
HALDIMAND COUNTY

Report ENG 13-2019 Appointment of a Drainage Engineer for a New Assessment Schedule for the Harrop Municipal Drain

For Consideration by Council in Committee on September 17, 2019



OBJECTIVE:

To seek Council approval to appoint GM Blueplan Engineering Ltd. as the Drainage Engineer under Section 76 of the Drainage Act in order to complete a new assessment schedule for the Harrop Municipal Drain.

RECOMMENDATIONS:

1. THAT Report ENG 13-2019 Appointment of a Drainage Engineer for a New Assessment Schedule for the Harrop Municipal Drain be received;
2. AND THAT GM Blueplan Engineering Ltd. be appointed as the Drainage Engineer for the Harrop Drain under Section 76 (1) of the Drainage Act, RSO, 1990 c. D.17, s. 76 (1); 2006, c 19, Sched. A, s. 6 (1).

Prepared by: Vincent Longboat, Project Manager, Municipal Drains

Reviewed by: Kristopher R. Franklin, Manager, Engineering Services

Respectfully submitted: Tyson Haedrich, M. Eng., P. Eng., General Manager of Engineering & Capital Works

Approved: Craig Manley, MCIP, RPP, Chief Administrative Officer

EXECUTIVE SUMMARY:

Landowners assessed for the 2015 Harrop Drain maintenance work appealed their assessments to the Drainage Referee in 2018 on the basis of an error in the Harrop Drain assessment schedule. The Drainage Referee's decision included an order to Haldimand County to have a new assessment schedule completed under Section 76 of the Drainage Act.

In order to complete a new assessment schedule the County is required to appoint a Drainage Engineer to complete the work. Staff are recommending that GM Blueplan Engineering Ltd. be appointed as the Drainage Engineer under Section 76(1) of the Drainage Act to complete the new assessment schedule.

BACKGROUND:

The Harrop Drain is located southwest of Hagersville, beginning at Concession 12 Walpole and outletting into Sandusk Creek south of Concession 9 Walpole, as shown in Attachment 1.

The Harrop Drain was established under The Ontario Drainage Act as a result of the adoption by the Township of Walpole of a report prepared by R. Blake Erwin, P. Eng. O.L.S. dated December 5, 1957. Prior to that report, portions of the watercourse were part of an Award Drain established by the award

of James Williamson, Engineer, dated December 5, 1894 and an Award Drain established by the award of Roger Lee dated June 24, 1928.

The Drainage Act is a Provincial Statute that provides lands and roads a process to improve drainage. Through the Drainage Act process anyone assessed costs for the construction or repair of a drain has the right to appeal the assessment to various appeal bodies.

As discussed in ES-M01-2018 Harrop Drain - Drainage Referees Decision, the Ontario Superior Court of Justice in the Court of the Drainage Referee rendered a decision (see Attachment 2) on November 5, 2018 in a case brought forward by Teresa Beischlag and James Douglas Wilson related to the assessments for the Harrop Drain maintenance work completed in 2016.

In Item 62 of the ruling, the Court ordered the County to obtain a new assessment schedule for the Harrop Drain under Section 76 of the Drainage Act. The Drainage Act Section 76 process is a formal process involving public meetings, landowner consultations and potential appeals and an Engineer must be appointed by Council to complete the new assessment schedule.

The process for a new assessment schedule typically takes about 6 months to complete, however, if appeals are received, the timelines may be extended significantly as each appeal has to be resolved before the new assessment schedule can be completed.

To comply with the Court order the 2019 Tax Capital Budget included a project to complete a new assessment schedule for the Harrop Drain. A Request for Quotation (RFQ) for this work was issued in Summer 2019 and GM Blueplan Engineering Ltd. was the lowest compliant submission.

ANALYSIS:

The Drainage Act Section 76 process requires an Engineer be appointed by Council to complete a new assessment schedule. GM Blueplan Engineering Ltd. have successfully completed municipal drain related work for a number of municipalities in Ontario and staff are recommending that GM Blueplan Engineering Ltd. be appointed as the Drainage Engineer for this work.

FINANCIAL/LEGAL IMPLICATIONS:

The GM Blueplan Engineering Ltd. quotation is within the budget identified for the project in the 2019 Tax Supported Capital Budget and the work will be awarded through the approved bid award process.

Costs for the new engineers report will be assessed to the lands and roads within the drain watershed and recoverable from the respective parties.

It should be noted that the overall project budget includes funds for potential appeals as well as costs related to County owned properties and roads for the new assessment schedule. These costs will be determined through the assessment schedule process and are not known at this time.

STAKEHOLDER IMPACTS:

The new assessment schedule process will involve public meetings and input from landowners, utilities, railways and roads. Stakeholders will be encouraged to comment and participate in the process.

Landowners in the watershed of the Harrop Drain will be assessed the costs to complete the new Section 76 assessment schedule in accordance with the final approved assessment.

REPORT IMPACTS:

Agreement: No

By-law: No

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Harrop Drain Map
2. Drainage Referee Decision – November 2018