
April 9, 2024

Mohsen Keyvani, Manager (Acting)
Waste Approvals, Environmental Permissions Branch
Ontario Ministry of Environment, Conservation and Parks
135 St. Clair Ave. West,
Toronto, ON M4V1P5
Via E-mail: mohsen.keyvani@ontario.ca

Dear Mr. Keyvani,

**RE: Application for Approval of Waste Disposal Sites – Landfill Proposal
York1 Environmental Waste Solutions Ltd. – Municipality of Chatham-Kent
MECP Reference Number 8126-CYMRCN**

This letter is in response to the letter from Ms. Sara Sideris, Application Assessment Officer, Ontario Ministry of Environment, Conservation and Parks (“**MECP**” or the “**Ministry**”) dated February 26, 2024 requesting comments from the Municipality of Chatham-Kent (“**Municipality**”) on a proposal by York1 Environmental Solutions Ltd. (“**York1**”) to establish a 1.6 million cubic metre non-hazardous solid waste landfill (the “**Landfill Proposal**”) to be located at the site of a former landfill on lands known municipally as 29831/29841 Irish School Road in the Municipality (the “**Subject Property**”). Preliminary comments on behalf of the Municipality are set out below.

Note that this letter includes information and submissions relevant to both the York1 Landfill Proposal and the interrelated York1 proposal to establish a waste processing, storage and transfer station on the Subject Property (the “**Waste Processing Proposal**”). Accordingly, this letter includes, and updates, information and submission which were provided to you in the Municipality’s submissions, set out in my letter of March 15, 2024, in response to your request for comments on the York1 Waste Processing Proposal (MECP Reference Number 2082-CYEJP2).

The Municipality’s preliminary comments will address the following:

1. Background information on the Subject Property, including its locational context and historical and current and land use activities (**section 1**);
2. An overview of the Municipality’s understanding of the nature and scope of the Landfill Proposal and the related Waste Processing Proposal (**section 2**);
3. The potential for the Landfill Proposal to impose significant physical, social, and economic environmental impacts on the Municipality including community and municipal infrastructure impacts (**section 3**);

4. The almost complete absence of constructive public and municipal information sharing consultation to date, and the need to establish a systematic community and public agency engagement process for the proposal (**section 4**)
5. The lack of adequate and credible information on the Landfill Proposal, or the related Waste Processing Proposal, and its potential impacts (**section 5**)
6. The Municipality's rationale for why a full environmental assessment under Ontario's Environmental Assessment Act, R.S.O. 1990, c. E.18, as amended (the "**EA Act**") is required for the Landfill Proposal, and the related Waste Processing Proposal (**section 6**).
7. A description of the municipal approval requirements under the Planning Act for the Landfill Proposal and the related Waste Processing Proposal (**section 7**)

With respect to item 6 above, it should be noted the Honourable Andrea Khanjin, Ontario Minister of the Environment has released a statement indicating that she will be taking steps to require a comprehensive environmental assessment pursuant to Part 11.3 of the EA Act for the York1 Landfill Proposal and Waste Processing proposal. As a follow up to this, on March 26, 2024, Kathleen O'Neill, Director, Environmental Assessment Branch, MECP wrote to the Chatham-Kent Mayor Darrin Canniff advising that your Ministry is now consulting on a proposed regulation that would designate the interrelated Landfill Proposal and Waste Processing Proposal as a Part 11.3 project under the EA Act. Ms. O'Neill's letter requested comments from the Municipality by May 10, 2024. The Municipality will be providing comments prior to that deadline.

A summary of the key findings of the Municipality to date and the Municipality's request to the Ministry is set out in section 8 of this letter.

In addition to the submissions in this letter, we would ask you please note that Chatham-Kent Council passed the following resolution at its February 26, 2024 meeting with respect to the Waste Landfill Proposal and the related Waste Processing Proposal:

Whereas York1 Waste Solutions is proposing a waste processing, storage and transfer facility, a landfill, and potential composting facility, at 29831 Irish School Road;

And Whereas the proposed facility is in close proximity to Dresden, and has the potential for serious impacts to Dresden, nearby properties, natural features, infrastructure and the environment;

Now therefore, given the scale and nature of this proposal, the significant municipal concern for community, environment and infrastructure impacts, Chatham-Kent Council is opposed in principle to the application, and calls on the province to reject the applications for a waste processing, storage and transfer and landfilling facility currently open for public comments;

And that if the province is not prepared to reject the application, Chatham-Kent Council calls on the Minister to designate the project for a full EA process to remove any doubt that the EA study process is required for the application;

And Council requests the Mayor author a letter to the Minister of Environment, Conservation and Parks outlining the community concerns and Council's opposition to these proposals;

And Council authorizes and directs administration to retain such technical experts as may be required to advance concerns through the Ministry consultation process.

As indicated in the Council resolution, the Municipality is opposed in principle to the Landfill Proposal, and its related Waste Processing Proposal, on the Subject Property. Chatham-Kent Mayor Darrin Canniff has written directly to the Honourable Andrea Khanjin, Ontario Minister of Environment, Conservation and Parks, to communicate this position to the Minister. This letter is provided as **Attachment 1** to this submission.

1. Background

The Subject Property is located just over 800 metres north of the historic town of Dresden. As a primary urban centre in Chatham-Kent, Dresden is a focal point for growth and public and private sector investment. This primary urban area has a mix of residential, commercial, institutional, and industrial land uses. Dresden is an economic and cultural hub for the area.

The lands immediately surrounding the Subject Property are part of a rural area where prime agricultural lands predominate. Several residential and light industrial properties are established close by. The Subject Property is framed to the south and east by a provincially significant Carolinian woodland that encompasses the downstream reaches of Molly's Creek and the 4th Concession Drain. These watercourses are tributaries to the Sydenham River which is nationally recognized for its high number of species at risk. A portion of the site is located within regulated area of the St. Clair Region Conservation Authority.

