

Subject: Clarke Municipal Drain – partial abandonment

File Number: ACS2023-IWS-WL-0001

Report to Agriculture and Rural Affairs Committee on 6 April 2023

and Council 12 April 2023

Submitted on March 27, 2023 by Tammy Rose, General Manager, Infrastructure and Water Services

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Ward: Barrhaven (3)

Objet : Clarke Municipal Drain – Abandon partiel

Dossier : ACS2023-IWS-WL-0001

Rapport au Comité de l'agriculture et des affaires rurales

le 6 avril 2023

et au Conseil le 12 avril 2023

Soumis le 27 mars 2023 par Tammy Rose, directrice générale, Services d'infrastructure et d'eau

Personne ressource : Dave Ryan, directeur des installations de drainage, Services d'infrastructure et d'eau

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Quartier : Barrhaven (3)

REPORT RECOMMENDATIONS

That the Agriculture and Rural Affairs Committee recommend that Council give three readings to the by-law attached as Document 2 to this report to provide for the abandonment of the Clarke Municipal Drain, East Main Drain, from sta. 0+00 to sta. 14+31 and West Main Drain, from sta. 0+00 to sta. 8+58 located in Lots 12 and

13, Concession 3, former Township of Nepean, Barrhaven West Ward under Subsection 84 (5) of the Drainage Act.

RECOMMANDATIONS DU RAPPORT

Que le Comité de l'agriculture et des affaires rurales recommande au Conseil soumette à trois lectures le règlement joint au présent rapport, en tant que document 2, en vue de l'abandon du drain municipal Clarke, drain principal Est (de sta. 0+00 à sta. 14+31) et drain principal Ouest (de sta. 0+00 à sta. 8+58), situé dans les lots 12 et 13, concession 3, ancien canton de Nepean, dans le quartier Barrhaven-Ouest, conformément au paragraphe 84 (5) de la *Loi sur le drainage*.

BACKGROUND

The City has received a request from the owners of land assessed for benefit in in Lots 12 and 13, Concession 3, former Township of Nepean, Barrhaven West Ward under the Clarke Municipal Drain By-law, being By-law 44-73 of the former Township of Nepean, now within the City of Ottawa, (hereinafter referred to as the "Clarke Municipal Drain By-law") asking for the abandonment of a portion of the drainage works under the Clarke Municipal Drain By-law.

The portion of the drainage works that assessed landowners have asked to be abandoned are described in the draft by-law that is attached as Document 2 to this report.

Staff are recommending that Council abandon the remaining portion of the Clarke Municipal Drain as described in the draft by-law attached as Document 2 to this report, being the remaining portion of the drainage works under the Clarke Municipal Drain, East Main Drain, from sta. 0+00 to sta. 14+31 and West Main Drain, from sta. 0+00 to sta. 8+58 located in Lots 12 and 13, Concession 3, former Township of Nepean, Barrhaven West Ward.

DISCUSSION

The Clarke Municipal Drain is located within Barrhaven West Ward (formerly the Township of Nepean) north of River Run Avenue and Perseus Avenue. The Clarke Municipal Drain was originally constructed under an Engineers Report prepared by A.J. Graham P. Engineering Consultants Ltd. dated January 16, 1973, revised August 20, 1973 and by-law 44-73 of the former Township of Nepean.

In 2007 the City of Ottawa approved the partial abandonment of the Clarke Municipal Drain East Main Drain, from sta. 14-31 to sta. 57+47 and West Main Drain, from sta. 8+58 to sta. 52-19, former Township of Nepean, Barrhaven West Ward under By-laws 2007-413 and 2007-414, City of Ottawa.

The City has received a request from owners of land assessed for benefit in Lots 12 and 13, Concession 3, former Township of Nepean, Barrhaven West Ward under the Clarke Municipal Drain By-law asking for the abandonment of the remaining portion of the Clarke Municipal Drain, East Main Drain, from sta. 0+00 to sta. 14+31 and West Main Drain, from sta. 0+00 to sta. 8+58 located in Lots 12 and 13, Concession 3, former Township of Nepean, Barrhaven West Ward.

Staff have investigated the remaining portion of the drainage works to be abandoned and do not have any concerns with the total abandonment of the Clarke Municipal Drain. If accepted, this current request for abandonment will remove the City of Ottawa from all further obligations with respect to the Clarke Municipal Drain.

This report has no tax or budget considerations.

On December 2, 2022 staff on behalf of City Council sent a notice under Subsection 84(2) of the Drainage Act, to all of the owners of lands assessed under the Clarke Municipal Drain By-law stating Council's intention to abandon the remaining portion of the drainage works specified in the notice unless the clerk of the municipality receives a request under Subsection 84(1) that the report of an engineer be made on the proposed abandonment in accordance with Subsection 84(3).

