third party will be exposed unfairly to financial or other harm;

(f) the personal information has been supplied in confidence;

(g) the personal information is likely to be inaccurate or unreliable;

(h) the disclosure may unfairly damage the reputation of a person referred to in the record requested by the applicant;

(i) the personal information was originally provided to the applicant; and

(j) the information is about a deceased person and, if so, whether the length of time the person has been deceased indicates the disclosure is not an unreasonable invasion of the deceased person's personal privacy.
Access or correction complaint

42.(1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days
(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or
(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52(1) or 53(1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to
(a) a request that is disregarded under section 21;
(b) a decision respecting an extension of time under section 23;
(c) a variation of a procedure under section 24; or
(d) an estimate of costs or a decision not to waive a cost under section 26.

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.
Direct appeal to Trial Division by an applicant

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act, or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner’s refusal under subsection 45(2).
Responsive records include correspondence in the form of email and email attachments regarding correspondence between the Department of Transportation and Works and the City of St. John’s, Kendall Engineering, and Althus Group concerning “Holden, Condon, O’Keefe Properties” from January 2015 to October 17, 2016.
From: Nolan, Mike
Sent: Wednesday, February 11, 2015 1:33 PM
To: [Redacted]
Subject: Holden Condon O'Keefe property Blackmarsh Road.

Hello.

We are looking at the development potential of the Holden Condon O'Keefe property at Blackmarsh Road. These 3 properties combined measure 46.08 acres. We are attempting to determine realistically what could have been done with this site had we not come along with the Team Gushue Highway.

As you are aware, we completed a subdivision development scheme on this site in 2001, with 240 residential lots and 3 commercial lots, with the project design saying at that time that Cowan Heights services could accommodate this development. Further to your 2010 Kitty Gaul Floodrisk study, we amended this preliminary design to a 213 lot subdivision, with allowance for an onsite storm water detention facility, this development scheme was completed in April 2013, which I have attached. This preliminary subdivision scheme now forms the basis of a claim for compensation. As you can see from the plan, Kitty Gaul's Brook has been shifted west and off the subdivision lands thereby freeing up 4.19 acres of stream buffer lands. And the 5.5 acres of land beyond 15% slope has been incorporated into the design as well. Other than the design plan and estimate, a DFO Approval letter was attached. Nothing from the City.

On face value to me there are a number of issues with this preliminary plan, mainly that it is just that, a preliminary plan. We have no idea if the City would allow Kitty Gaul's Brook to be shifted, allow development on the steep grades over 12%, and if not whether the land beyond the steep grades could be developed as it is beyond the P-loop maximum distance. Also we have no idea how much land would be required for detention or if the City would even allow detention or insist on the upgrade of the downstream structures, as I understand they would in this case.

We need an estimate from you to consult with the City, answer the unknowns, and prepare a subdivision plan for this 46.08 acre site with construction cost estimate.

I have the boundary surveys, mapping, imagery, etc., call if you need to discuss.

Thanks

Mike
Mike Nolan NLS
Transportation Planning Supervisor
Realty Services Division, Transportation & Works
6th Floor West Block, P. O. Box 8700
St. John’s, NL A1B 4J6
t 709.729.3697
f 709.729.0984
e mnolan@gov.nl.ca
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July 24, 2012

Dear [Name],

Subject: Proposal not likely to result in impacts to fish and fish habitat provided that additional mitigation measures are applied.

Fisheries and Oceans Canada - Fish Habitat Management Program (DFO) received your proposal on June 4, 2012. Please refer to the file number and title below:

DFO File No.: 12-HNFL-NA-00109
Title: Stream Re-Alignment – Upper Kitty Gaul’s Brook
Area File Number: 5300-4-12

You may be aware of recent changes to the Fisheries Act, however these have not affected the review of your project at this time. For more information on current changes to the Fisheries Act, as well as changes taking effect in the coming months, please refer to the DFO website at www.dfo-mpo.gc.ca/habitat/habitat-eng.htm.

Your proposal has been reviewed to determine whether it is likely to result in impacts to fish and fish habitat which are prohibited by the habitat protection provisions of the Fisheries Act or those prohibitions of the Species at Risk Act that apply to aquatic species.*

Our review consisted of:

a. A Review of your Request for Project Review.
c. Site Visits.

We understand that you propose to:

*Those sections most relevant to the review of development proposals include 20, 22, 32 and 35 of the Fisheries Act and sections 52, 33 and 58 of the Species at Risk Act. For more information please visit www.dfo-mpo.gc.ca.
a. Re-align a 350 metre section of Kitty Gaul's Brook located along the north side of the Team Gushue Highway extension, St. John's.

To reduce potential impacts to fish and fish habitat we are recommending that the attached mitigation measures be included into your plans.

Provided that the mitigation measures described in the attached are incorporated into your plans, DFO has concluded that your proposal is not likely to result in impacts to fish and fish habitat and you will not need to obtain a formal approval from DFO in order to proceed with your proposal. It remains your responsibility, however, to meet the requirements of any other federal, provincial and municipal agencies.

If your plans have changed or if the description of your proposal is incomplete you should consult our website to determine if a DFO review is required, and if so contact this office to determine if the advice in this letter still applies.

Please be advised that any impacts to fish and fish habitat which result from a failure to implement this proposal as described or incorporate the additional mitigation measures included in this letter could lead to corrective action such as enforcement. In addition, under the new Fisheries Act, there is a requirement to notify DFO of any harmful alteration or disruption, or any destruction of fish habitat that has not been authorized. Such notifications should be directed to .

If you have any questions please contact the undersigned at (709) 772-5997, by fax at (709) 772-2659, or by email at terry.fleet@dfo-mpo.gc.ca.

Yours sincerely,

Terry Fleet
Area Habitat Biologist - Eastern

Attachments
Mitigations Measures

a. Implement measures to avoid site erosion and sediment release downstream during project execution and post completion.

b. That construction and fill materials used are free of substances that can be deleterious to fish or fish habitat.

c. To protect downstream fish and fish habitat, that there is no measurable change in the natural flow regime below the limits of the work area.

d. That the proposed new stream channel be completed, cleaned, and cleared of fines prior to the redirection of flow from the natural channel.

e. Inspect the channel, to be diverted, to ensure no fish are present to avoid stranding.

f. That riparian vegetation be left undisturbed outside the immediate construction area.

g. Stabilize any waste materials/spoil removed from the work site to prevent it from entering the watercourse.

h. Machinery should arrive on site in a clean, washed condition and be maintained free of fluid leaks.

i. An emergency spill kit should be on site in case of fluid leaks or spills from machinery.
We are looking at the development potential of the Holden Condon O'Keefe property at Blackmarsh Road. These 3 properties combined measure 46.08 acres. We are attempting to determine realistically what could have been done with this site had we not come along with the Team Gushue Highway.

As you are aware, [redacted] completed a subdivision development scheme on this site in 2001, with 240 residential lots and 3 commercial lots, with the project design saying at that time that Cowan Heights services could accommodate this development. Further to your 2010 Kitty Gaul Floodrisk study, [redacted] amended this preliminary design to a 213 lot subdivision, with allowance for an onsite storm water detention facility, this development scheme was completed in April 2013, which I have attached. This preliminary subdivision scheme now forms the basis of a claim for compensation. As you can see from the plan, Kitty Gauls Brook has been shifted west and off the subdivision lands thereby freeing up 4.19 acres of stream buffer lands. And the 5.5 acres of land beyond 15% slope has been incorporated into the design as well. Other than the design plan and estimate, a DFO Approval letter was attached. Nothing from the City.

On face value to me there are a number of issues with this preliminary plan, mainly that it is just that, a preliminary plan. We have no idea if the City would allow Kitty Gauls Brook to be shifted, allow development on the steep grades over 12%, and if not whether the land beyond the step grades could be developed as it is beyond the P-loop maximum distance. Also we have no idea how much land would be required for detention or if the City would even allow detention or insist on the upgrade of the downstream structures, as I understand they would in this case.

We need an estimate from you to consult with the City, answer the unknowns, and prepare a subdivision plan for this 46.08 acre site with construction cost estimate.
I have the boundary surveys, mapping, imagery, etc. call if you need to discuss.

Thanks

Mike

Mike Nolan NLS
Transportation Planning Supervisor
Realty Services Division, Transportation & Works
6th Floor West Block, P. O. Box 8700
St. John’s, NL A1B 4J6
t 709.729.3697
f 709.729.0984
e mnolan@gov.nl.ca
-----Original Message-----
From: [redacted] (s. 40(1))
Sent: Monday, February 16, 2015 12:31 PM
To: Nolan, Mike
Subject: Blackmarsh Road

Mike

Attached is our estimate to provide consulting services to the Department related to the Holden/Condon/O'Keefe property on Blackmarsh Road. If you will need something more formal let me know.

Regards

Kendall Engineering Ltd.
10 Austin Street, ND Dobbin Building, 2nd Floor P.O. Box 21341, St. John's, NL A1A 5G6

The information contained in this e-mail is intended only for the individual or entity to whom it is addressed. Its contents (including any attachments) may contain confidential and/or privileged information. If you are not an intended recipient you must not use, disclose, disseminate, copy or print its contents. If you receive this e-mail in error, please notify the sender by reply e-mail and delete and destroy the message.
# Engineering Cost Estimate

Holden/Condon/O'Keefe Property - Blackmarsh Road

## Professional Fees:

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<th>Description</th>
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<td>10.0</td>
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<tr>
<td>2</td>
<td>Consultation with City</td>
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</tr>
<tr>
<td>3</td>
<td>Calculate storm water detention requirements (With &amp; Without TGH)</td>
<td>16.0</td>
<td>10.0</td>
</tr>
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<td>4</td>
<td>Develop Preliminary Subdivision Plans (With and without TGH)</td>
<td>16.0</td>
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<td>Obtain City Input on Proposed Subdivision Plans</td>
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<td>6</td>
<td>Prepare Construction Cost Estimates for both Development Options</td>
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<tr>
<td>7</td>
<td>Prepare Report</td>
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**Total Hours:**

75.0 | 140.0

**Chargeout Rate:**

-$225 | $125

**Professional Fee Cost:**

$16,875 | $17,500

**Estimated Professional Fees:**

$34,375

## Estimate of Disbursements

- Printing/plotting: $500.00
- Communications & Administrative Charges (5% of Fees): $1,700.00

## Estimated Additional Reimbursable Allowances

$2,200.00

**Total Estimated Costs (Excluding HST):**

$36,575.00
-----Original Message-----
From: [redacted]  
Sent: Monday, February 16, 2015 12:31 PM  
To: Nolan, Mike  
Subject: Blackmarsh Road

Mike

Attached is our estimate to provide consulting services to the Department related to the Holden/Condon/O'Keefe property on Blackmarsh Road. If you will need something more formal let me know.

Regards  
Kendall Engineering Ltd.  
10 Austin Street, ND Dobbin Building, 2nd Floor P.O. Box 21341, St. John's, NL A1A 5G6

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Engineering Cost Estimate  
Holden/Condon/O'Keefe Property - Blackmarsh Road

**PROFESSIONAL FEES:**

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<td>Calculate storm water detention requirements (With &amp; Without TGH)</td>
<td>16.0</td>
<td>10.0</td>
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<td>Develop Preliminary Subdivision Plans (With and without TGH)</td>
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<td>Prepare Construction Cost Estimates for both Development Options</td>
<td>10.0</td>
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<tr>
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<td>Prepare Report</td>
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**Total Hours:** 75.0 140.0

**Chargeout Rate:** $225  $125

**Professional Fee Cost:** $16,875  $17,500

**ESTIMATED PROFESSIONAL FEES** $34,375

**ESTIMATE OF DISBURSEMENTS**

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**ESTIMATED ADDITIONAL REIMBURSABLE ALLOWANCES** $2,200.00

**TOTAL ESTIMATED COSTS (EXCLUDING HST)** $36,575.00
Here are the legal boundaries of the Condon Holden Okeefe parcels. The swath through the middle is the expropriated lands.

Mike
Mike

Did you ever get the subdivision layout drawings from me?

From: Nolan, Mike [mailto:MNolan@gov.nl.ca]
Sent: Friday, March 13, 2015 4:23 PM
To: [redacted]
Subject: RE: s. 40

Here are the legal boundaries of the Condon Holden Okeefe parcels. The swath through the middle is the expropriated lands.

Mike

“This email and any attached files are intended for the sole use of the primary and copied addressee(s) and may contain privileged and/or confidential information. Any distribution, use or copying by any means of this information is strictly prohibited. If you received this email in error, please delete it immediately and notify the sender.”
From: Nolan, Mike <MNolan@gov.nl.ca>  
Sent: Tuesday, June 30, 2015 4:37 PM  
To:  
Subject: Re: TGH - Condon Holden O'Keefe  

Hello lawyers are looking for information from us on this work. Do we have anything to report on a completion date?

Thanks  
Mike

Sent from my BlackBerry 10 smartphone on the Bell network.

From: Nolan, Mike  
Sent: Friday, May 22, 2015 2:15 PM  
To:  
Subject: Re: TGH - Condon Holden O'Keefe  

how are we progressing? Do we have a completion date in sight?

Sent from my BlackBerry 10 smartphone on the Bell network.

From: Nolan, Mike  
Sent: Monday, April 6, 2015 5:28 PM  
To: Nolan, Mike  
Subject: RE: TGH - Condon Holden O'Keefe  

Ok well I will go talk to the city with what I have but I do not expect the City will offer much in the way of comments

From: Nolan, Mike [mailto:MNolan@gov.nl.ca]  
Sent: Monday, April 06, 2015 4:57 PM  
To:  
Subject: Fw: TGH - Condon Holden O'Keefe  

Fyi: They are unwilling to provide the plans.

Sent from my BlackBerry 10 smartphone on the Bell network.

From: Jones, David <davidj@gov.nl.ca>
Mike:

Where are we at with this matter?

Please advise.

David

From:
Sent: Thursday, March 26, 2015 4:16 PM
To: Nolan, Mike
Cc: Jones, David; Gosse, Gary R.
Subject: RE: TGH - Condon Holden O'Keefe

Mike,

I am advised that the original conceptual layouts contained in the 2003 report and the revised conceptual layouts prepared in 2013 are not available in electronic format. My client did not proceed with detailed design and construction drawings as it was apparent even back in 2003 that the development would be disrupted by the Government's plans for the Team Gushue Highway.

Sorry we cannot be of more assistance.

Regards

From: Nolan, Mike [mailto:MNolan@gov.nl.ca]
Sent: Tuesday, March 24, 2015 2:42 PM
To: Nolan, Mike
Cc: Jones, David; Gosse, Gary R.
Subject: RE: TGH - Condon Holden O'Keefe

The conceptual layout plans will suffice if available.

Thanks

Mike
Mike,

My client advises that they do not have AutoCAD drawings for either the 2013 or 2001 development plans. They were conceptual layouts but were not developed into detailed AutoCAD drawings.

If we can assist your review in any other way please do not hesitate to contact us.

Regards

From: Nolan, Mike [mailto:MNolan@gov.nl.ca]
Sent: March-13-15 4:13 PM
To: [Redacted]
Cc: Jones, David; Gosse, Gary R.
Subject: RE: TGH - Condon Holden O'Keefe

Hi [Redacted], referring to your letter of August 25, 2014, is it possible to get the AutoCAD drawing files for the drawings referenced, in particular the 213 lot and 50 lot development scheme completed in 2013. And if possible the AutoCAD drawing file for figures 1 and 3 dated Nov. 1, 2001. This information will assist in our review.

Thanks in advance,

Mike

Mike Nolan NLS
Transportation Planning Supervisor
Realty Services Division, Transportation & Works
6th Floor West Block, P. O. Box 8700
St. John’s, NL A1B 4J6
t 709.729.3697
f 709.729.0984
e mnolan@gov.nl.ca

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It will be the end of the month mike before I have this file finished. Have to redraft the arrangement prepared by earle so that its at a workable scale that the city can comment on

Sent on the TELUS Mobility network with BlackBerry

Hello lawyers are looking for information from us on this work. Do we have anything to report on a completion date?

Thanks

Mike

Sent from my BlackBerry 10 smartphone on the Bell network.

how are we progressing? Do we have a completion date in sight?

Sent from my BlackBerry 10 smartphone on the Bell network.
Ok well I will go talk to the city with what I have but I do not expect the City will offer much in the way of comments.

Fyi: They are unwilling to provide the plans.

Where are we at with this matter?

Please advise.

Mike:

I am advised that the original conceptual layouts contained in the 2003 report and the revised conceptual layouts prepared in 2013 are not available in electronic format. My client did not proceed with detailed design and construction drawings as it was apparent even back in 2003 that the development would be disrupted by the Governments plans for the Team Gushue Highway.

Sorry we cannot be of more assistance.

Regards
From: Nolan, Mike [mailto:MNolan@gov.nl.ca]
Sent: March-24-15 2:44 PM
To: [redacted]
Cc: Jones, David; Gosse, Gary R.
Subject: RE: TGH - Condon Holden O'Keefe

.... the conceptual layout plans will suffice if available.

Thanks
Mike

From: [redacted]
Sent: Tuesday, March 24, 2015 2:42 PM
To: Nolan, Mike
Cc: Jones, David; Gosse, Gary R.
Subject: RE: TGH - Condon Holden O'Keefe

Mike,

My client advises that they do not have AutoCAD drawings for either the 2013 or 2001 development plans. They were conceptual layouts but were not developed into detailed AutoCAD drawings.

If we can assist your review in any other way please do not hesitate to contact us.

Regards

From: Nolan, Mike [mailto:MNolan@gov.nl.ca]
Sent: March-13-15 4:13 PM
To: [redacted]
Cc: Jones, David; Gosse, Gary R.
Subject: RE: TGH - Condon Holden O'Keefe

Hi referring to your letter of August 25, 2014, is it possible to get the AutoCAD drawing files for the drawings referenced, in particular the 213 lot and 50 lot development scheme completed in 2013. And if possible the AutoCAD drawing file for figures 1 and 3 dated Nov. 1, 2001. This information will assist in our review.

Thanks in advance,

Mike

Mike Nolan NLS
Transportation Planning Supervisor
Realty Services Division, Transportation & Works
6th Floor West Block, P. O. Box 8700
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After months of effort we finally received the following comments from the City. We will now incorporate these comments and get you a draft final report ASAP.

We looked at the two development scenarios from the perspective of water supply, sanitary sewer, stormwater management, access, and planning and the following comments are offered.

50 LOT SUBDIVISION

Water Supply

- It does not appear possible to service the entire area from Cowan Heights as sufficient pressure could not be supplied. The 162 m contour is the approximate maximum elevation which can be serviced from Cowan Heights at a minimum pressure of 40 psi.
- From an elevation/minimum pressure perspective, this land is serviceable from the 600 mm transmission main on Redmond’s Road/George’s Pond Road which feeds the Kenmount Reservoirs. During the construction of this 600 mm transmission main, connections were stubbed off as a provision for future development. However, at this time, we cannot say with certainty whether connecting a development of this magnitude to the 600 mm transmission main will negatively impact the supply volume to the Kenmount Reservoirs. The developer would be required to submit an InfoWater model (or equivalent software) to confirm the peak daily demand and fire flow required for this development. The analysis should be completed for the ultimate build-out for this development. If this development proceeds, we will require a water meter to be installed at the point of connection with the 600 mm transmission main such that the volume of water supplied off the 600 mm transmission main to this development can be monitored.

Sanitary Sewer

- The sanitary sewer in Cowan Heights could accommodate a 50 lot development.

Stormwater Management

- The 50 lot development would require stormwater detention and the discharge could be directed to Kitty Gaul’s Brook.
Access
- The 50 lot development could be accessed from Redmond's Road but might require upgrading Redmond's Road to an urban standard.

Planning
- A rezoning and municipal plan amendment would be required for the 50 lot development.

213 LOT SUBDIVISION

Water Supply
- It does not appear possible to service the entire area from Cowan Heights as sufficient pressure could not be supplied. The 162 m contour is the approximate maximum elevation which can be serviced from Cowan Heights at a minimum pressure of 40 psi.
- From an elevation/minimum pressure perspective, this land is serviceable from the 600 mm transmission main on Redmond's Road/George's Pond Road which feeds the Kenmount Reservoirs. During the construction of this 600 mm transmission main, connections were stubbed off as a provision for future development. However, at this time, we cannot say with certainty whether connecting a development of this magnitude to the 600 mm transmission main will negatively impact the supply volume to the Kenmount Reservoirs. The developer would be required to submit an InfoWater model (or equivalent software) to confirm the peak daily demand and fire flow required for this development. The analysis should be completed for the ultimate build-out for this development. If this development proceeds, we will require a water meter to be installed at the point of connection with the 600 mm transmission main such that the volume of water supplied off the 600 mm transmission main to this development can be monitored.

Sanitary Sewer
- The sanitary sewer in Cowan Heights may require some local upgrades depending on the flows generated by the large subdivision.

Stormwater Management
- The 213 lot development would require stormwater detention. Underground detention would not be cost-effective and therefore surface storage would be required. There has been no area delineated within the 213 lot subdivision to facilitate stormwater detention.

Access
- The 213 lot development could be accessed from Redmond's Road but Redmond's Road would have to be upgraded to an urban standard. A Traffic Impact Study would be required and upgrades may be required along Blackmarsh Road. The City would not permit the proposed access to Blackmarsh Road through Kitty Gaul's Brook. We would approve a stream crossing above Blackmarsh Road with an access that aligns with Frecker Drive. The alternative to divert Kitty Gaul's Brook would not be supported.

Planning
- A rezoning and municipal plan amendment would be required for the 213 lot development.

Dave Wadden, M.Eng., P.Eng.
Manager, Development - Engineering
Planning, Development & Engineering
City of St. John's
Phone: (709)-576-8260
Fax: (709)-576-8625
e-mail: dwadden@stjohns.ca
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Dave

The developer’s position is that if the TGH had not gone through their property they would have been able to develop 213 lots on the property. However since the TGH now dissect the property the best that they can do is a 50 lot development and they are seeking compensation from the province for the loss of 163 residential lots. The Department wants to find out would the City have allowed them to develop the 213 lots as they have proposed, knowing that there are drainage issues down gradient and would the City have allowed the developer to realign Kitty Gaul Brook, since the only way they can develop the 213 lots is to realign the brook and eliminate the brook and associated buffer from the developable area.

Kendall Engineering Ltd.
10 Austin Street, ND Dobbin Building, 2nd Floor
P.O. Box 21341, St. John’s, NL
A1A 5G6

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From: Dave Wadden [mailto:DWadden@stjohns.ca]
Sent: Monday, August 03, 2015 1:08 PM
To: [redacted]
Cc: "Jason Sinyard"
Subject: Re: Emailing: proposed 213 lots.shx, proposed 213 lots.shp, proposed 213 lots.sbx, proposed 213 lots.sbn, 50lot development.dbf, 50lot development.shx, 50lot development.shp, 50lot development.sbx, 50lot development.sbn, proposed 213 lots.dbf

Attached are the two lotting scenarios overlaid upon our aerial mapping showing existing sewer services and the 190m contour. I assume it is intentional that some of the 213 lots are located within the ROW of the new highway.

Dave Wadden, M.Eng., P.Eng.
Manager, Development - Engineering
Planning, Development & Engineering
City of St. John's
Phone: (709)-576-8260
Fax: (709)-576-8625
e-mail: dwadden@stjohns.ca

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From: [deleted]
To: "Dave Wadden" <DWadden@stjohns.ca>
Cc: "Jason Sinyard" <JSinyard@stjohns.ca>
Date: 2015/08/03 12:27 PM
Subject: Emailing: proposed 213 lots.shx, proposed 213 lots.shp, proposed 213 lots.sbx, proposed 213 lots.sbn, 50lot development.dbf, 50lot development.shx, 50lot development.shp, 50lot development.sbx, 50lot development.sbn, proposed 213 lots.dbf

Dave

Transportation and Works have been unable to provide us with NAD 83 drawings for these two developments, but we have the attached shapefile which are coordinated, will this suffice?

The message is ready to be sent with the following file or link attachments:

- proposed 213 lots.shx
- proposed 213 lots.shp
- proposed 213 lots.sbx
- proposed 213 lots.sbn
- 50lot development.dbf
- 50lot development.shx
- 50lot development.shp
- 50lot development.sbx
- 50lot development.sbn
- proposed 213 lots.dbf

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.
From: Nolan, Mike
To: [Mailto:MNolan@gov.nl.ca]
Subject: RE: Condon Holden Okeefe; Blackmarsh Road
Date: Wednesday, November 18, 2015 4:26 PM
Attachments: image002.png, image003.png

Hello [ ], are you in the office tomorrow?

Mike Nolan NLS
Transportation Planning Supervisor
Realty Services Division
Transportation & Works
Box 8700 St. John's NL A1B 4J6
T 709.729.3697
F 709.729.0984

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email in error, please delete it immediately and notify the sender.”
Hi Mike.

I refer to the Kendall Engineering and Appraisal Associates reports and other information you forwarded to me earlier. I have read these reports and reviewed my files and have written a draft contract for undertaking an appraisal as requested. I have attached the draft contract to this e-mail.

Please give me a call if you have any questions or want to discuss the terms of reference or scope. As you will see from the description and scope within the contract, the determination of compensation payable will be quite complex given all the variables / issues and a lot of research will be required to produce a report that will hold up before the PUB.

Kind regards,

Altus Group Limited

186 Duckworth Street, Suite 300, St. John’s, Newfoundland, A1C 1G5 Canada

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Thank you Mike!

Best Regards,

Purdy's Wharf Tower II, 1969 Upper Water Street, Suite 1701, Halifax, Nova Scotia, B3J 3R7 Canada

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Hello — great to meet you to.

As discussed attached is the CAD files requested. The images are too big to email, so I will place on a DVD and send via mail.

Any thing else you need please let me know.

Mike

Hi Mike,

It was a pleasure meeting you last week. As discussed, are you able to send me the CAD / Shape files reviewed in your office for the subject properties inclusive of the ortho photos (various years), title mapping and ROW work for the area.
We are currently looking at a delivery date for mid-April.

As I continue to review the binder and all relevant information I may have some questions for you and will follow up accordingly.

I will be looking to meet with the expropriated party closer to the end of this month.

Very Best Regards,

Altus Group Limited

Purdy’s Wharf Tower II, 1969 Upper Water Street, Suite 1701, Halifax, Nova Scotia, B3J 3R7 Canada

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From: Nolan, Mike
To: Nolan, Mike
Subject: RE: Condon Holden O'Keefe
Date: Monday, March 21, 2016 10:59:55 AM
Attachments: image002.png, image003.png

Mike,

Follow up on the status of the images files – nothing arrived at my office.

Altus Group Limited
186 Duckworth Street, Suite 300, St. John's, Newfoundland and Labrador, A1C 1G5 Canada

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From: Nolan, Mike [mailto:MNolan@gov.nl.ca]
Sent: Wednesday, March 09, 2016 12:26 PM
To: [redacted]
Subject: RE: Condon Holden O'Keefe

Sounds good, I'll do that within an hour!

Altus Group Limited
186 Duckworth Street, Suite 300, St. John's, Newfoundland and Labrador, A1C 1G5 Canada

In the interest of time if you can have the file couriered or dropped off to my office and can then forward the images to James via our network; save us some time waiting for the mail.

Altus Group Limited
Hello ,

As discussed attached is the CAD files requested. The images are too big to email, so I will place on a DVD and send via mail.

Anything else you need please let me know.

Mike

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Very Best Regards,
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From: Nolan, Mike
Sent: Tuesday, March 22, 2016 1:45 PM
To: Mckenna, Andrea
Subject: FW: Condon Holden O'Keefe

We are under some pressure to get an offer out to the Condon Holden O'Keefe group prior to April 14, 2016. Is it possible to have a draft copy of the report to us by 12th?

Thanks
Mike

From: Nolan, Mike [mailto:MNolan@gov.nl.ca]
Sent: Tuesday, March 15, 2016 8:32 AM
To: Nolan, Mike
Cc: [redacted]
Subject: RE: Condon Holden O'Keefe

Thank you Mike,

From: [redacted]
Sent: Tuesday, March 15, 2016 9:03 AM
To: Nolan, Mike
Cc: [redacted]
Subject: RE: Condon Holden O'Keefe

Thank you Mike,
Hello Mike,

Can you please provide the projection information or provide the reference file for the CAD files so we can use them in Arcmap?

Thank you,

Nolan, Mike

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Purdy’s Wharf Tower II, 1969 Upper Water Street, Suite 1701, Halifax, Nova Scotia, B3J 3R7 Canada

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I will be looking to meet with the expropriated party closer to the end of this month.

Very Best Regards,

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Hi Mike,

Sorry for the delay in response I was out of the office yesterday on site visits.

I will do my best to get the Draft to you on the 12th, and will give you a progress report by the end of next week.

Thank you for sending the imagery – I received it today.

All the best,
Altus Group Limited
Purdy's Wharf Tower II, 1969 Upper Water Street, Suite 1701, Halifax, Nova Scotia, B3J 3R7 Canada

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From: Nolan, Mike [mailto:MNolan@gov.nl.ca]
Sent: Tuesday, March 22, 2016 1:15 PM
To: [redacted]
Cc: Orsborn, Suzanne
Subject: RE: Condon Holden O'Keefe

Hello [redacted], we are under some pressure to get an offer out to the Condon Holden O'Keefe group prior to April 14, 2016. Is it possible to have a draft copy of the report to us by 12th?

Thanks
Mike

From: [redacted]@altusgroup.com]
Sent: Tuesday, March 15, 2016 9:03 AM
To: Nolan, Mike
Cc: [redacted]
Subject: RE: Condon Holden O'Keefe

Thank you Mike,
Hi Mike,

Can you please provide the projection information or provide the reference file for the CAD files so we can use them in Arcmap?

Thank you,
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Any thing else you need please let me know.
Mike

---

From: [redacted]@altusgroup.com
Sent: Wednesday, March 09, 2016 9:03 AM
To: Nolan, Mike
Cc: [redacted]
Subject: Condon Holden O'Keefe

Hi Mike,

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As I continue to review the binder and all relevant information I may have some question for you and will follow up accordingly.

I will be looking to meet with the expropriated party closer to the end of this month.

Very Best Regards,

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All the best,
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Mike

Thank you Mike,

Altus Group Limited
Purdy’s Wharf Tower II, 1969 Upper Water Street, Suite 1701, Halifax, Nova Scotia, B3J 3R7 Canada

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Thank you,

Mike

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As I continue to review the binder and all relevant information I may have some question for you and will follow up accordingly.

I will be looking to meet with the expropriated party closer to the end of this month.

Very Best Regards,

Altus Group Limited

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Thank you Mike,

Hi - the Solicitor for ___________ had concerns with the request. They are still considering whether to allow ___________ to speak with you. I will keep you updated as soon as I receive something from them either way.

Next week is fine with me, I will advise Justice.

Best regards,

Mike

Hi Mike,

Further to our call last week I understood you were contacting legal to see if we could arrange a meeting as I had not heard back from the expropriated party. I have been progressing with the draft but it will not be ready for delivery today.
I can have the draft to you the beginning of next week. I am out of the office for the majority of the day tomorrow but will be in the office over the weekend.

For you information, I am scheduled to be providing evidence in hearings the last week in April and will not be readily available during this time.

All the best,

---

Purdy's Wharf Tower II, 1969 Upper Water Street, Suite 1701, Halifax, Nova Scotia, B3J 3R7 Canada

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From: Nolan, Mike [mailto:MNolan@gov.nl.ca]
Sent: Thursday, April 14, 2016 8:34 AM
To: 
Subject: RE: Update - Condon Holden O'Keefe

Hello How are we doing with the draft report? I have Justice Dept looking for an update, they are appearing in Court today on this matter. Think we can get a draft today?

From: [mailto:MNolan@gov.nl.ca]
Sent: Wednesday, April 06, 2016 4:03 PM
To: Nolan, Mike
Subject: Update - Condon Holden O'Keefe

Hi Mike,

It appears I have had some issues with my email as I have just noticed that my outbox still contained many of my emails from last week.

My apologies! I thought it was strange I hadn’t heard back from you.

In summary I was hoping to have set up a meeting by now, but I have been unable to reach him at the phone number provided and have left a voicemail for but have not heard
anything back.

Given the time frame you would like to have had the draft report, I have been moving forward with preparation of the draft report and unless I get a response from [redacted] will have to state in the report that I was unable to discuss the property with the owner. If we can push the delivery of the Draft to the end of next week that would be beneficial. Please let me know if that will work.

Would you like me to contact [redacted] at Curtis Dawe to see if I can schedule something through the law firm?

I will follow up with a phone call to you.

All the best and sorry about the technical difficulties.

Purdy's Wharf Tower II, 1969 Upper Water Street, Suite 1701, Halifax, Nova Scotia, B3J 3R 7 Canada

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Hi Mike,

Just left you a VM. In transit at the moment and will be free for another half hr before my next flight.

If that doesn't work I'll try you again later today.

Sent from my iPhone

On Jun 10, 2016, at 7:29 AM, Nolan, Mike <M Nolan@gov.nl.ca> wrote:

Let me kn ow when you are in the office, I'll give you call.

Mike
Hello John, how are we making out with the report. Is there anything further required of the Dept?

Hi John / Mike,

Thank you for the follow up and new information.

Mike: I will give you a call to discuss today.

All the best,

Purdy's Wharf Tower II, 1969 Upper Water Street, Suite 1701, Halifax, Nova Scotia, B3J 3R7 Canada
The City of St. John’s is currently working on a revised storm water detention model for the Team Gushue Highway development with recently acquired LiDAR data. This model with the results should be available late June with proposed retention measures and/or required downstream improvement requirements. The Kendall report was the first evaluation of the runoff potential from the highway development which was completed with HEC-HMS and HEC-RAS models which the city no longer accepts.

Will advise of the model results when they are available.

John

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From: Nolan, Mike
Sent: Thursday, May 12, 2016 2:38 PM
To: [redacted]
Cc: McKenna, Andrea; Morrissey, John; Orsborn, Suzanne
Subject: RE: Update

Hello [redacted], sorry for the delay in responding. The Highway Design Division is working on a stormwater detention system for the TGH in the Blackmarsh road area. This system would likely be located on the TW land west of and abutting the Condon Holden Okeefe lands. And further there has been consideration given to accommodating the storm drainage of the Condon Holden Okeefe development into the planned TW detention system, to offset injurious affection claims.

Regards to your question on whether the storm infrastructure which spans to Topsail Road will or will not be upgraded in association with the Team Gushue Highway, I ask John to advise on that matter.

Best regards
Mike

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From: [redacted]@altusgroup.com]
Sent: Tuesday, April 26, 2016 3:58 PM
To: Nolan, Mike
Subject: RE: Update

Hi Mike,

In follow up to my email last week. Can you provide any further information re: the offsite storm sewer costs.

Best Regards,
Hi Mike,

In association with my last email I have a further question in relation to the offsite storm sewer upgrades which I understand is required for development.

In conjunction with the development of the highway should I assume that the storm infrastructure which spans to Topsail Road will not be upgraded in association with the Team Gushue Highway?

Should some or all of these improvement be completed in association with the highway works this will provide a betterment to the remaining lands and can offset any Injurious Affection. I understand these costs were estimated by Kendall in the realm of $1.7MM.

If not, with the reduced net developable area north of the taking, the land would bear higher development costs per acre.

Very Best Regards,

Purdy’s Wharf Tower II, 1969 Upper Water Street, Suite 1701, Halifax, Nova Scotia, B3J 3R7 Canada
Hi Mike,

Just wanted to give you an update on the progress.

I am close to having draft figures, but there are some discrepancies between some of the storm sewer and off-site systems that are essential to the calculation of detrimental effect (Injurious affection) in the 'After the taking' scenario. I am working through the figures to make sure we are using the most accurate information from the Kendall Engineering report and correspondence, and will be discussing with [REDACTED] upon reaching him.

Best Regards,

P.S. I previously noted I would be away next week but the matters have been settled and I understand I will no longer be required in the hearings.
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Hi Mike,

I hope you had a good long weekend!

Has the City finalized their decision? I look forward to receiving the official letter.

All the best,

Best regards,

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From: Nolan, Mike  
To: Mike Nolan@gov.nl.ca  
Cc: Morrissey, John; Orsborn, Suzanne; McKenna, Andrea  
Sent: Friday, June 10, 2016 12:16 PM  
Subject: Condon Holden Okeefe

Hello

Regards to the issue of allowing the Condon Holden Okeefe storm sewer to connect into the planned TGH system, the Dept will make every effort to accommodate the storm sewer system of the proposed Condon Holden Okeefe subdivision into its planned detention system for TGH runoff at Blackmarsh Road. The City of St. Johns is currently finalizing the requirements for this system. Mr. Morrissey advises this work will be finalized in July at which time a decision can be made on the feasibility of allowing such a connection to our system. We will officially notify you so you may finalize the report.

Best regards,
Mike Nolan  NLS
Transportation Planning Supervisor
Realty Services Division
Transportation & Works
Box 8700 St. John’s NL A1B 4J6
T 709.729.3697
F 709.729.0984

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Dave Wadden has reviewed your email of yesterday. Mr. Wadden notes, and I agree with, the following:
The Mayor when meeting with the Province did not agree that the City would model potential private development that the City may receive an Development Application for in the future. What was agreed to was that the City would model storm detention needs for the highway, taking into account the existing state of the terrain upstream from the highway.

- Our resources are limited and currently concentrated on modelling the remainder of the highway.
- It is a developer's responsibility to provide storm water management analysis details when submitting a Development Application for City approval.
- The City has a "Zero Increase in Runoff" Policy in place. The Policy is applied to all developments for which we receive an application. The Policy will be applied to any Development Applications that are submitted for City approval and are proposed to drain storm water to the highway drainage system.

Now that the remedial measures have been identified by the City the start of construction should not be held up over the storm water run-off matter.

Regards.

Brendan O'Connell, P. Eng.
Director of Engineering
Acting Deputy City Manager of Planning, Development and Engineering
City of St. John's

From: "Morrissey, John" <morrisseyj@gov.nl.ca>
To: 'Brendan O'Connell' <BoConnell@stjohns.ca>
Cc: Scott Windsor <SWindsor@stjohns.ca>, Dave Wadden <DWadden@stjohns.ca>, "Granville, Andre G." <granvillea@gov.nl.ca>, Garrett Donaher <gdonaher@stjohns.ca>
Date: 2016/08/09 05:48 PM
Subject: RE: Team Gushue Highway Storm Water Management Letter

Brendan:

Thanks for this. Had not received this internally prior to you sending it.

Given that the solution is surprisingly minimal for reducing the amount of runoff from such a big section of asphalt as previously envisioned how about if the Holden Condon O'Keefe housing development upstream of the highway were developed? How much more retention would be required under that scenario? The expropriation of that parcel of land is tied to the highway development and the Department was considering accommodating runoff from the proposed development within the Department's requirement and provision for storm water retention. Can it be accommodated? How much more storage or solution would be required under that scenario?

Would appreciate information for this issue which is currently in final resolution stages of compensation negotiation.
John:

In case you have not been forwarded this internally, attached is a letter from City Manager to Minister Hawkins outlining measures for storm water management for Team Gushue Highway.

If you have further technical questions on this item please let me know.

Thanks.

Brendan O'Connell, P. Eng.
Director of Engineering
City of St. John's

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Hi Andrea,

Further to our chat during my vacation in August, have you received the updated information & report from the City of St John?

All the best,

Purdy's Wharf Tower II, 1969 Upper Water Street, Suite 1701, Halifax, Nova Scotia, B3J 3R7 Canada

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Sent: Friday, June 10, 2016 12:16 PM
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