The Chatham-Kent Official Plan identifies the Subject Property as a waste management site due to fact that a few areas of the Subject Property contain small fill areas used for historic local landfill purposes, though the Subject Property has never been zoned for such use. Land uses at the Subject Property are regulated by Chatham-Kent Zoning By-law (By-law 216-2009). The Subject Property is zoned Extractive Industrial (M2) with Special Zone Provision No. 365, or "M2-365". The permitted uses of the M2-365 Zone include:

- Agricultural Uses (no structures).
- Asphalt and Concrete Batching.
- Buildings and Structures related to the above permitted uses.

- Open Storage.
- Pits and Quarries.
- Processing of Extracted Materials from the Site.
- Storage of Asphalt and Concrete for crushing (Special Zone Provision No. 365).

The Subject Property is subject to a 1980 MECP Certificate of Approval which permits the operation of an eight-hectare landfill. The Municipality has limited documentation with respect to this approval, but it appears it was issued to regularize historic landfill activities which appear to have commenced in 1967. The available documentation indicates that the Subject Property has three existing fill areas of an approximate size of 0.8, 0.5- and 0.7-hectares containing fill material which has been estimated at approximately 40,000 cubic metres. This landfill was formerly operated by the former Town of Dresden, now amalgamated with the Municipality in order to receive incinerator ash from a now decommissioned incinerator operated by the former Town as well as a small amount of local commercial waste. To the Municipality's knowledge the landfill is no longer active.

In 1992, a Waste Disposal Site certificate of approval was granted to permit the processing of scrap wood on the Subject Property. This certificate of approval established a service area for the wood processing approval of the Counties of Kent, Essex, Elgin, Lambton and Middlesex.

In 1998 an amendment to this Waste Disposal Site processing permission was granted to store, transfer and process solid non-hazardous waste within a 0.8-hectare approval area on the Subject Property with a maximum acceptance rate of 75 tonnes per day and a maximum storage capacity of 75 tonnes. The service area was not changed.

2. York1 Proposal

York1 has submitted two companion applications for environmental compliance approvals under the Environmental Protection Act for each of the Landfill Proposal and the Waste Processing Proposal (the "**ECA Applications**") which, together, would establish a new major waste management facility in the Municipality:

In support of the ECA Applications, York1 has filed with your Ministry two design and operations reports prepared by the firm of XCG Consulting Ltd¹:

- *Design and Operation Report, Dresden Landfill Site* dated December 18, 2023 (the "**XCG Landfill Report**"); and
- *Design and Operation Report 1, Waste Disposal Site Processing and Transfer*, dated December 8, 2023 (the "**XCG Waste Processing Facility Report**")

Based on the information made available to date, the Municipality understands the York1 Landfill Proposal would establish a new landfill footprint to be located in the northwest

¹ *Design and Operation Report, Dresden Landfill Site* (XCG Consulting Ltd, December 18, 2023); and *Design and Operation Report 1, Waste Disposal Site Processing and Transfer*, (XCG Consulting Ltd., December 8, 2023)

corner of the landfill with an airspace capacity of 1.62 cubic metres and an estimated disposal capacity of 2.9 million tonnes. The proposed maximum fill rate is 365,000 tonnes per year. The proposed waste type to be received at the proposed landfill includes non-hazardous contaminated soil and “solid industrial commercial, institutional and municipal construction and debris waste”.

The XCG Landfill Report describes a conceptual stormwater management system and proposed leachate collection and liner system that would be constructed to control off-site movement of contaminated surface water and leachate. The report includes discussion with respect to the requirement for a landfill gas collection system and concludes that “ a landfill gas collection system is interpreted as not required at the Site”. Instead of a landfill gas collection and flare system to reduce greenhouse gas, the report proposes “best management practices (BMPs) that consider climate change mitigation” which would be “developed during the EA process”. The proposed operational hours for the landfill are 7 am to 7 pm, seven days a week except for statutory holidays.

One component of the proposal involves excavation of the estimated 40,000 cubic metres of waste material that is currently buried in three locations on the Subject Property, and relocation of these waste materials to the new landfill.

York1 has sought to characterise the historical landfill site approval on the Subject Lands as a permission to construct a 1.6 million cubic metre landfill in order to avoid triggering an existing regulatory requirements to conduct a full environmental assessment of the landfill proposal under the EA Act. As discussed in more detail in section 6 of this letter, based on a technical and legal review, the Municipality has reached the conclusion that York1’s position is wrong both factually and in law.

The proposed landfill would operate concurrently, and in conjunction with the York1 Waste Processing Facility Proposal, a proposed solid waste processing, storage and transfers station at the Subject Property which is to receive up to 6,000 tonnes of waste materials per day. The waste stream is to include up to approximately 3000 tonnes of solid waste (over a million tonnes per year) comprised of construction and demolition waste, and a broad range of other waste materials including metal, paper, cardboard , concrete, asphalt, block, brick, plastic drywall, asphalt, and shingles; 1000 tonnes of blue box recyclable materials; 500 tonnes of source separated organics and putrescible waste; 500 tonnes of asbestos-containing waste; and 100 tonnes of tires. In addition, the site is to receive up to 3000 tonnes of soil and “soil-like materials” including contaminated soils. The volume of waste and recyclable material to be received, amounting to over 2.5 million tonnes per year, would make the facility one of the busiest waste sites in the province.

On-site processing activities are to include processing demolition waste and wood waste to produce a product described as “alternative low-carbon fuel;” a soil processing facility; and a composting facility for which no information has been provided. The proponent is also seeking permission to temporarily store approximately 65,000 tonnes of waste materials on the site at any given time. The site is also to operate as a transfer station for waste material.

The current landfill permission has a limited service area comprised only of the former Town of Dresden. The existing approved .8-hectare processing facility has a service area comprised of the Municipality and four adjacent counties for limited storage and processing of waste material. Both the ECA Applications for the Landfill Proposal and the Waste Processing Proposal seek to extend these existing service areas to the entire Province.

3. Potential Environmental Impacts of the York1 Proposal

As discussed in section 5 below, and in my March 15, 2024 letter to you, the potential impacts of the York1 Landfill Proposal, and its associated Waste Facility Proposal, to nearby residents, the surrounding community, and the natural heritage and water resource systems in the area are unexamined, and therefore not yet known. Based on the description of the two related proposals provided in the XCG Reports, however, the risk of significant adverse effects is high.

The proposed waste facility, with its multiple components – landfilling, waste processing, transfer station activities and waste storage involving thousands of tonnes of material per day - pose potential cumulative impacts with significant risks and potential long-term consequences for the community. The combined waste facility would permit the introduction into the area of over 2.5 million tonnes of solid waste material from a broadly described waste stream. There is the potential for substantial noise and air quality impacts, impacts to surface and ground water resources and natural heritage features and functions, and a substantial increase in truck traffic in the area with its impacts on pedestrian/traffic safety, road capacity and municipal infrastructure. Studies to assess potential impacts have not been presented. Information and study gaps are discussed in more detail in section 5 below.

4. Public Consultation to Date

The proponent's approach to municipal and community consultation on the proposal has been entirely inadequate, a surprising approach given the scale and implications of the proposal for nearby residents and the community. York1 submitted the two applications for environmental approval to your Ministry for approval without any advance notice, let alone consultation with local residents and the community. This approach is improper and problematic for two reasons: (1) the applications have been prepared without the benefit of any information or comment from the potentially-impacted local community or the Municipality on the proposal; and (2) local residents, who would be directly impacted if the proposal were approved, have learned about the proposal after the fact and been left to scrounge for information to understand its potential implications.

Community engagement since the filing of the applications has consisted of two public information sessions both occurring after the submission of the ECA Applications. During these public information sessions, York1 has never presented a clear explanation of the

scope and nature of the proposal, the public planning and approval process it is proposing be carried out for the proposal, or how – or whether - it intends to conduct future public engagement to obtain input from the public for the proposal.

Consultation with other public agencies who are responsible for the well-being of community residents also appears to have been minimal or non-existent. For example, we note that the Lambton-Kent District School Board has raised serious unaddressed concerns related to the safety and well-being of students attending nearby schools given the potential impacts of the proposal including traffic safety issues, impacts to school bus routes and other potential impacts.

5. Lack of Information and Supporting Studies

The only technical information that has been made available to the Municipality in support of the York1 Landfill Proposal and its associated waste processing/transfer/storage proposal are the two XCG Reports in support of the ECA Applications, and a recently provided draft hydrogeology report also prepared by XCG².

None of these reports references any existing supporting studies in the key potential impact areas of noise, air quality, natural heritage features and function and traffic impacts. The absence of a traffic study is a glaring oversight: the proposal would potentially introduce to the local road network trucks carrying over two and a half million tonnes of waste and recyclable materials per year to the proposed facility.

Other crucial areas requiring study are socio-economic impacts, land use planning, cultural heritage impacts and human health risks. In addition, it is proposed that the waste processing/transfer and storage facility be operated concurrently with a proposed 1.6 million cubic metre landfill. The interrelated and cumulative impacts of these two concurrent proposals have not been examined. Instead, York 1 is treating each in isolation and seeking separate technical approvals for each proposal.

The Municipality has retained David MacGillivray P. Eng P. Geo QPRA/ESA of the firm Grounded Engineering to commence a technical review of the ECA Application for the landfill proposal and the ECA application for the associated Waste Processing Proposal. Given the absence of supporting information on these two proposals, however, it is currently not possible to provide meaningful detailed technical comments.

Mr. MacGillivray completed a preliminary review of the XCG Reports which was provided at Attachment 2 to my March 15, 2024, letter. An updated version of this memorandum, which now includes a preliminary review of the recently provided draft XCG hydrogeology report, is provided as **Attachment 2** to these submissions. The review identified the following missing study components required for both ECA applications:

- A traffic study

² *Hydrogeological Investigation, Dresden Landfill Site (Draft)* (XCG, July 28, 2023)

- A noise impact assessment
- Air quality and dust impacts
- A visual impact assessment
- An ecological impact assessment of the natural heritage system (terrestrial and aquatic) in the vicinity of the Subject Property including the adjacent watercourse and municipal drain
- To support the landfill proposal:
 - A geotechnical study
 - A detailed hydrogeological assessment³;
 - A detailed assessment of volume, extent and characteristics of existing waste to support the proposal to move existing on-site waste to the new landfill; and
 - An air quality, dust, odour and landfill gas impact assessment

Given the information gaps and missing studies, Mr. MacGillivray has concluded that both ESA applications are incomplete, and it is premature for the Ministry to begin a technical review of the ECA Applications.

Mr. MacGillivray has also identified the need for a broader study process to comprehensively assess the combined effects of the proposed activities described in both ECA Applications including the socio-economic, cultural heritage and land-use planning implications.

Mr. MacGillivray provides the following conclusion based on his review:

In my opinion, key environmental impact assessments have not been completed as part of the original application, amendments, or this new amendment application. Given this, and that the scope of the undertaking comprised by the two related ECA Applications is a significant deviation from the current limited waste disposal site/processing approvals, it is Grounded's opinion that it is premature to consider the ECA applications at this time. A full EA is needed to determine the overall environmental impacts associated with the proposed undertaking.

Based on the foregoing, and given the incomplete, piecemeal nature of the work presented to date, the Municipality has concluded that a more detailed technical review

³ As noted above, York1 has made available a draft hydrogeology report dated July 2023; however as noted in Attachment 2 to this letter, the Municipality's peer reviewer, Mr. MacGillivray, has identified significant gaps in available hydrogeological data, and the need for a more detailed hydrogeological study.

of the information provided to date by York1 is premature and of limited value.

Crucially, as noted by Mr. MacGillivray, and as outlined in the next section of these submissions, a full multidisciplinary environmental assessment process pursuant to the requirements of the EA Act is required for the two related waste facilities proposed by York1.

6. Environmental Approval Requirements

As noted above, the Ontario Minister of the Environment has now indicated the Province's intention to require a comprehensive environmental assessment under the EA Act for the York1 Landfill Proposal together with the associated Waste Processing Facility. As outlined in our March 15, 2024, letter the Municipality fully supports this direction for the following reasons.