Neither the Clerk of the municipality or staff have received a notice from any assessed landowner requesting that a report of an engineer be made on the proposed abandonment.

The Drainage Act provides that as long as notice of the proposed abandonment was sent to all owners assessed for the drainage works in accordance with Subsection 84(2) of the Drainage Act and no notice requesting the report of engineer has been received Council may by by-law abandon the remaining portion of the drainage works described in notice that was sent under Subsection 84(2).

As a notice has been sent in accordance with the requirements of Subsection 84(2) of the Drainage Act and no notice requesting the report of an engineer has been received, Staff are recommending that Council give three (3) readings to the by-law attached as

Document 2 to this report to provide for the total abandonment of the Clarke Municipal Drain.

RURAL IMPLICATIONS

The City of Ottawa will no longer have any responsibility for the abandoned Clarke Municipal Drain.

CONSULTATION

Consultation with the Ward Councillor and City staff is ongoing.

COMMENTS BY THE WARD COUNCILLORS

The Ward Councillor is aware of this proposed abandonment.

LEGAL IMPLICATIONS

For the reasons set out below, there are no legal impediments to the implementation of the recommendation in this report.

The Drainage Act provides that as long as a notice of Council's intention to abandon all or a portion of a drainage works is sent to all owners of land assessed for the drainage works in accordance with Subsection 84(2) of the Drainage Act and no notice is received from an assessed landowner requesting the report of engineer, Council may by by-law abandon the portion of the drainage works described in notice that was sent under Subsection 84(2).

As staff have advised that a notice has been sent in accordance with the requirements of Subsection 84(2) of the Drainage Act and no notice requesting the report of an engineer has been received, Subsection 84(5) provides that Council may now proceed with the enactment of a by-law to provide for the abandonment of the portion of the drainage works described in the notice that was sent under Subsection 84(2) the Drainage Act.

RISK MANAGEMENT IMPLICATIONS

There are no risk implications associated with this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications associated with this report.

FINANCIAL IMPLICATIONS

This report has no tax or budget considerations.

ACCESSIBILITY IMPACTS

There are no accessibility impacts associated with this report.

ENVIRONMENTAL IMPLICATIONS

This report does not include any proposed works, it is administrative in nature.

TERM OF COUNCIL PRIORITIES

The proposed drainage works will fulfill the City's Strategic Plan's environment and infrastructure protection priorities.

