

## Bryan Boles

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**From:** Adams, Tarryn (MECP) <Tarryn.Adams@ontario.ca>  
**Sent:** January 18, 2023 2:06 PM  
**To:** Bryan Boles  
**Cc:** Lisa Price; Shepherd, Mandy (MECP); Buck, Taylor (MECP); Gary Remington; Tonellato, Kelly (MECP)  
**Subject:** RE: City of Port Colborne - Nickel Beach Response

**Follow Up Flag:** Follow up  
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Hello Bryan,

The Species at Risk Branch has reviewed the information provided on December 15<sup>th</sup> and has the following comments:

### Gravel Parking Lot Restoration

The Ministry of the Environment, Conservation and Parks (MECP) has reviewed the information provided in the PDFs titled 'Nickel Beach MECP LCA Response 121522' and 'MECP Response Dec. 13, 2022\_LCA' prepared by LCA Environmental Consultants submitted on Dec 15, 2022 to assess the potential impacts of the parking lot restoration proposal on Fowler's Toad protected under the *Endangered Species Act, 2007* (ESA).

It's noted mitigation measures have been committed to, including avoiding the active season for Fowler's Toad by completing the proposed activities between January 1<sup>st</sup> and March 15<sup>th</sup> of 2023.

Based on our review of the project documentation and information that has been provided, the conclusions that the LCA Environmental Consultants has made that neither sections 9 nor 10 of the ESA will be contravened for species identified above, appear reasonable and valid and therefore authorization is not required.

Should any of the project activities change, please notify MECP immediately to obtain advice on whether the changes require authorization under the ESA. Failure to carry out these projects as described could potentially result in contravention of the ESA. Further, it is recommended that LCA Environmental Consultants continue to monitor for Fowler's Toad activity during the course of site development to document changes, in the event that there should be any. You remain responsible for ensuring compliance with the ESA and may be subject to prosecution or other enforcement action if your activities result in any harm to an at-risk species or habitat.

Our position here is based on the information that has been provided by LCA Environmental Consultants and its project team. Should information not have been made available and considered in our review or new information come to light that changes the conclusions made by LCA Environmental Consultants, or if on-site conditions and circumstances change so as to alter the basis for LCA Environmental Consultants conclusions, please contact the Species at Risk Branch as soon as possible to discuss next steps.

We also note that while it does not appear that an ESA permit will be required, the proposed activities may be subject to other approvals, such as those issued by local municipalities and conservation authorities. Please be advised that it is the responsibility of the proponent to be aware of and comply with all other relevant provincial or federal requirements, municipal by-laws or required approvals from other agencies. It is also the responsibility of the proponent to ensure that all required approvals are obtained and relevant policies adhered to.

When the planned restoration activities are complete, please provide confirmation to MECP along with supporting documentation (e.g., photos).

### Fencing

- A site visit conducted on January 17<sup>th</sup>, 2023, found that the new fence (depicted on PDF titled 'Nickel Beach with existing fence and gravel\_rev') has largely been destroyed by winter storms. Based on the photos, it appears the damaged fence is likely to be a barrier to Fowler Toads in the active season but is no longer serving as a barrier to humans. What are the plans to address the damaged fence?
- Health and safety rationale
  - It's understood from discussions with the City that the fence addresses health and safety concerns related to Vale's lagoon. As confirmed through a site visit on January 17<sup>th</sup>, 2023, the lagoon feature is easily accessible/visible from the public road that leads to the beach. Why is public access not restricted around the entire lagoon?
- Consideration of alternatives
  - Has locating the fence directly adjacent to the lagoon been considered? Please explain.

### On-Beach Parking

A completed IGF for on-beach parking as requested on November 3<sup>rd</sup> has not been received. However, based on the limited information provided in the PDF titled 'City of Port Colborne Letter to Kelly Tonellato', impacts under section 9 of the ESA (2007) are likely and authorization would be required for the proposed activity. Section 9 prohibits the killing, harming and harassing of Species at Risk. Section 10 prohibits damage to Species at Risk habitat. Multiple vehicles driving on the beach in Fowler's Toad habitat during the active season may result in toads being killed/harmed/harassed that are moving between shoreline and dune habitat. Please submit a completed IGF for review.

Let me know if you have any questions.

Thank you,

*Tarryn Adams*

A/Management Biologist, Permissions Section  
Species at Risk Branch  
Ministry of the Environment, Conservation and Parks (MECP)  
Peterborough, ON K9J 3C7

Please let me know if you have any accommodation needs or require communication supports or alternate formats.

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**From:** Bryan Boles <Bryan.Boles@portcolborne.ca>

**Sent:** December 15, 2022 4:35 PM

**To:** Tonellato, Kelly (MECP) <Kelly.Tonellato@ontario.ca>

**Cc:** Lisa Price <lprice@lcaenvironmental.ca>; Shepherd, Mandy (MECP) <Mandy.Shepherd2@ontario.ca>; Buck, Taylor (MECP) <Taylor.Buck@ontario.ca>; Adams, Tarryn (MECP) <Tarryn.Adams@ontario.ca>; Gary Remington <Gary.Remington@vale.com>

**Subject:** City of Port Colborne - Nickel Beach Response

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Hi Kelly,

As per our previous conversations please find attached the following:

- Letter addressing the future of parking at Nickel Beach which is based on Council feedback

- A follow-up to previous MECP discussions (please note file "Nickel Beach MECP LCA Response 121522" should be read as an addendum to "MECP Response Dec. 13, 2022\_LCA" to address the email comments of yesterday)

We look forward to discussing further once you have had a chance to review.

Regards,  
Bryan Boles



[www.portcolborne.ca](http://www.portcolborne.ca)

**Bryan Boles CPA, CA, MBA**  
*Director of Corporate Services / Treasurer*  
**City of Port Colborne**

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66 Charlotte Street  
Port Colborne, ON L3K 3C8  
**Phone** 905-835-2900 x105  
**Email** [Bryan.Boles@portcolborne.ca](mailto:Bryan.Boles@portcolborne.ca)

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