First, as described above, the nature and scale of the Landfill Proposal and its associated Waste Processing Proposal gives rise to the need for multi-disciplinary studies to assess the potential environmental impacts of this proposal, based on the broad definition of the environment under the EA Act, including impacts on:

- Air land and water;
- Plant and animal life including human life,
- Social, economic and cultural conditions of the community and
- The combined and cumulative impacts on the interrelationship between these components of the environment.

Studies are required in the disciplines of hydrogeology, noise, air quality including odour and dust, traffic and transportation planning, natural heritage (the aquatic and terrestrial environment), visual impacts, cultural heritage, socio-economic impacts, human health risks, and land use planning. Unless subject to the EA Act, most of these required studies will not be completed.

Second, there is no evidence that a systematic decision-making process was undertaken by the proponent to support the establishment of the proposed waste facilities at this location. The EA Act requires that a traceable and methodical assessment of alternatives be carried out to support a decision to approve an undertaking. A systematic evaluation of all reasonable alternatives, as required by the EA Act, is essential for the York1 proposal given its scale and implications for the community.

Third, a full environmental assessment of the York1 Landfill Proposal is automatically triggered in any case by Ontario Regulation 101/07, as amended (the "**Landfill Designation Regulation**"). The Landfill Designation Regulation designates any proposed landfilling site with a total waste disposal volume of more than 100,000 cubic metres as "a major, commercial or business enterprise or activity" subject to the full requirements of the Act. Further any change in an existing waste disposal site that would result in an increase in total waste disposal volume of more than 100,000 cubic

metres would also trigger designation under the Act. The York1 landfill proposal is well in exceedance of this waste disposal volume and triggers a requirement for a full environmental assessment.

York1 has sought to demonstrate that its landfill proposal is exempt from designation under the EA Act pursuant to the Landfill Designation Regulation by characterizing the existing landfill approval as a permission to construct a 1.6 million cubic metre landfill. We understand that your Ministry has provisionally accepted this interpretation of existing approved landfill capacity.

Based on legal and technical advice, the Municipality is of the view this York1 position is wrong both factually and in law given the following:

- Landfilling activities started in 1967 at the Subject Property (57 years ago). A Certificate of Approval, apparently to regularize these activities was issued in 1980 (43 years ago).
- The scale of the York1 landfill proposal is vastly increased from the historical landfill activities since 1967. The three historical waste fill areas are cumulatively much smaller than proposed landfill footprint and comprise an estimated 40,000 cubic metres placed on the Subject Property over a 57-year period. The new, much larger proposal would permit 365,000 tonnes/year, with a total estimated capacity of 1,620,000 cubic metres, potentially over an 8-year period. This will have significantly different and more significant potential impacts on the site and surrounding area than the historical landfill use.
- The waste type approved for landfilling is also substantially different from the proposed waste stream for the landfill. Wastes permitted for landfilling are specifically limited to 5% commercial waste and 95% incinerator ash. The new landfill proposal would be a different waste stream including contaminated soils and construction and demolition waste.
- There is presently no evidence of any environmental impact studies or engineering assessment studies completed at the time of the 1967 commencement of landfilling or 1980 approval. Neither of the current landfill site regulations and standards in place in Ontario were in place in 1980, nor O. Reg 101/07 which designates private sector landfills under the EA Act.
- The absence of study or regulatory requirements for the existing landfill is evident from the face of the 1980 approval, which establishes no design or operation parameters and includes no closure plan or financial assurances.
- The 1980 approval does not establish the permitted landfill volume capacity, waste fill rate, landfill footprint location, fill boundaries depth or height. It attaches no cross-section or plan view design for the landfill. It simply approves the Subject Land for an 8-hectare landfilling site which can be located anywhere within a total site area of 35 hectares.

- Given the above information regarding the existing landfill approval, the York1 approach of extrapolating an assumed waste volume based on this approval is not defensible and amounts to unsubstantiated conjecture.

In summary, York1 is relying on a speculative calculation of existing landfill capacity to avoid a full environmental assessment study process. This approach has the effect of mischaracterizing a major new landfill proposal as a continuation of an existing landfill facility. This is not the case. York1 is proposing a new 1.6 million cubic metre facility to serve the entire Province. The existing approval is for discontinued, small scale local landfilling activities in scattered areas on the Subject Property. Mischaracterizing the York1 landfill proposal in this manner is contrary to the specific provisions and the purpose and intent of the Designation Regulation, which establishes a requirement that major new landfill proposals, or expansions to existing sites, are to be subject to a full environmental assessment under the EA Act.

Finally, the two separate ECA Applications amount to a single interrelated waste facility proposal which combines waste processing, waste storage, a transfer station and a new landfilling operation. The cumulative and interrelated potential impacts of this proposal on the environment, the local community and municipal infrastructure trigger the need for a comprehensive environmental assessment study process pursuant to requirements of the EA Act.

Municipal Support for Designation: Based on the forgoing, the Municipality fully supports the proposal by your Ministry that the York1 Landfill Proposal together with the associated Waste Processing Facility be designated as a Part II.3 project under the EA Act and require a comprehensive environmental assessment study process. As noted above, the Municipality will be providing specific comments on the proposed designating regulation in response to your Ministry's request for comments on or before May 10, 2024.

It should also be noted should the York1 proposals be designated under Part II.3 of the EA Act no other approvals for the Landfill Proposal or Waste Processing Proposal can be issued, including approval of the ECA Applications which have been filed with your Ministry, unless and until York1 receives approval under the EA Act.⁴

7. Planning Approval Requirements

Land uses at the Subject Property are regulated by municipal zoning by-laws passed pursuant to the Planning Act. Since at least 1979, local zoning regulations have not listed a landfill or a waste processing facility as permitted uses at the Subject Property. These by-laws include Township of Camden Zoning By-law 14-79 in force from 1979 to 1994, Township of Camden Zoning By-law 16-94 in force from 1994 to 2009, and the current Chatham-Kent Zoning By-law 216-2009 in place since 2009. As noted in section

⁴ Section 17.27 (2) of the EA Act states: *No person shall issue a document evidencing that an authorization required at law to proceed with the Part II.3 project has been given until the proponent receives approval under this Act to proceed with the Part II.3 project.*

1 above, under the current applicable zoning by-law, Chatham-Kent Zoning By-law 216-2009 (the “Chatham-Kent Zoning By-law”), the Subject Property is zoned Extractive Industrial (M2) with Special Zone Provision No. 365, or “M2-365”. Under the present zoning, landfilling, and waste processing, storage, and transfer are **not** permitted uses on the Subject Property.

Land use planning approvals are therefore required before the proposed uses described in the ECA Applications filed with your Ministry can be established on the Subject Property. This includes both an amendment to the Chatham-Kent Zoning By-law and, potentially, an amendment to the Chatham-Kent Official Plan. Following pre-consultation by York1 with Chatham Kent Planning Services, and consideration of a detailed proposal, the Municipality will be in a position to determine what amendments to the Chatham-Kent Official Plan may be required.

To date, York1 has not initiated pre-consultation on the required planning approvals for either the Landfill Proposal or the Waste Processing Proposal. Instead, based on a letter dated April 28, 2022, received by the Municipality from Armstrong Planning, a land use planning firm retained by York1 (the “Armstrong Letter”), it appears that York1 is taking the position that planning approvals are not required for uses described in the ECA Applications. This is based on an opinion set out in the Armstrong Letter that these proposed uses are “legal non-conforming uses”.

The Municipality’s planning staff have reviewed the Armstrong Letter and all other available information on the historical use of the Subject Land to assess the claim that the York1 proposed uses should be considered legal non-conforming uses for which zoning approvals are not required. The results of its review have been communicated to York1 in a letter dated March 15, 2024, which is provided as **Attachment 3** to this letter.

By way of summary, in order for an existing use to be considered a legal non-conforming issue it must be demonstrated both that:

1. the use of the land, building or structure was lawful at the time of the enactment of the relevant zoning restriction; and
2. the previously lawful use has continued thereafter, i.e., has been a continuous use.

The Armstrong Letter provides no information to support a conclusion that any of the proposed York1 uses meet either of these statutory tests for a legal non-conforming use. The Municipality has no other information to support this conclusion.

In summary, based on its review of the information provided to date, including the 2025 ECA Applications and supporting material and the Armstrong Letter, Planning Act approvals by Chatham-Kent are required for the changes in land uses contemplated by York1, as described in the 2024 ECA Application material. These planning approval requirements include amendments to the Chatham-Kent Zoning By-law and potential amendments to the Chatham-Kent Official Plan. York1 has been advised (see Attachment 3) that it should initiate pre-submission consultation with Chatham-Kent

Planning services with respect to the required Planning Act approvals if it wishes to proceed with the proposed uses described in the EA Applications on the Subject Property.

8. Conclusion and Request to the Ministry

The Municipality is opposed in principle to the York1 proposal to establish an over 1.6 million cubic meter landfill on the Subject Property and its associated Waste Processing Proposal, given the scale of these interrelated proposals and the absence of appropriate study of the potential environmental impacts. The applicant is seeking to rely on outdated historical waste approvals for a small-scale local landfill and processing area granted decades ago with minimal study to justify a stripped-down environmental and planning approval process for a major waste facility with a province-wide scope and broad ranging long-term implications for the surrounding community.

While the nature and scale of the proposed project suggests significant and broad-ranging potential impacts to the community, as a consequence of York1's approach, the technical support for the project is barebones. Required technical studies in critically important disciplines have not been presented. Only minimal information is available on the impacts on ground and surface water resources and no studies appear to have been conducted to address potential noise, air quality including odour and dust, traffic and transportation planning, natural heritage, visual cultural heritage, and socio-economic impacts, human health risks, or land use planning.

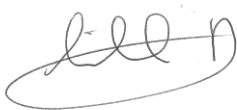
Your Ministry has recognized the scale and implications of these linked waste site proposals and is taking steps to designate the proposals as a Part 11.3 project under the EA Act.

The Municipality requests that:

- ECA Applications review process for both the York1 Waste Landfill Proposal and its related Waste Processing Proposal be suspended pending a decision by the province to designate these proposals as a Part 11.3 project under the EA Act so that a full and integrated environmental assessment study process can be carried out on these interrelated proposals; and that
- The Ministry also confirm that the York1 Landfill Proposal triggers a requirement for a full environmental assessment pursuant to section 2 of Ontario Regulation 101/07.

Thank you for your attention to this matter.

Sincerely,



Michael Duben
Chief Administrative Officer

cc (via Email):

Sara Sideris, Application Assessment Officer, MECP sara.sideris@ontario.ca

Kathleen O'Neill, Director, Environmental Assessment Branch, MECP
Kathleen.oneill@ontario.ca

David Lee, Senior Waste Engineer, Waste Approvals MECP david.w.lee@ontario.ca

Lisa Trevisan, Assistant Deputy Minister, Environmental Assessment and Permissions Division
lisa.trevisan@ontario.ca

The Honourable Andrea Khanjin, Ontario Minister of Environment, Conservation and Parks
mecp@ontario.ca

Attachments:

1. Letter dated February 29, 2024 from Chatham-Kent Mayor Darrin Canniff has written directly to the Honourable Andrea Khanjin, Ontario Minister of Environment, Conservation and Parks.
2. Memorandum – Preliminary Review York1 ECA Applications (Grounded Engineering, Updated April 5, 2025)
3. Letter dated March 15, 2024 from Municipality of Chatham-Kent Planning Services to Armstrong Planning.

February 29, 2024

The Honourable Andrea Khanjin
Minister of the Environment, Conservation and Parks
Via E-mail: minister.mecp@ontario.ca

Dear Minister Khanjin:

**RE: Serious Concerns with York1 Environmental Waste Solutions Ltd. Proposals; 29831
Irish School Road, Chatham-Kent**

I am writing to you on behalf of Chatham-Kent Municipal Council and our citizens, regarding a matter of serious concern that has recently arisen in our municipality, with potentially serious environmental, community and municipal infrastructure impacts.

York1 Environmental Waste Solutions Ltd. has made two applications to your Ministry, one for a Waste Processing facility, and one for a landfill facility. We at Chatham-Kent only learned about the details of these applications when the required public notices were sent out and the matters were posted on the Environmental Registry of Ontario.

The owners of these property are trying to establish new recycling and landfill uses without full study by hitchhiking on outdated, historic Ministry approvals issued decades ago. Those historic approvals were for very narrow uses serving the local area, that had limited impacts on surrounding properties and our community. We understand Ministry staff to date have accepted some of the arguments of the owners, that this is only an expansion of existing facilities. Chatham-Kent strongly disagrees with this approach; what is being proposed here is the establishment of a new large-scale recycling and landfill facility with a province-wide service area. Under the proposal the site would receive and manage over 2 million tonnes of waste per year.

Our preliminary concerns include:

- The owner's approach, which seems to have been at least partially accepted by your staff, will result in hundreds of trucks bringing recycling and garbage through our community without adequate study and planning;
- The environmental approval requirements your government has in place for new landfills are being almost entirely avoided in this case, which raises major concerns about negative impacts to local residents and the community, the environment and natural features in the area and municipal infrastructure; and
- This property is also in very close proximity to the town of Dresden, approximately 1 km to the north. The proposal includes 24 hour a day operations, and has a potential for significant noise and odour issues. In short, this is absolutely not an appropriate location to be developing a large-scale landfill and recycling facility.

Cont'd...

Municipal Council has now heard from our community, and there is a resounding opposition to these proposals. On February 26, 2023, Council passed a unanimous motion opposed in principle to this proposal, and calling on your Ministry to reject the proposal. Please find a copy of that Council resolution attached. Should you not be prepared to reject the application entirely, then we implore you to designate this project under the Environmental Assessment Act. As things stand, your Ministry appears to be prepared to allow a decision on a major waste facility with a provincial scale and serious future consequences to our municipality be exempt from current approval requirements based on outdated historical approvals from a bygone environmental regime. At minimum, a full environmental assessment under the EA Act is required to ensure this proposal and its potential environmental and community impacts are fully evaluated before a decision is made by your Ministry on the proposal.

We look forward to your immediate attention to this matter.

Sincerely,



Darrin Canniff, Mayor/CEO
Municipality of Chatham-Kent

Attachment: Motion of Chatham-Kent Municipal Council, York1 Proposal, February 26, 2024

C: Trevor Jones, MPP Chatham-Kent-Leamington

Development Services
Municipality of Chatham-Kent

File No. 24-034
April 5, 2024

Attention: Bruce McAllister, General Manager

**Subject: York1 Environmental Compliance Approval Applications
29841 Irish School Road, Dresden, Ontario**

As requested, Grounded Engineering Inc. ("Grounded") has conducted a preliminary review of the York1 Environmental Compliance Approval Applications for Waste Disposal Site Approval (Processing) and Waste Disposal Site (Landfill) York1 Environmental Compliance Approval Applications, (together the "York 1 ECA Applications") for the site known municipally as 29841 Irish School Road, in Dresden, Ontario ("Subject Property"). A previous review letter was provided by Grounded dated March 14, 2024. At that time, the hydrogeological investigation was not available for review. This letter has been updated to include our initial assessment of that report. Our preliminary findings are set out below.

1 Introduction & Background

The Subject Property is currently owned by York1 Environmental Waste Solutions Ltd and holds an existing environmental compliance approvals ECA#A021304 for a waste disposal site with an 8-hectare landfilling area, and ECA#A020401 for a 0.8-hectare waste processing site.

We understand that multiple changes are proposed to the existing waste processing approvals through the Waste Disposal (Processing) ECA Application including increasing the amount of waste received, the type of waste received and processed, construction of new processing equipment and areas, construction of a leachate treatment pond, construction of storm water management facilities and the establishment of a Province-wide service area. Substantial changes to the existing landfill approval is also proposed through the Waste Disposal Site (Landfill) ECA Application including the establishment of a new landfill facility with a capacity of approximately 1.6 million cubic metres in the northwest portion of the Subject Property and relocation of approximately 45,000 tonnes of existing waste material is located on other portions of the Subject Property to the new landfill facility.

The following reports have been provided to Grounded:

- Design and Operation Plan, Dresden Landfill Site, 29831/2941 Irish School Road, Dresden, Ontario. XCG Consulting Limited, File No. 5-4409-16-03, December 18, 2023.
- Design and Operations Report 1, ECA A020401, Waste Disposal Site (Processing and Transfer), 29831 Irish School Road, Dresden, Ontario. XCG Consulting Limited, File No. 5-4409-16-03, December 8, 2023.

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- Storm Water Management Report, 29831 Irish School Road, Dresden, Ontario. XCG Consulting Limited, File No. 5-4409-16-03, November 10, 2023.
- 29841 Irish School Road, Dresden, Legal Non-Conforming Use (Planning Opinion Letter). Armstong Planning & Project management, April 28, 2022.
- Hydrogeological Investigation (Draft), Dresden Landfill Site, 29831 Irish School Road, Dresden, Ontario. XCG Consulting Limited, File No. 5-4409-16-02. Draft Version, July 28, 2023.

2 Summary and Preliminary Review Comments

Grounded has completed a preliminary review of the above noted documents and offers the following summary. Our review has focused on the engineering and technical aspects to provide an overview and context of the nature of the two proposals for which ECA Application approvals are sought. Based on existing information we note the following key findings with respect to the existing and proposed Waste Disposal Site Approvals.

2.1 Landfill

- Landfilling started in 1967 (57 years ago). A Certificate of Approval to permit limited landfilling was issued November 20, 1980 (43 years ago). There is no information on what studies were completed to permissions to allow landfilling to occur at the Subject Property. Based on our experience, environmental impact studies and engineering assessments would not have been completed or would not have been completed to current standards (current Waste Regulations and EA Regulations). There is no evidence of these types of assessments ever being completed.
- Landfilling, design, processing, and operational parameters were never identified in the 1980 approval. That approval didn't specify the engineering requirements, volume & rate waste accepted, capacity, boundaries of landfilling within the property, operational plans, closure plans, adequate financial assurance, etc.
- Waste type was limited to 5% commercial and 95% incinerator ash (a very specific waste type). The York1 Application is seeking approval for new waste types including construction and demolition wastes, a range of other waste types, and contaminated soil).
- The current permitted service area for the landfill approval is the geographic area of the former Town of Dresden. The York1 Application is seeking a Province-wide service area.
- The scale of the proposal is vastly different from what appears to have been done historically since 1967. The new proposal is for 365,000 tonnes/year, total estimated capacity of 1,620,000 m³, estimated closure date is 2032. While the volume of existing waste at the site is not known with certainty, the three historical waste filling areas appear small (estimated at 40,000 m³), and this waste was placed over a 57-year period. This new, much larger proposal is expected to have landfilling

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completed over an expected 8-year period. This will have significantly different impacts on the site and surrounding area than what was historically done and what previous approvals were based upon.

- The Landfill Design Report references certain items to be completed during the Environmental Screening Process and some items to be completed during the EA (see below table). Based on this, it is not clear whether the proponent was anticipating that an EA would be required for the landfill proposal.

2.2 Waste Processing/Storage/Transfer Station

- In 1992, a Waste Disposal Site certificate of approval was granted to permit the processing of scrap wood on the Subject Property.
- In 1998 an amendment to this Waste Disposal Site processing permission was granted to store, transfer and process solid non-hazardous waste within a 0.8 hectare approval area on the Subject Property with a maximum acceptance rate of 75 tonnes per day and a maximum storage capacity of 75 tonnes.
- The current approved service area for this facility is the Counties of Kent, Essex, Elgin, Lambton and Middlesex. The York1 Application is seeking a Province-wide service area.
- The ECA Application seeks to establish a solid waste processing, storage and transfers station at the subject property to receive up to 6,000 tonnes of waste materials per day.
 - The waste stream is to include up to approximately 3000 tonnes of solid waste (over a million tonnes per year) comprised of construction and demolition waste, and a broad range of other waste materials including metal, paper, cardboard waste, concrete, asphalt, block, brick, plastic drywall, asphalt, and shingles; 1000 tonnes of blue box recyclable materials; 500 tonnes of source separated organics and putrescible waste; 500 tonnes of asbestos-containing waste; and 100 tonnes of tires.
 - The waste stream also includes up to 3000 tonnes of soil and “soil-like materials” including contaminated soils.
- On-site processing activities are to include processing demolition waste and wood waste to produce a product described as “alternative low-carbon fuel”.
- Reference is also made to a proposed composting facility; however, no information is provided on this potential facility.
- The proponent is also seeking permission to temporarily store approximately 65,000 tonnes of waste materials on the site at any given time.
- The site is also proposed to serve as a transfer station for waste material.

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- It appears that the two proposals are interrelated; with some of the wastes materials to be received at the Subject Property through the Waste Disposal Site Processing being disposed of at the proposed landfill.

2.3 Studies

The following table outlines the technical studies that the proponent expects to be completed for the landfill approval and Grounded’s comment with respect to their status.

Study	Status
Waste Design	Completed.
Hydrogeology	<p>A draft hydrogeological investigation was prepared. Based on our review, additional boreholes and monitoring wells are needed for design purposes and to assess the potential environmental impacts of the proposed undertaking.</p> <ul style="list-style-type: none"> • There is a lack of subsurface information within many of the proposed operational areas at the site, including: the proposed landfill area, leachate pond, waste processing area, wood processing area, and a gap in the middle of the soil processing area. This information will be needed for design and monitoring purposes. • Additionally, there are no monitoring wells downgradient of the existing waste area. As a result, it cannot be determined if there are currently groundwater impacts downgradient of the existing waste area or at the downgradient property boundary. Given this, it cannot be determined if the site currently meets MECP Reasonable Use Policy. • A monitoring plan was provided. The plan must be updated as the design progresses to ensure that the groundwater and surface water monitoring locations capture all of the operational areas and potential for off-site migration of contaminants. The groundwater monitoring program must have multi-level instrumentation at all locations to capture potential impact to the shallow (upper clay/till) and deeper groundwater (Contact Aquifer). Also, we note that a shallow sand unit was identified along the most easterly portion of the property (BH105). It is likely that the shallow sand is present along the eastern property limit (vicinity of Molly Creek). It is important to assess this area further, especially in the area of the proposed new waste cell and leachate pond.
Natural Sciences/Ecology	<p>There is no ecological impact assessment of the watercourses (Molly Creek and the 4th concession drain). It appears that only published information (higher level mapping information, not ecological studies in vicinity of site) was used in an assessment. That assessment suggested that the site is within a low ecologically sensitive area. However, ecological assessment reports would be required to conclude this. An assessment of terrestrial/bird has not been completed.</p>
Storm Water	Completed.
Geotechnical	A geotechnical report is needed and has not been prepared.
Traffic	<p>Traffic study has not been completed. The proponent indicates that a traffic study is to be completed “during the Environmental Screening Process for Waste Management Projects under the Environmental Assessment Act as per section 18, Regulation 101/07”, page 6-4 of the Landfill Report.</p>



Study	Status
Air/Odour/Gas	Detailed air and odour studies/modelling has not been completed. Detailed Landfill Gas study has not been completed. The proponent indicates "Landfill Gas Emission Study be conducted, in conjunction with the EA, to be completed", page 10-6 of Landfill Report.
Noise	The proponent indicates that a noise study is to be done (with modelling) but has not been completed.
Visual	Not completed. They propose an Environmental Management Plan be prepared prior to construction and that would include a visual assessment.
Social Science	Not completed. Only one paragraph included in the Landfill Design Report which doesn't adequately address social impacts of the undertaking.
Planning	Letter Completed.
Characterization of Existing Waste	Not completed. The proponent is planning to move the existing waste to the new landfill area. More detailed investigation into the volume, extent, and characteristic of the waste should be done and what potential environmental effects this activity may have.

2.4 Adequacy of Information and Study to Date

Overall, there is presently insufficient information to assess the overall impacts of either of the two proposals that are the subject of the two York1 ECA Applications. In our opinion a study process should be established to comprehensively assess the potential impacts to ground and surface water, noise, dust and air quality, natural environment, transportation network/traffic and as well as other studies to assess the socio-economic, cultural heritage and land-use planning implications.

These studies should consider the combined effects of all operations at the site (landfilling and processing). This is required as part of an EA. This type of assessment was not completed. Assessment of impacts seems compartmentalized to each activity. This will result in drastically underestimating the local environmental impacts to the site and surrounding area.

3 Conclusion

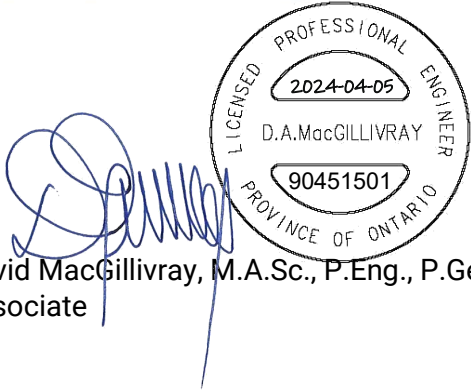
in my opinion, key environmental impact assessments have not been completed as part of the original application, amendments, or this new amendment application. Given this, and that the scope of the undertaking comprised by the two related ECA Applications is a significant deviation from the current limited waste disposal site/processing approvals, it is Grounded's opinion that it is premature to consider the ECA applications at this time. A full EA is needed to determine the overall environmental impacts associated with the proposed undertaking.

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29841 Irish School Road, Dresden, Ontario
York1 Environmental Compliance Approval Applications
April 5, 2024



We trust that the information contained in this letter is sufficient for your present requirements. If we can be of further assistance, please do not hesitate to contact us.



David MacGillivray, M.A.Sc., P.Eng., P.Geo., QP_{RA}|ESA
Associate



Municipality of Chatham-Kent

Development Services

Planning Services

315 King St. West, P.O. Box 640

Chatham ON N7M 5K8

Tel: 519.360.1998

March 15, 2024

Armstrong Planning
1600 Steeles Avenue West
Suite 318
Vaughan, ON L4K 4M2

Attn: Stephen Armstrong

Dear Mr. Armstrong

Re: 29831 Irish School Road, Dresden, Zoning By-law
Proposals by York1 Environmental Waste Solutions Ltd.

This letter is further to your submission dated April 28, 2022, and our e-mail response on July 4, 2022, with respect to the above referenced lands located known municipally as 29831 Irish Road in the Chatham-Kent (the "Subject Lands").

The Municipality of Chatham-Kent ("Chatham-Kent") has now been notified by the Ontario Ministry of the Environment, Conservation and Parks ("MECP") on January 29 and February 26, 2024, of applications made by your client, York1 Environmental Waste Solutions Ltd., ("York1") seeking amendments to Environmental Compliance Approval Nos. A020401 and A021304, to permit, respectively, waste processing/storage/transfer station uses, and landfilling uses on the Subject Lands (the "ECA Applications").

The purpose of this matter is to confirm the planning approvals required for the proposed waste management and waste disposal uses on the Subject Property based on the information provided in your April 28th, 2022 letter and the above referenced ECA Application material.

Land uses at the Subject property are regulated by Chatham-Kent Zoning By-law 216-2009 (the "Chatham-Kent Zoning By-law"). The property is zoned Extractive Industrial (M2) with Special Zone Provision No. 365, or "M2-365".

The current permitted uses of the M2-365 Zone include:

- Agricultural Uses (no structures)
- Asphalt and Concrete Batching
- Buildings and Structures related to above permitted uses

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- Open Storage
- Pits and Quarries
- Processing of Extracted Materials from the Site
- Storage of Asphalt and Concrete for crushing (Special Zone Provision No. 365)

Waste processing/storage/transfer and landfilling are not permitted uses on the Subject Property.

Based on our review of the available information, land use planning approvals are therefore required before these proposed uses can be established on the subject property. This includes both an amendment to the Chatham-Kent Zoning By-law and, potentially, an amendment to the Chatham-Kent Official Plan. Following pre-consultation with Chatham Kent Planning Services, and consideration of a detailed proposal, our department will be in a position to determine what amendments to the Chatham-Kent Official Plan may be required.

Your April 28, 2022 letter sets out an opinion that approvals under the Planning Act are not required as the proposed waste facility issues are legal non-conforming uses. In support of this opinion, you provided information with respect to previous Ontario Ministry of Environment approvals for waste management activities on the subject property.

The opinion provided by your office does not provide the required information to support this conclusion. In order for an existing use to be considered a legal non-conforming issue it must be demonstrated that:

1. the use of the land, building or structure was lawful at the time of the enactment of the relevant zoning restriction; and
2. the previously lawful use has continued thereafter.

While your letter provides information on previously obtained environmental approvals for some of the waste management related uses proposed, neither your letter, nor any subsequent information, provides any information to demonstrate that the uses for which York1 is now seeking approval meet the required test for a legal non-conforming use: that they were legally established under the zoning by-law in place at the time they were commenced, and that they were, and are, continuing uninterrupted uses being carried out on the subject property.

In summary, based on the information reviewed to date, Planning Act approvals by Chatham-Kent are required for the changes in land uses contemplated by York1, as described in your April 28, 2022 letter and subsequent 2024 ECA Application material, including amendments to the Zoning By-law and potential amendments to the Chatham-Kent Official Plan.

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If your client wishes to proceed with these proposed uses on the Subject Property, we recommend that your client initiate pre-submission consultation with Chatham-Kent Planning Services respect to the required Planning Act approvals.

If you have any questions with respect to the above, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Jacques', with a long horizontal flourish extending to the right.

Ryan Jacques, MCIP, RPP
Director, Planning Services

cc. George Kirchmair, Vice President, Environmental Services, York1
Davin McCully, Manager, Planning & Project Management, Armstrong Planning