SUPPORTING DOCUMENTATION

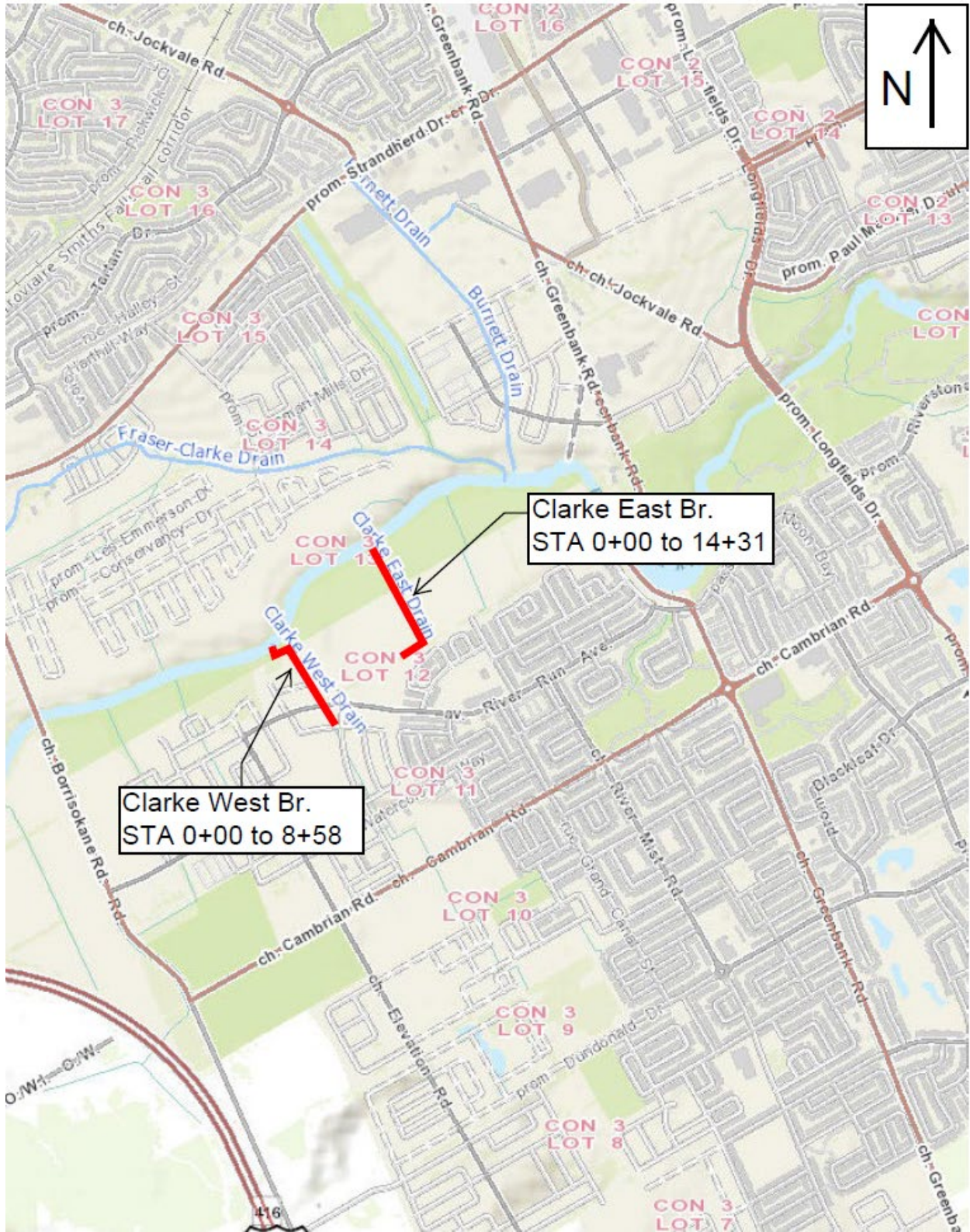
Document 1 Location Map

Document 2 – By-law

DISPOSITION

If the report recommendation is carried by Council, the by-law attached as Document 2 to this report may be listed on the agenda for the following Council meeting to receive three (3) readings.

Document 1 – Location Map



Document 2 – By-law

BY-LAW NO. 2023 -

A by-law of the City of Ottawa to provide for the partial abandonment of drainage works in the City of Ottawa – Clarke Municipal Drain, East Main Drain, from sta. 0+00 to sta. 14+31 and West Main Drain, from sta. 0+00 to sta. 8+58 located in Lots 12 and 13, Concession 3, former Township of Nepean, Barrhaven West Ward.

WHEREAS the Clarke Municipal Drain By-law, being By-law 44-73 of the former Township of Nepean was passed pursuant to the *Drainage Act* (now R.S.O. 1990, D.17);

AND WHEREAS the lands of the former Township of Nepean are now included in the City of Ottawa by virtue of the *City of Ottawa Act, 1999*, S.O. 1999, c.14, Sch.E;

AND WHEREAS every by-law of the Township of Nepean is deemed to be a by-law of the City of Ottawa pursuant to Section 5(6) of the said *City of Ottawa Act, 1999*;

AND WHEREAS Council of the City of Ottawa is of the opinion that abandonment of Clarke Municipal Drain, East Main Drain, from sta. 0+00 to sta. 14+31 and West Main Drain, from sta. 0+00 to sta. 8+58 located in Lots 12 and 13, Concession 3, as set out in this By-law and as per the request of the affected landowners and pursuant to Section 84 of the *Drainage Act*;

AND WHEREAS all owners have been notified of the City's intention to abandon part of the drainage works pursuant to subsection 84(1) of the *Drainage Act*;

AND WHEREAS no request for an engineer's report with respect to the abandonment has been received pursuant to subsection 84(3) of the *Drainage Act*;

AND WHEREAS there are no costs associated with the abandonment of the drain;

THEREFORE the Council of the City of Ottawa enacts as follows:

1. The following part of the Clarke Municipal Drain are hereby abandoned:

- a. Clarke Municipal Drain, East Main Drain, from sta. 0+00 to sta. 14+31 located in Lots 12 and 13, Concession 3, former Township of Nepean, Barrhaven West Ward.
 - b. Clarke Municipal Drain, West Main Drain, from sta. 0+00 to sta. 8+58 located in Lots 12 and 13, Concession 3, former Township of Nepean, Barrhaven West Ward.
2. The City of Ottawa, pursuant to subsection 84(5) of the *Drainage Act*, has no further obligation with respect to those parts of the drainage works of the Clarke Municipal Drain as mentioned in section 1 of this By-law.
3. This by-law comes into force on the passing thereof and may be cited as the “Clarke Municipal Drain Partial Abandonment By-law, 2023”.

ENACTED AND PASSED THIS XXrd day of XXX, 2023

CITY CLERK

MAYOR

BY-LAW NO. 2023 -

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A by-law of the City of Ottawa to provide for the partial abandonment of drainage works in the City of Ottawa – Clarke Municipal Drain.

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Enacted by City Council at its meeting of XXX XX, 2023

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LEGAL SERVICES

PR/

COUNCIL AUTHORITY: