



PORT COLBORNE

**Meeting
Environmental Advisory Committee
January 11, 2023 6:00 p.m.**

The following were in attendance:

Staff: Cassandra Banting
Mae Lannan
Janice Peyton

Council: Councillor Tim Hoyle

Public Members: George McKibbon
Jack Hellinga
Katherine Klauck
Tim Lamb
Trent Doan
Tim Hoyle
Ryan Waines
Norbert Gieger

Interested citizens.

This was an online Microsoft Teams meeting.

1. Call to Order

Chair George McKibbon called the meeting to order at 6:05 p.m.

2. Adoption of the Agenda

Moved by Tim Lamb
Seconded by Jack Hellinga

That the agenda dated January 11, 2023, be accepted as circulated.
CARRIED.

3. Disclosures of Interest

Nil.

4. Approval / Review of Previous Meeting Minutes

Moved by Ryan Waines
Seconded by Tim Lamb

That the minutes of November 9, 2022, be accepted as written.
CARRIED.

5. Planning & Legislative Services Department Memo & Proposed Terms of Reference

Saima Tufail, Interim Deputy Clerk, reviewed the EAC revised terms of reference and recommended composition change. A copy of the memo and proposed terms of reference are attached to the minutes.

Saima responded to comments and questions of Chair George McKibbon. Saima will provide the Strategic Planning meeting dates to the committee once set. Procedural training for committee members will take place in February, there is no set date yet.

Moved by Jack Hellinga
Seconded by Norbert Gieger

That the Planning & Legislative Services Department Memo & Proposed Terms of Reference be received for information.
CARRIED.

6. Public Works Update

Cassandra Banting, Environmental Compliance Supervisor, provided the following update:

a) Urban Forest Management Plan

The Urban Forest Management Strategy and Plan survey has been released and was circulated committee members. There will be a public open house in the beginning of March at the Golden Puck Room at the Vale Health & Wellness Centre. Mae Lannan, Climate Change Coordinator, will provide further details of the open house when they are available.

b) Pilot Project – Native Species Plantings on City Boulevards

Dewitt Carter grade 7/8 students made a presentation to Council regarding replacing grass medians/areas, with native plants. Council supported the initiative and Public Works staff are looking at suitable locations for a pilot project.

c) EV Charging Stations

City staff continue to work with a 3rd party to review options and determine locations for EV charging stations.

Mae Lannan, Climate Change Coordinator, responded to comments and questions of committee members regarding EV charging stations.

7. Draft Annual Report 2022

Moved by Katherine Klauck
Seconded by Norbert Gieger

That the EAC Annual Report for 2022 be circulated to the Acting City Clerk for Council.
CARRIED.

A copy of the report is attached to the minutes.

8. Ontario's Excess Soil Regulation

George McKibbon provided an information package on Vale's CBRA and Ontario's On-site and Excess Soil Management Regulation 406/19. A copy is attached to the minutes.

George asked for volunteers to review the information produced by the Ministry of Environment and report back to this committee.

Jack Hellinga, Katherine Klauck, Tim Lamb, George McKibbon, and Harry Wells will form the study group.

An update on the status of the Site Alteration By-Law will be provided at the next meeting.

9. Region's Climate Initiative

Mae Lannan, Climate Change Coordinator, sits on the Niagara Climate Change Action Network (NCCAN) and the Niagara Climate Change Municipal Community of Practice (NCCMCP) committees. Mae will update the EAC on actions that are taken by these committees.

10. Update on Fallout from Bill 23

No discussion/comments on this item.

11. Other Business

Mae Lannan, Climate Change Coordinator, will keep a roster of meeting outcomes from external committees and groups for this committee and will liaise with those committees based on items of interest to the EAC.

12. Next Meeting /Adjournment

With no further business to discuss, the meeting was adjourned at 7 p.m.

The next EAC meeting will be on Wednesday March 8th at 6 p.m.



PORT COLBORNE

Memorandum

To: Environmental Advisory Committee (EAC)
From: Planning and Legislative Services Department-Clerk's Division
Date: January 10, 2023
Re: Revised Terms of Reference and Composition Change

The purpose of this memorandum is to provide details for consideration, related to a revised committee structure and Terms of Reference. The recommendations contained in this memorandum together with the Council adopted Procedural By-law, Council and Committee Code of Conduct and revised Terms of Reference will ensure Port Colborne's committee structure is responsive, accountable, and transparent.

The Environmental Advisory Committee must provide advice and recommendations to Council as requested on areas within the committee's mandate with no authority for decision making or independent action. In order to accomplish the City goals, it is imperative to evaluate the role and make changes as necessary.

As a result, staff have conducted a thorough review of the current committee structure. The objective was to identify any existing gaps between committee responsibilities, the City's Strategic Plan and ensure alignment with the current organizational structure.

City staff are recommending a composition change for the EAC. Currently, the EAC is comprised of ten members from the public at large by resolution of Council. Staff is recommending the composition be changed to include seven members of the public. The changes recommended are to ensure that committees operate at a successful level by receiving citizen engagement and to develop workplans to align with Council's priorities identified in the City's strategic plan during their four-year term. The recommended change to the number of members will be done through attrition. Currently, there are four vacancies on the Committee, it is recommended that only two positions are filled. This will bring the current composition from ten members of the public to eight. In addition, recommendations are provided to update committee terms of reference to clarify the role of Council, staff, chairs, staff liaisons and committee members.

Input received from the Committee and Council has been incorporated in the proposed terms of reference. The recommended terms of reference attached to this memorandum set out the recommended committee structure moving forward. Once reviewed by the committee the amended Terms of Reference will be considered by Council. Next steps include Procedural training for members, agendas to be completed through the eSCRIBE software and annual workplans will be drafted.



PORT COLBORNE

Port Colborne Environmental Advisory Committee Terms of Reference

Committee: Environmental Advisory Committee

Date Approved:

Date Revised: N/A

Approval: Council

Committee Resource: Public Works

1. Purpose

The City of Port Colborne Environmental Advisory Committee (EAC) is an Advisory Committee of Council established to offer advice and recommendations to Council to support and to promote the integration of environmental, energy conservation, climate change and shoreline protection.

2. Mandate

The mandate of the EAC is to provide advice to Council on a range of environmental and sustainability issues including, but not limited to:

- 2.1 Assist with the creation, improvement and enhancement of waste reduction, reuse and recycling programs, water and energy conservation measures and climate change mitigation measures;
- 2.2 Identify emerging environmental and issues and technologies particularly those associated with climate warming adaptation and mitigation;
- 2.3 Investigate and recommend to Council opportunities to work with municipal partners on environmental projects and collaborations to improve the City's conservation practices or in addressing environmental concerns;
- 2.4 Identify and recommend to Council implementation of community outreach activities which support the growth of environmental awareness and appreciation;
- 2.5 Identify new or changing environmental legislation, conservation, environmental sustainability, and the environment in relation to overall quality of life;



PORT COLBORNE

2.6 Investigate and recommend to Council funding opportunities that may be available for undertaking environmental upgrades;

2.7 Assist with and provide advice with respect to City properties and assets best suited for multi-faceted environmental conservation practices.

3. Membership Composition

The Environmental Advisory Committee shall consist of the following voting and non-voting members:

3.1 Seven voting members who shall be eighteen years or older and residents in the City of Port Colborne members shall be appointed from the public at large by resolution of Council. One citizen member should be under the age of 25, if possible.

3.2 Two non-voting members of Council will be appointed to the Advisory Committee to act as a liaison to the committee. The Mayor is an ex-officio non-voting member of the Committee.

3.3 One non-voting member of staff who shall act as a resource person, recording secretary and shall provide administrative support to the Committee. Additional members of Staff may be called on for specific subject matter expertise as a committee resource.

3.4 One non-voting representative of the Niagara Peninsula Conservation Authority (NPCA), who shall be designated by the NPCA to serve as a resource person to the Committee.

4. Citizen Membership Eligibility Criteria

To facilitate the nomination and appointment of new citizen members to the EAC, the following criteria will be considered. The aim is to achieve a diverse committee with a combination of technical experts and community representatives.



PORT COLBORNE

4.1 Residency

Members must be a tenant or owner of land in the City of Port Colborne, or the spouse of such owner or tenant.

4.2 Technical Expertise

A high level of technical expertise is required within the Committee. Applicants with academic qualifications and/or work experience in environmentally related disciplines will be an important consideration.

4.3 Community Representatives

Consideration shall be given to the individual's level of participation and knowledge of environmental issues and the planning process. The relevance of their interests to the mandate of EAC will be an important consideration.

Where possible, one member should be drawn from those under the age of 25. Preference will be given to those enrolled or employed at the time of appointment in an environmentally related field of study, as noted above.

4.4 Availability

It is imperative that an applicant be able to attend as many EAC meetings as possible and undertake work outside of the regular meetings.

5. Membership Recruitment

5.1 Membership recruitment will be conducted in accordance with the City's Appointments to Boards and Committees Policy.

5.2 The membership on the Environmental Advisory Committee shall consist of appointments by Resolution of Council for Citizen Members.

6. Term

The Environmental Advisory Committee appointments shall follow a four-year term in order to maintain the staggered structure. Each member of the committee shall hold membership until his/her successor is appointed. In the case of a vacancy for any cause other than expiration of term, the member appointed to fill the vacancy shall hold office for the balance of the term of the member whose place is vacant.



PORT COLBORNE

7. Resignation:

A voting member of the Environmental Advisory Committee shall cease to be a member of the Committee upon submission of a letter of resignation to the City Clerk or if he/she absents himself/herself from three successive scheduled meetings of the Committee without being authorized to do so by a resolution of the Environmental Advisory Committee entered into the minutes.

8. Appointment of Chair and Vice-Chair

At the first meeting of the new term of the EAC, the members shall appoint, from among their number, a Chair and Vice-Chair. Members of Council are not eligible to act as Chair or Vice-Chair.

9. Role of the Chair

The role of the Chair is to:

9. 1 Preside at the meetings of Environmental Advisory Committee in accordance with the Procedure By-law and keep discussion on topic.
- 9.2 Provide leadership to Environmental Advisory Committee to encourage that its activities remain focused on its mandate as an Advisory Committee of Council.
- 9.3 Review agenda items with the Staff Liaison
- 9.4 Recognize each Member's contribution to the Committee's work.
- 9.5 Serve as an ex-officio member of subcommittees and attend subcommittee meetings when necessary.
- 9.6 Liaise with other EAC members
- 9.7 Make deputations, presentations, etc. before Council.
- 9.8 Prepare report on recommendations for Council in coordination with Staff liaisons on the prescribed template



PORT COLBORNE

10. Role of the Vice-Chair

In the absence of the Chair, the Vice-Chair will chair meetings and assume all functions of the Chair as necessary.

11. Role of Committee Members

The role of Committee Members is to:

11.1 Work collaboratively with City staff to develop an annual Work Plan and prepare annual progress reports. Work Plans will ensure workload is manageable and appropriately shared between EAC members and staff.

11.2 Ensure that the mandate of EAC is being fulfilled.

11.3 Conduct research to help inform environmental programs, outreach campaigns, by-laws, etc.

11.4 Provide the Chair with solid, information regarding agenda items.

11.5 Fairly represent the field of expertise, interest and involvement in the field of study of the Committee

11.6 Notify the Staff Liaison if they are unable to attend Environmental Advisory Committee meetings to ensure that quorum will be available for all meetings

12. Meetings

12.1 All meeting shall be open and no person shall be excluded therefrom except for improper conduct or except matter identified in section 239(2) of the Municipal Act, 2001, S.O. 2001, c. 25.

12.2 All matters pertaining to a closed meeting must first be approved by the Clerk to ensure it is appropriately being dealt with in closed session



PORT COLBORNE

12.3 The Committee shall hold a minimum of four (4) meetings in each calendar year. At the first regular meeting of the new term, a meeting schedule will be adopted by the Committee.

12.4 The Chair shall cause notice of the meetings, including the agenda for the meetings in accordance with the City's Procedural By-law.

12.5 Meetings will be held on a set day and time as may be determined by the Committee or at the call of the Chair. The EAC, will establish a meeting schedule taking into account the business needs and the schedule of Council.

12.6 The location of the meetings will be set by the Committee at a City facility.

13. Minutes

The minutes of all Committee meetings shall be recorded and distributed to Committee Members and to the City Clerk for safekeeping and inclusion on the regular Council agenda.

The minutes shall be open to inspection in accordance with the *Municipal Act, 2001*, S.O. 2001, c. 25., as amended and such minutes will be posted on the City's website.

14. Quorum

If a quorum for an Advisory Committee meeting is not present within fifteen (15) minutes of the time fixed for the commencement of the meeting, the Committee may proceed without a quorum, provided that at least three Members are present. The Clerk is not required to be present and no motions will be passed or minutes prepared.

15. Conflict of Interest

It is the responsibility of each member to identify and disclose a pecuniary interest on any item or matter before Council, or Committee in accordance with the *Municipal Conflict of Interest Act*, R.S.O.1990, c.M. 50.

Where a Member has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of the Committee at which the matter is



PORT COLBORNE

the subject of consideration, the Member will, in accordance with *Municipal Conflict of Interest Act*, R.S.O.1990, c.M. 50 (5):

- 15.1 file a written statement of the interest and its general nature with the Clerk prior to the meeting;
- 15.2 not take part in the discussion of, or vote on any question with respect to the matter;
- 15.3 not attempt in any way before, during and/or after the meeting to influence the vote on the matter.

Where a meeting is not open to the public, in addition to complying with the requirements under the *Municipal Conflict of Interest Act*, the Member will forthwith leave the meeting for the part during which the matter is under consideration.

The Clerk will record the particulars of any disclosure of pecuniary interest made by Members of Committees in the minutes of that meeting and update the Pecuniary Interest Registry. The Registry will be available for public inspection.

16. Procedures

Procedures for the proceedings of meetings shall be governed by the Procedural By-law, and Robert's Rules of Order.

17. Remuneration

All members of the Committee shall serve without remuneration.

18. Staff Liaison

City staff from key environmental positions within the Corporation, plus technical staff as required from time to time, will provide support for the reviews and activities of EAC.

The liaison

will provide administrative, procedural, and technical support to the EAC. The liaison will co-ordinate all requests for advice from the EAC, through meeting agendas.



PORT COLBORNE

19. Annual Workplan

An annual workplan with an estimate of the resources necessary and any suggested revisions to the Terms of Reference for the coming year shall also be prepared by the EAC for consideration and approval by Council.

20. Resources

20.1 Procedural By-Law

20.2 *Municipal Act*

20.3 Code of Conduct

20.4 Appointment to Boards/Committees Policy

20.5 *Conflict of Interest Act*

20.6 Robert's Rules of Order

20.7 Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)

21. Terms of Reference

Any responsibilities not clearly identified within these Terms of Reference shall be the responsibility of the City of Port Colborne Staff. Council may, at its discretion, change the Terms of Reference for this Committee at any time. Any changes proposed to these Terms of Reference by the Committee shall be recommended to Council via the City Clerk through a report. At the discretion or upon the mandate of the Committee being fulfilled, the Committee may be dissolved by resolution of Council.

**Port Colborne Environmental Advisory Committee
Annual Report: 2022**

Introduction: This annual report documents the Port Colborne's Environmental Advisory Committee (EAC) highlights for 2022.

Purpose: *"The Environmental Advisory Committee is an Ad-Hoc Committee of Council whose purpose is to:*

- *Advise Council on environmental, energy conservation and shoreline protection issues that affect the City of Port Colborne and those matters referred to the Committee by Council.*
- *To promote the integration of environmental, energy conservation and shoreline protection considerations into the planning and development of City policies, programs and services."*

2022 Membership: Trent Doan, Norbert Geiger, Jack Hellinga (Vice Chair), Tim Hoyle (as of November 2022, Councillor Hoyle), George McKibbin (Chair), Steven Rivers, Kerry Royer (non-voting member NPCA), Ryan Waines, Councillor Mark Bagu, Councillor Harry Wells (term ending November 2022), Tim Lamb, and Katherine Klauck. Cassandra Banting (Public Works liaison) and Janice Peyton (Recording Secretary) provide City staff support.

Meetings: In 2022 five virtual meetings were held: February 2nd; April 23rd; June 8th; August 10th; and November 9th. One working committee meeting was held in July while drafting revised terms of reference and committee core competencies. One virtual consultation on climate change actions and review with Chris Kalamootoo, Director, Public Works. Members enjoyed a holiday reception on December 14.

Committee Presentations: Here are the list of presenters from members of the public, City representatives and various interest groups. Kerry Royer updated the Committee on Niagara Peninsula Conservation Authority projects; Dr. Rod Tennyson presented papers on Wind Turbine Issues and Committee Core Competencies; Nicole Rubli and Saimi Tufail, Clerk's Office updated the Committee on the City's procedural bylaw; Herb Sawatsky updated the Committee on 50by30's greenhouse gas reduction initiatives; and John McNeil, a forestry consultant, updated the committee on the ongoing urban forestry study.

Various committee members prepared and presented reports on ongoing projects.

Actions: Here are the main EAC initiatives in 2022:

- Reviewed Council's procedural bylaw to ensure EAC compliance;
- Drafted revised terms of reference and work plan for the City Clerk's office and Council review;
- Drafted reports and recommendations on climate warming and Port Colborne's Strategic Plan;

- Provided comments on a public notice, attended a public meeting, and prepared a report and recommendations in response to Planning and Development Report #2209-09;
- Reviewed and prepared reports and recommendations on land use compatibility where air and noise are concerned and hydrology for City review on Port Colborne Quarry's JART Review;
- In response to a request from Council, we prepared two reports and recommendations on wind turbine issues. The two reports are entitled: Overview of Wind Turbine Issues and Memorandum to Council on Multi Municipal Wind Turbine Working Group Correspondence – Ontario's Energy Plan and Wind Turbines;
- Reviewed and requested significant changes including the additional review of a City bylaw and policy on boulevard trees to a draft forestry request for proposals;
- Provided notice on a ship discharge into the Canal;
- Submitted operational questions on several environmental topics to Public Works staff for review, clarification and comment; and
- Reviewed Bill 23 and other policy amendments being proposed by the Province of Ontario.

What is Next in 2023: Subject to emerging issues and Council requests, EAC will also:

- Answer questions on the submitted revised terms of reference and implement Council's decisions on final revisions;
- Continue review and study of local climate change mitigation and adaptation issues;
- Update on Ontario's excess soil regulation OR 416/10;
- Review and provide comments on a revised boulevard tree bylaw and policy; and
- Review and provide comments on Provincial initiatives re environmental heritage features and hazard land policies.

On behalf of the EAC members, we thank Council for the opportunity to be of service in 2022.

Vale's Community Based Risk Assessment and Ontario's On-site and Excess Soil Management Regulation 406/19.

I have assembled a package of information documenting EAC's comments on Vales' Community Based Risk Assessment and the more recent implementation of Ontario Regulation 406/19, an On-site and Excess Soil Regulation Management Regulation. Four provinces are implementing comparable regulations: a substantial initiative!

I would like to explore with members how these initiatives may overlap with a view to answering some questions we raised in 2020 but didn't follow-up because the information and research was incomplete.

This electronic package includes:

1. Two pages from an MECP Powerpoint presentation describing how OR 406/19 fits in with Vale's CBRA;
2. Our first report from January 8, 2020;
3. Council Agenda for January 25, 2021; and
4. A City Statement on the Community Based Risk Assessment (undated but circa 2020/21)

We did follow up on related matters. On December 8, 2021, I reported to EAC that the City Planner, David Shultz agreed soil test reports from the former Augustine farm would be made available to the committee for review. In 2020, we provided comments to Karen Walsh and Ashley Grigg re community gardens and the Recreational Master Plan implementation tasks we were assigned that would attempt to obtain gardening guidance provided by Vale re nickel concentrations. That guidance wasn't received.

George McKibbon

Overview of Regulatory Requirements

Regulation titled [O. Reg. 406/19: On-Site and Excess Soil Management](#) (Excess Soil Regulation) under the *Environmental Protection Act* (EPA), was finalized in December 2019, supported by:

[Rules for Soil Management and Excess Soil Quality Standards](#)

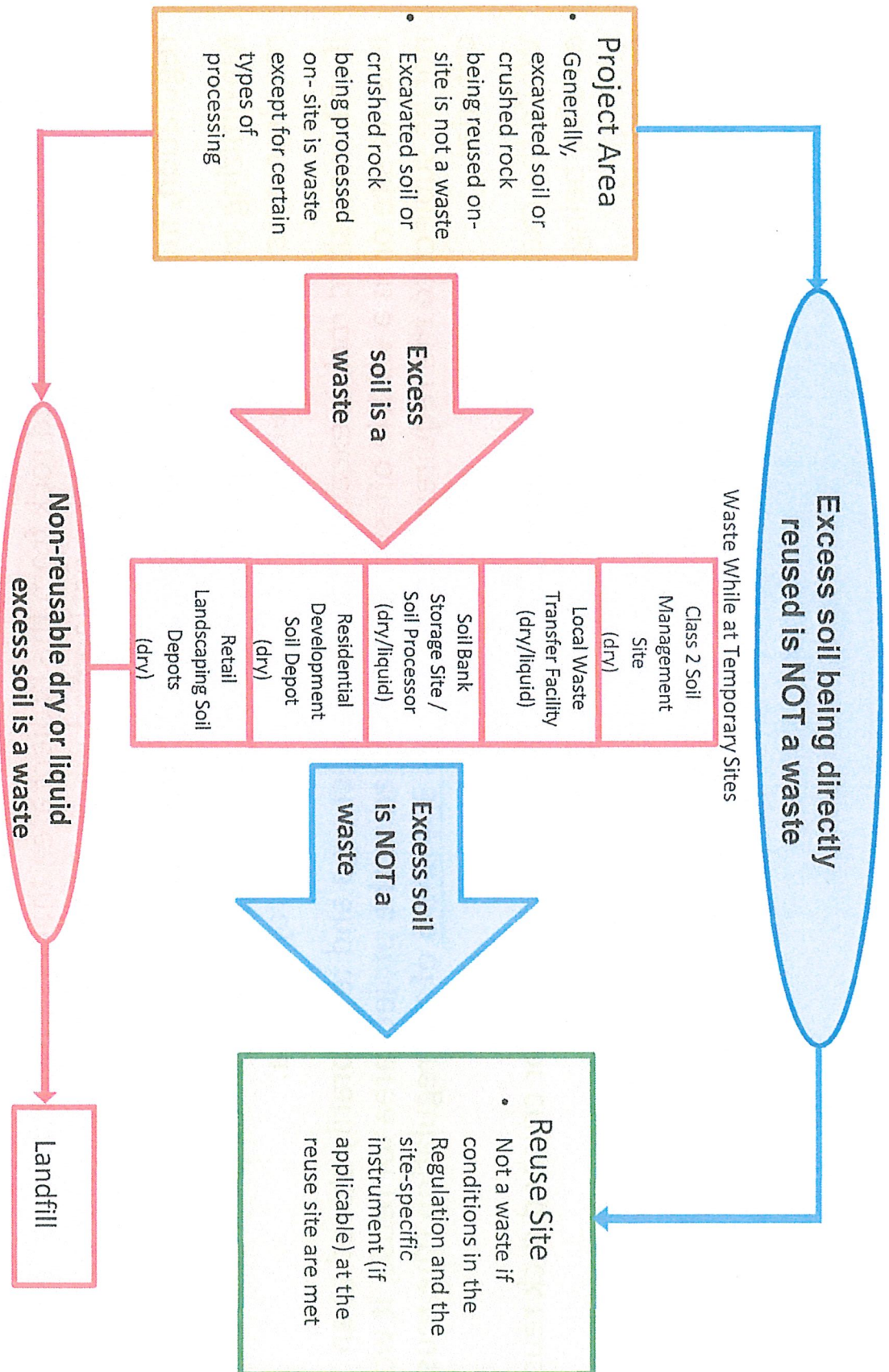
[Beneficial Reuse Assessment Tool](#) (BRAT)

Complementary provisions in [O. Reg. 153/04](#) (Brownfields Remediation Regulation), [Reg. 347](#) and [O. Reg. 351/12](#) (Waste Management Regulations)

Phased Regulatory Implementation	Timing
Reuse Rules and Waste Designation Clarification <ul style="list-style-type: none">- Excess soil reuse standards and waste designation, processing and storage rules, verbal hauling requirements	January 1, 2021
Excess Soil Reuse Planning Requirements <ul style="list-style-type: none">- For larger or riskier generating projects (with some exceptions)- Assessment of past uses, and if required sampling and characterization- Destination assessment report- Tracking and registration Hard copy or electronic hauling record Larger reuse site registration and procedures	January 1, 2023
Restriction on the deposit of clean soil at landfill sites	January 1, 2025



Waste Designation Flowchart



**Community Status Report
Vale's Community Based Risk Assessment
Questions and Acquired Responses**

January 8, 2020

Introduction: The purpose of this document is to summarize objectively the status of Vale's Community Based Risk Assessment (CBRA) and Community Based Action Plan (CBAP). This summary is intended for Port Colborne Council and staff's use. If it is thought to be helpful, we recommend the City make it available to Port Colborne residents.

This report is based on reviews of historical documentation, the current CBRA and Ministry of the Environment, Conservation and Parks (MECP) and Region of Niagara Health Department comments on the CBRA and CBAP as well as recent correspondence between MECP and the City of Port Colborne. We sought clarification on selected points with Greg Washuta (MECP), Eric Azzopardi (Vale) and Siobhan Kearns (Public Health, Niagara Region). Each was provided an opportunity to confirm facts contained in this report. To date, Siobhan Kearns confirmed we have accurately reflected Public Health's responses to clarifying questions. Both Eric Azzopardi (Vale) and Greg Washuta (MECP) have provided detailed comments. Where possible many have been incorporated into the report. Further discussions will be required on some comments.

Harry Wells, Trent Doan, Jack Hellinga, Norbert Geiger and George McKibbon met, reviewed documentation and drafted this report. The report was reviewed by the Environmental Advisory Committee on January 8 2020. We thank the staff of the MECP, Vale and Public Health Niagara Region for providing documents and answering questions during the production of this report.

The Community Based Risk Assessment commenced 20 years ago. For the first 10 years, a Public Liaison Committee comprised of Port Colborne community members helped review, comment and make recommendations on the research undertaken in the CBRA. In 2010, the Public Liaison Committee disbanded and filed its final report in July 2010. Since that time, the CBRA and its review has been conducted by Vale, MECP and Public Health Niagara with limited input from the City of Port Colborne and its residents.

Recent reporting from Vale, MECP and Public Health Niagara represent important actions to conclude the CBRA. Some of those actions reported in the following series of questions and answers have material implications for Port Colborne, its property owners and residents. This report can be used to help develop responses where local permissions are required to conclude the actions recommended by MECP and Vale and to address municipal, property owner and resident's concerns.

In order to make recommendations as objective as possible, a statement of where matters sit is crucial. The Environmental Advisory Committee's aim is to provide such a statement for Council's use.

1) Are there a series of maps which describe where each of the tiers in the tiered approach contained in the CBRA is to be applied?

Yes, there appears to be a map that shows where the application of the tiered approach is to be undertaken. It appears to cover the area within the East Village streets bounded by Louis Street to Rodney Street and Fares Street to Davis Street. The boundaries have been delineated using nickel sampling undertaken by both the MECP and Vale. Vale generated a list of properties that are within each tier and where the focus on additional testing and confirmation are occurring. Vale is not releasing the mapping due to privacy concerns.

The area was determined after sampling throughout Port Colborne by MECP and Vale's consultant. MECP has asked Vale to prepare a final CBAP that incorporates MECP, Port Colborne and stakeholder feedback which would also be expected to include a rationale for property selection.

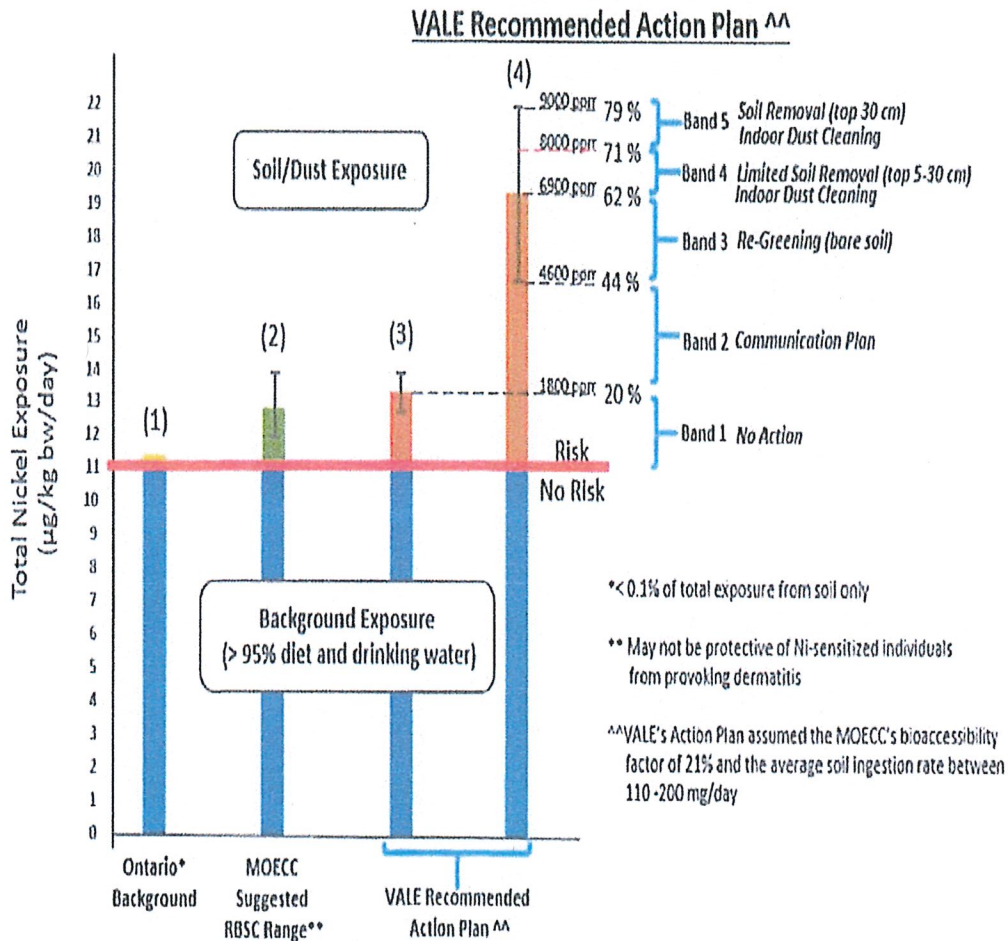
2) What measures are proposed to be implemented on residential lots outside the area bounded by Louis Street to Rodney Street and Fares Street to Davis Street in the East Village?

No actions are proposed to be undertaken at this time. There appear to be a few properties that fall within nickel contour concentrations that trigger one or more of the 5 bands and are eligible for actions proposed by Vale's CBAP. The MECP has asked Vale to prepare a final CBAP that incorporates MECP, Port Colborne and stakeholder feedback which may also include actions for additional properties.

3) What are the principle areas of disagreement between Vale and MECP? What are the possible outcomes that are under consideration?

Both MECP and Vale appear to agree with the tiered approach and the use of 8,000 ppm used by MECP in its original order with some reservations. The mapping of houses within the area bounded by Louis Street to Rodney Street and Fares Street to Davis Street is structured around bands established by Vale in its CBAP Table 4: Tiered Remedial Action Plan for Residential Properties - Human Health and further elaborated on in MECP Figure 1 entitled: Total Oral Nickel Exposure: Toddler (e.g., Fill Soil Type).

Total Oral Nickel Exposure: Toddler (e.g. Fill Soil Type) (% Additional Soil/Dust Exposure, MOECC Assumptions)



The areas of disagreement have to do with which estimated daily nickel intake should be applied where toddlers are concerned. Vale uses a toxicity reference value of 20 micrograms per kilogram of body weight per day to assess risk where toddlers are concerned. Since the CBRA research commenced, MECP has become aware of newer research that sets out 11 micrograms per body weight per day. MECP identified other risk concerns associated with risk calculations associated with nickel and which Vale is being asked to consider in the CBAP.

The other areas of concern include: the agricultural risks and the identification and evaluation of alternatives, and the effectiveness of all these measures and the proposed measures within each of the five bands where nickel exposure to toddlers is concerned. With respect to the municipal drains and the identification and treatment of woodlots, Vale is clarifying a work plan and identifying consultants to do the work. The work plans will be provided to MECP for comment before they are finalized.

4) Given the disagreements over the science and its application, on what basis is the decision being made to implement the CBAP?

There is nothing in the Environmental Protection Act or Ontario Regulation 153/04 that speaks to Community Based Risk Assessments. However, the MECP considers Community Based Risk Assessments (CBRA) a viable option to address risks to human health, ecological health and the natural environment arising from the migration of contaminants from a source site to an entire community. Single affected properties that are to be converted to a more sensitive use under Ontario Regulation 153/04 may have to be cleaned up to MECP site condition standards or be subject to Site Risk Assessment (SRA).

CBRAs are used to:

- Evaluate the soil and groundwater quality over an entire community a ;*
- Assess potential health concerns for people and ecological systems within that community (wildlife and aquatic habitat);*
- Define mitigation objectives, soil and ground water management procedures and long term environmental protection requirements;*
- Are based on well-established processes outlined in guidance from the MECP that consider contaminants, receptors and exposure pathways; and*
- Are a collaborative, iterative and voluntary process.*

The letter from Kim Groombridge states the Niagara Region Public Health Department "has not detected any specific adverse effects to exposure to soils in Port Colborne." On that basis it was decided that Vale should commence discussions with the community to obtain feedback in order to finalize the CBAP and continue research on further matters to address outstanding MECP and community concerns. MECP has asked Vale to prepare a final CBAP that incorporates MECP, Port Colborne and stakeholder feedback.

A major challenge with studying environmental health contamination is that the diseases they cause are generally diseases that can be caused in many other ways, and so those diseases already exist in the population—the risk to the public is never zero anywhere in the world.

When a physician sees a skin rashes, reproductive issues, cancers, or other illnesses that might be caused by nickel contamination, they are not going to be able to attribute that illness to nickel exposure, versus other causes, versus general unfortunate luck that leads a percentage of our population to suffer from those illnesses. Therefore, it is impossible ever to know definitively if environmental contamination is causing illness or not. All Public Health can do is look for indirect evidence: if there are an unusually high number of illnesses that might be caused by environmental contamination, or if those who have the most exposure (and therefore the most risk) have been affected.

The CHAP studies circa 2004 attempted to look for this sort of evidence, using the best research and evidence available at the time. Fortunately, Public Health did not find evidence that residents of Port Colborne, including those living near the Vale plant were suffering ill health. The depth of this assessment, and that Public Health did four different assessments all of which returned similar results gives us confidence in the conclusion.

Ongoing surveillance has not identified any new evidence of risk to health, which is further reassuring.

The CBRA included a Human Health Risk Assessment which concluded that the nickel contamination has not resulted in unacceptable risks to health in Port Colborne. This is consistent with all the earlier Public Health findings.

Notwithstanding there being no evidence of unacceptable health risks, Vale with the input of MECP and Public Health, are taking precautionary actions within their CBAP (Community-Based Action Plan) to further protect the people of Port Colborne, especially those nearest to the Vale plant, from any risk that may have resulted from nickel contamination.

Public Health believes that given consistent findings of research and health assessments, as well as proactive measures announced by MECP and Vale to protect residents, there is little reason for ongoing concern for the people of Port Colborne, including those living nearest to the Vale plant.

5) How many, if any orders has the MECP Director issued under the Environmental Protection Act to INCO/Vale for cleanups off site?

One order was issued to clean up 25 properties with nickel concentrations in soil at levels greater than 8,000 ppm. Of those 25 properties all but one has been cleaned up. These properties are situated within the area bounded by Louis Street to Rodney Street and Fares Street to Davis Street.

6) Which areas were remediated earlier by INCO/Vale and to which standards? Are those standards the same as those being applied in the tiered CBAP approach?

See the answer to question 5 above. Areas above 8,000 ppm lie within the area presently covered under the CBAP. The same standard appears to be incorporated in the CBAP's fifth tier.

For properties having soils with nickel contamination over 100 ppm, changes in land use to sensitive uses require phase 1 environmental site assessments (ESA) in order to obtain a Record of Site Condition. The owner will have to retain the services of a Qualified Person to conduct the phase 1 assessment. Depending upon the results of the phase 1 ESA, a Phase 2 ESA may be required. The Phase 2 ESA involves soil and groundwater testing. Based on the Phase 2 ESA, the owner may choose to remove the contaminated soils such that the soil contaminants are below the appropriate site condition standards. Subsequently the Qualified Person can proceed to file a Record of Site Condition.

If the Owner chooses not to remediate the property, the Qualified Person can prepare a Site Risk Assessment (SRA). The SRA must consider any contaminants associated with the property which could be more than the four contaminants that Vale identified. The Qualified Person can use the materials in the Vale documents in preparation of the SRA but ultimately the SRA is property specific and developed by that Qualified Person using current MECP legislation and policy to guide him/her.

The SRA will be reviewed in detail by MECP and the MECP will provide feedback. If the MECP's concerns are addressed (see concerns raised by usage of toxicity reference values in the answer to question 4 above) the Ministry will then accept the Risk Assessment.

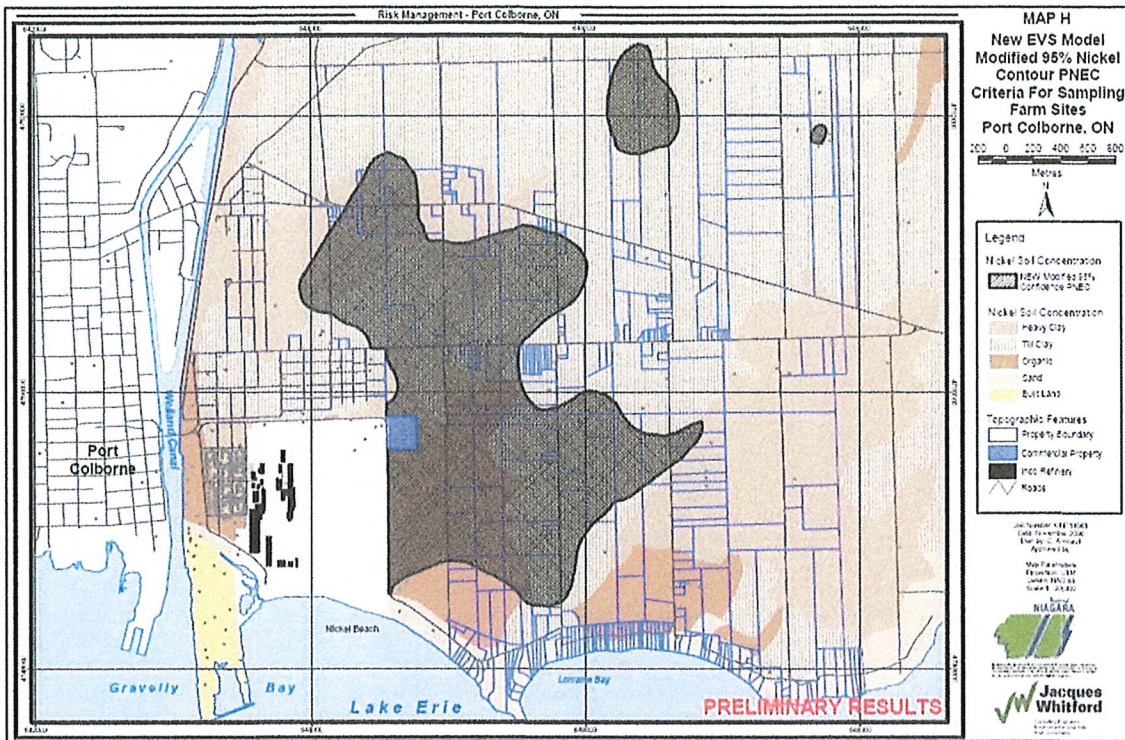
Any SRA management measures identified in the SRA will be detailed in a Certificate of Property Use which will bind current and future owners to follow. The SRA measures will ensure that human health and the environment are protected.

7) What other research is being undertaken: e.g., where rural residences are concerned: where agriculture is concerned: and where the agricultural drains are concerned?

Where rural and urban residences are concerned outside the area bounded by Louis Street to Rodney Street and Fares Street to Davis Street, no action is recommended. There are residences outside the area mentioned previously which fall within Bands 2 of the CBAP's tiered approach to risk assessment (see attached Figure 2-5 of Jacques Whitford's Nickel in Soils the Human Health Assessment. Vale's action plan includes working with farmers to evaluate agricultural practices to reduce risk to crop yields (see Map H attached). However, MECP is seeking the identification and evaluation of agricultural remediation alternatives. Further research is also to be undertaken on the municipal drains and those woodlots, particularly those owned by Vale east of Reuter Road. No mapping is available of the woodlots proposed to be examined.

Where vegetable and flower gardens are concerned and located within the bounded area described above, advice has been provided to gardeners on how to address nickel in the soils.

MECP has asked Vale to prepare a final CBAP that incorporates MECP, Port Colborne and stakeholder feedback, which would be expected to include rationale for selection of properties for action and proposed communication to property owners.



8) What is the status of the research for items listed in #7 above?

Consultants have not been hired for the woodlot and municipal drain studies. The identification of work plans to be reviewed with MECP and the search for consultants is underway.

With respect to the CBAP, Vale's document which we are using for this analysis is dated March 2017. The MECP comments are dated August 10, 2018. There is no subsequent amended Vale CBAP that addresses these MECP comments. That document may be forthcoming as the additional research is undertaken. It appears that this CBAP is incomplete and several further steps may unfold. No contact with municipal staff has been made where the municipal drains and where records of site condition are concerned. Where the mapping of woodlots is concerned, the work will begin with the Reuter Road woodlots but may be extended to other woodlots.

9) What steps are being planned going forward and what are the key decisions to be made and time frames?

This is unknown at this time: the work programs and consultants have not been selected. That appears to be something that will emerge as the research work unfolds. Within the residential area bounded by Louis Street to Rodney Street and Fares Street to Davis Street, that work is unfolding quickly, it seems.

10) What measures will Vale undertake to assist the municipality in implementing the planned uses contained in its Official Plan and Zoning Bylaw when planning approvals are sought for uses which are more sensitive than those presently existing?

A record of site condition or SRA will be required when a land use changes to a more sensitive use where nickel exceeds 100 ppm. There may also be restrictions required depending upon the outcome of the woodlot study.

Planning approvals at the municipal and regional levels routinely require phase 1 environmental studies. These studies may trigger requirements for a record of site condition as the levels found in the soils within the plume area are well above the triggers established in Ontario Regulation 153/04.

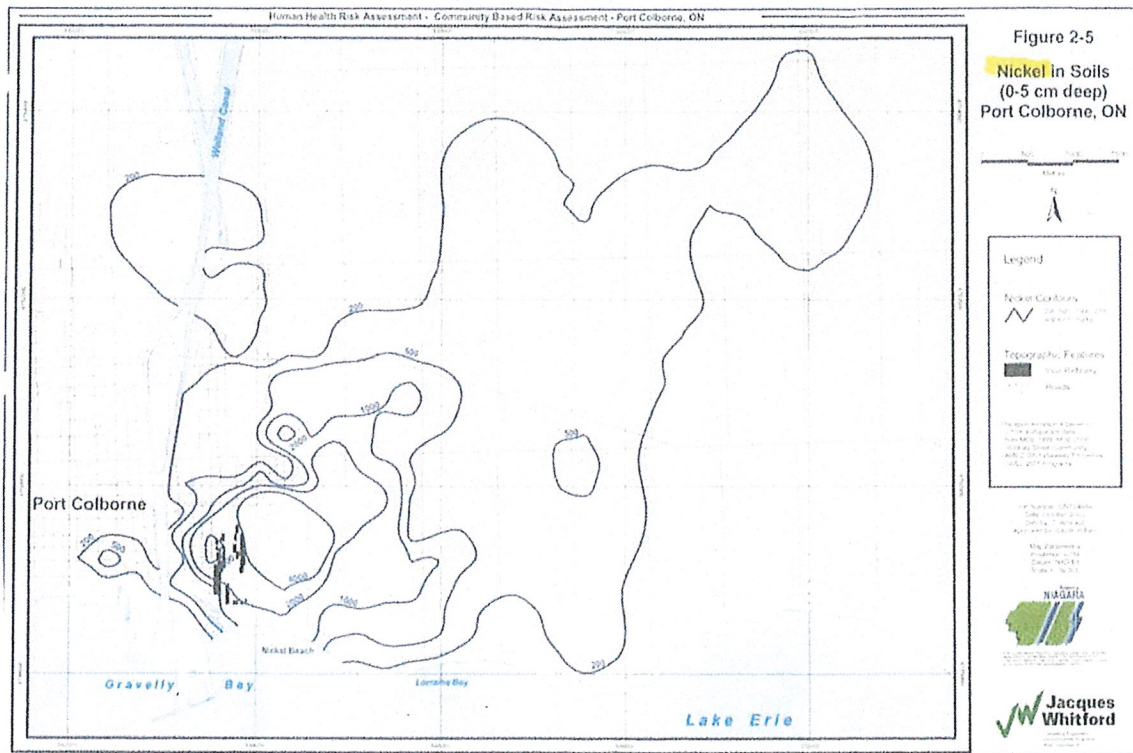
There is an understanding between Vale and MECP that documents that Vale has made available publicly can be used by a Qualified Person when site specific work is undertaken for the purposes of preparing a SRA. MECP staff

have pointed out that the Municipality can assist landowners by offering CIP and/or tax incremental relief for the necessary brownfield remediation or capping where phase 2 studies require these measures. MECP has asked Vale to prepare a final CBAP that incorporates MECP comments, which include a recommendation to consider sites that are subject to the requirements of Ontario Regulation 153/04 with the development community.

But who pays for these measures, the landowner and/or the municipality?

11) What is the best outcome we can reasonably expect when the actions proposed to be undertaken are completed?

It is prudent to minimize exposure to nickel contamination to minimize toddler health risk as these measures should also be preventative of health risk to other age categories. To that extent implementation of the steps agreed to between Vale and MECP appears reasonable. Where there are gaps in the analysis of risk and challenges imposed on landowners and the municipality's ability to plan land uses to provide for its growth and citizen's needs, additional action is needed. One gap that needs to be closed is the treatment of grassed sections of municipal right of ways within bands 4 and 5. If remediation involves soil removal in the adjacent lots, the soil should also be removed within the right of ways where those portions are grassed. Further thought needs to be given to the management of these operations on the right of ways when removal is undertaken.





**City of Port Colborne
Council Meeting Agenda**

Date: Monday, January 25, 2021
Time: 6:30 pm
Location: Council Chambers, 3rd Floor, City Hall
66 Charlotte Street, Port Colborne

Pages

1. Call to Order	
2. National Anthem	
3. Adoption of Agenda	
4. Disclosures of Interest	
5. Approval of Minutes	
5.1. Regular Meeting of Council - January 11, 2021	1
6. Staff Reports	
6.1. COVID Update – January 2021 (Report 2021-26)	15
6.2. General Insurance 2021 (Report 2021-25)	19
6.3. Christian Horizons Group – Invoice for False Alarms (Report 2021-21)	23
6.4. Annual Asphalt Resurfacing Program, Extension (Report 2021-24)	27
6.5. Sidewalk Construction City Wide, Extension (Report 2021-33)	30
6.6. Sale of 130 Rodney Street (Report 2021-27)	33
6.7. Sale of 133 Durham Street (Report 2021-28)	54
6.8. Sale of 142 Fraser Street (Report 2021-31)	76
6.9. Sale of 80 Nickel Street (Report 2021-29)	96
6.10. Sale of 90 Fraser Street (Report 2021-32)	126

6.11.	Sale of Vacant Lot on Catherine Street (Report 2021-30)	147
7.	Correspondence Items	
7.1.	Memorandum from Environmental Advisory Committee - EAC Additional Vale CBRA Recommendations	171
8.	Proclamations	
9.	Presentations	
9.1.	Lynne Cunningham, Municipal Relations Representative, Municipal Property Assessment Corporation (MPAC)	173
10.	Delegations	
	In order to speak at a Council meeting, individuals must register no later than 12 noon on the date of the scheduled meeting. To register, complete the online application at www.portcolborne.ca/delegation , email deputyclerk@portcolborne.ca or phone 905-835-2900, ext. 115.	
10.1.	Jaskaran Singh - Request to waive invoice received for Fire Fighting Services - Water Rescue	185
11.	Mayor's Report	
12.	Regional Councillor's Report	
13.	Staff Remarks	
14.	Councillors' Remarks	
15.	Consideration of Items Requiring Separate Discussion	
16.	Motions	
16.1.	Memorandum from Councillor Bruno - Motion to Amend Official Plan and Zoning By-law	193
17.	Notice of Motions	
18.	Minutes of Boards & Committees	
19.	By-laws	

19.1.	By-law to Amend Zoning By-law 6575/30/18 Respecting 168 and 176 Elm Street	194
19.2.	By-law to Authorize Entering into a Contract Agreement with Rankin Construction - Tender 2015-11, Annual Asphalt Resurfacing Contract Extension	196
19.3.	By-law to Authorize Entering in a Contract Agreement with Signature Contractors Windsor Inc. - Tender 2020-12, Sidewalk Construction City Wide, Extension	197
19.4.	By-law to Authorize Entering into an Agreement of Purchase and Sale with Alvin Rampersaud respecting 130 Rodney Street	198
19.5.	By-law to Authorize Entering into an Agreement of Purchase and Sale with Glyn Holmes in Trust respecting 133 Durham Street	216
19.6.	By-law to Authorize Entering into an Agreement of Purchase and Sale with Davert Tools Inc. respecting 142 Fraser Street	235
19.7.	By-law to Authorize Entering into an Agreement of Purchase and Sale with Ryan Thompson in Trust respecting 80 Nickel Street	252
19.8.	By-law to Authorize Entering into an Agreement of Purchase and Sale with Adejoke and Femi Abdul respecting 90 Fraser Street	279
19.9.	By-law to Authorize Entering Into an Agreement of Purchase and Sale with The Landscape Depot (Niagara Falls) Ltd. respecting a Vacant lot on the West Side on Catherine Street near Princess Street	297
19.10.	By-law to Appoint Building Inspectors	318
19.11.	By-law to Adopt, Ratify and Confirm the Proceedings of the Council of The Corporation of the City of Port Colborne	319

20. Confidential Items

Confidential reports will be distributed under separate cover. Items may require a closed meeting in accordance with the Municipal Act, 2001.

21. Procedural Motions

22. Information items

23. Adjournment

Memorandum

Date: January 15, 2021

To: Amber LaPointe, City Clerk

From: Janice Peyton, Executive Assistant, DEO

Re: Environmental Advisory Committee
Additional Vale CBRA Recommendations

At the Environmental Advisory Committee meeting of December 9, 2020, the committee discussed the following Vale CBRA recommendations:

1. That the City of Port Colborne add a map schedule or appendix to the City of Port Colborne Official Plan setting out the Nickel Concentrations throughout Port Colborne (Map #4 of the City Community Based Risk Assessment) and together with a statement setting out the requirements to undertake remediation and/or risk assessment where a land use change to a more sensitive use is proposed and nickel concentrations exceed Ontario Regulation 153/04 standards:
2. That the City of Port Colborne request from MECP a statement as to which aspects of a the CBRA risk assessment are agreed to by MECP and can be used in the preparation of a risk assessment when a land use change is proposed to a more sensitive use; and
3. That the City of Port Colborne set aside some of the community monies Vale proposes for the purpose of funding remediation/risk assessment within areas planned for urban growth which overlap the areas affected by Nickel Contamination (Map 4 above).

The committee resolved as follows:

Moved by Norbert Gieger
Seconded by Jack Hellinga

That the Environmental Advisory Committee additional Vale CBRA recommendations be provided to Council.
CARRIED.

Please place this item on the next Council agenda for consideration.



Signed:

Janice Peyton
Executive Assistant, DEO
Recording Secretary, Environmental Advisory Committee

Community Based Risk Assessment (CBRA)

Brief History

In 2000, based on historic emissions (1914-1984) from INCO (now Vale), and at the request of the Ministry of Environment, Conservation and Parks (MECP), INCO and the City agreed to a CBRA process based on the Site Specific Risk Assessment Process described in the MOE's "Guidelines for Use at Contaminated Sites in Ontario." On October 1, 2004, the Guideline was replaced by Ontario Regulation 153/04 (Records of Site Condition).

The MECP identifying that an adverse environmental affect occurred due to the release of Chemicals of Concern (CoC) from INCO's operations. There were four CoC identified above the Ministries Generic Guideline levels directly associated to Nickel, Copper, Cobalt and Arsenic.

Since 2010, three major studies were completed as part of the CBRA by Vale, namely: a Human Health Risk Assessment (HHRA) at 20,000 parts per million (ppm), Ecological Risk Assessments (ERA) for Crops at 750-2300 ppm and the Natural Environment at 3000-3500 ppm. Other studies included a Community Health Monitoring Study (CHAP). A Technical Subcommittee (TSC) undertook the task to review technical matters to the Public Liaison Committee (PLC) and experts (ECA) from the University of Toronto were involved in reviewing components of the CHAP study. An Integration Report was also completed by Vale to conclude Phase 1 of the CBRA and to address how remediation (Phase 2) would occur on a site by site basis. The Independent Consultant provided the PLC with technical review of Vale's reports. The PLC concluded Independent Consultant (Watters Environmental) prepared reports of their review and were forwarded to the MOE by the City. The PLC submitted it final report to the MECP in July 2010. All reports are located in the City's Library at 322 King Street.

Status

On June 10, 2019, Vale released their Community Based Action Plan to address the findings of the scientific risk assessment, both for human health and for the health of the ecosystem.

Vale's Action Plan includes the following key actions:

- Remediation activities at a handful of residential properties in close proximity to Vale's Port Colborne Refinery, such as sodding, ground cover and/or soil replacement. There are no unacceptable health risks to these residents and these actions are being taken on a precautionary basis. All residential property owners have already been contacted by Vale;
- Scoping studies to be conducted on the woodlot and municipal drains just east of the refinery to assess potential remediation activities. Results will be shared with the community when the studies are complete;
- Creation of a Community Improvement Fund to deliver both environmental and social benefit to Port Colborne, and to recognize more than 100 years of operations in the community. The Fund, still in development, is envisioned to be in place for the next four years providing support for priority improvement or development projects in the community. Vale will work collaboratively with the City of Port Colborne to prioritize and select local projects and initiatives, with specific consideration afforded to projects with environmental or sustainability themes;
- Work with a small number of local farmers to address crop yields.

To access the CBRA Action Plan please visit: <http://www.vale.com/canada/EN/aboutvale/communities/port-colborne/Documents/Community-Based%20Action%20Plan.pdf>

The MECP agrees in concept with the proposed Community-Based Action Plan and has asked Vale to proceed with City and stakeholder consultation including the development community to obtain feedback for consideration, along with ministry comments, as they finalize their Community Based Action Plan.

What this means for Development

Ontario Regulation 153/04 lays out the requirements for a obtaining a Record of Site Condition (RSC). Any land use change to a more sensitive land use in the province of Ontario requires that a RSC be filed with the ministry. If nickel concentrations in soil are found at concentrations above O. Reg. 153/04 standards, then an overall site remediation can be completed using the soil standards found in O. Reg 153/04 or a risk assessment may be conducted. The MECP supports a Qualified Professional relying on MECP accepted components of the CBRA to evaluate potential risks from nickel and other metals in soil on the specific property that requires an RSC.

The following rules apply in determining which type of property use is the most sensitive type of property use:

1. An agricultural or other use is the most sensitive of any type of property use.

2. A residential use, parkland use or institutional use is more sensitive than an industrial use, commercial use or community use. O. Reg. 153/04, s. 3 (2).

A rezoning application to change the use of the property to any of the above uses will require a RSC as part of the approval process.

Maps

The attached MECP maps were produced from the surface soil chemistry data (0-5cm depth) for Nickel, Copper and Cobalt and will illustrate where historic emissions from INCO ended up being deposited.

Contact Information

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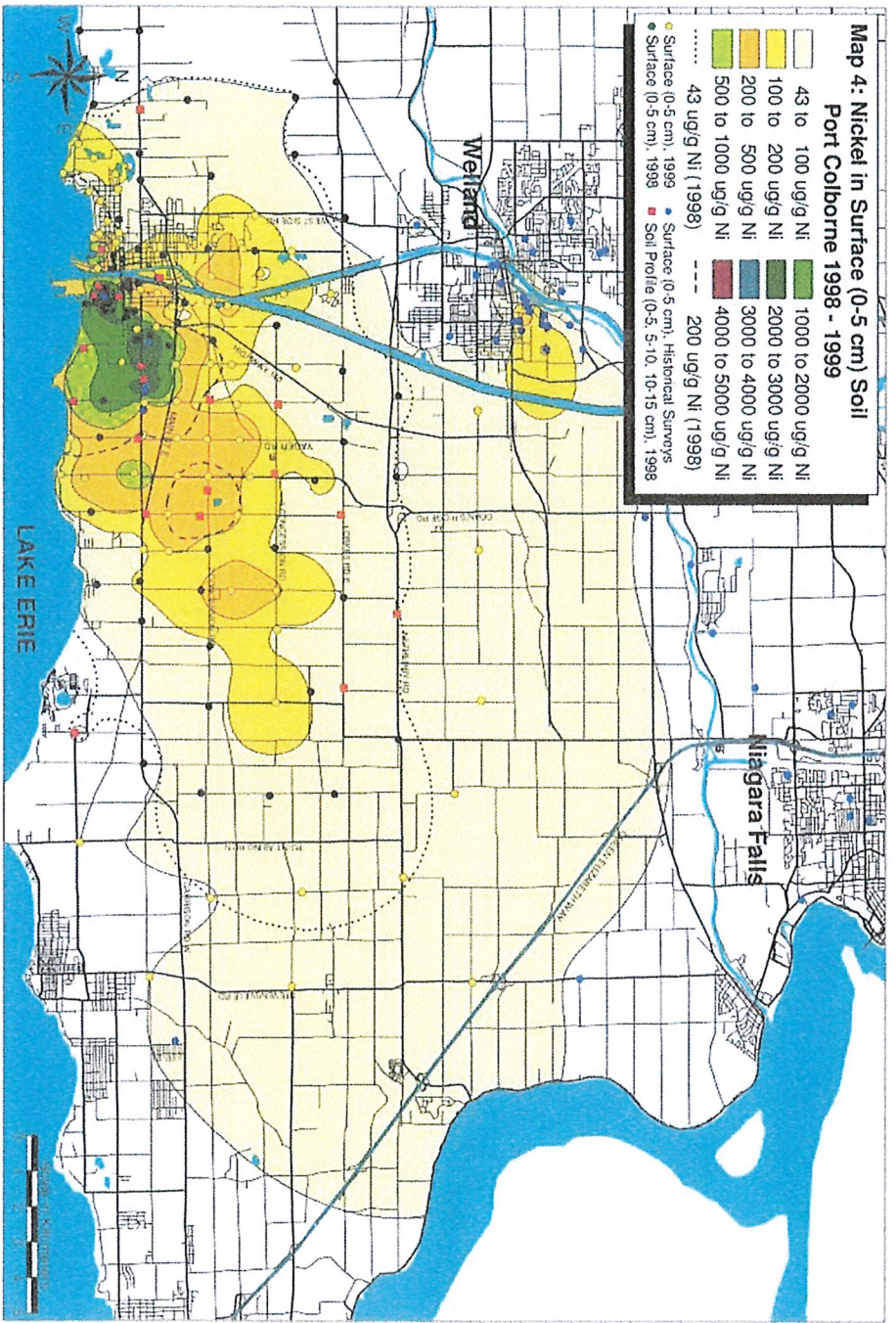
Ministry of Environment, Conservation and Parks:

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Niagara District Office
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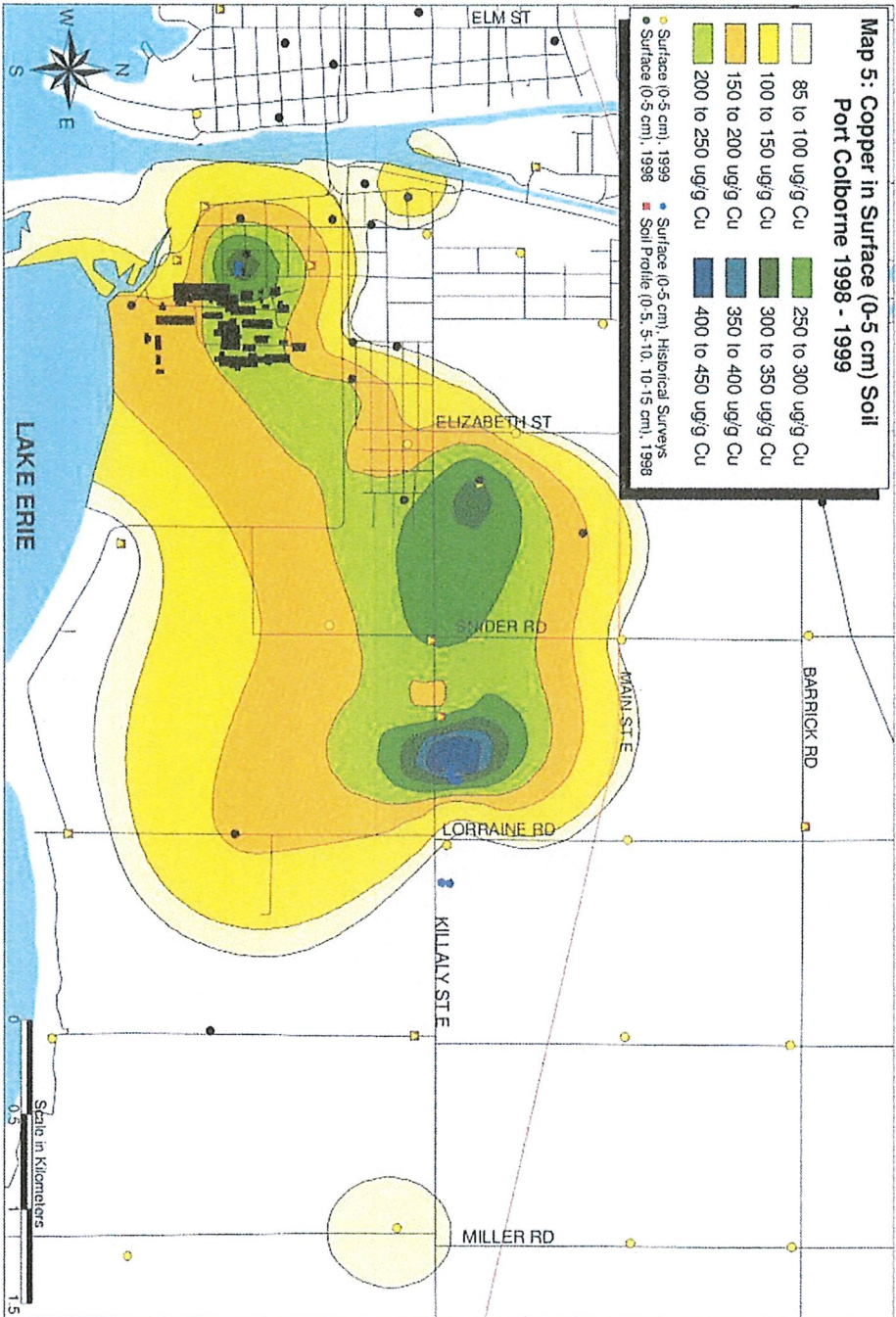
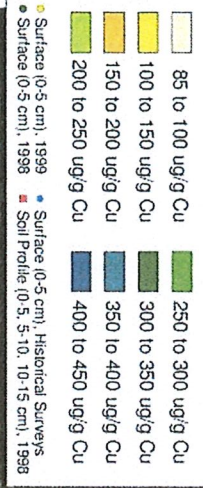
VALE

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Community Based Action Plan Project Manager
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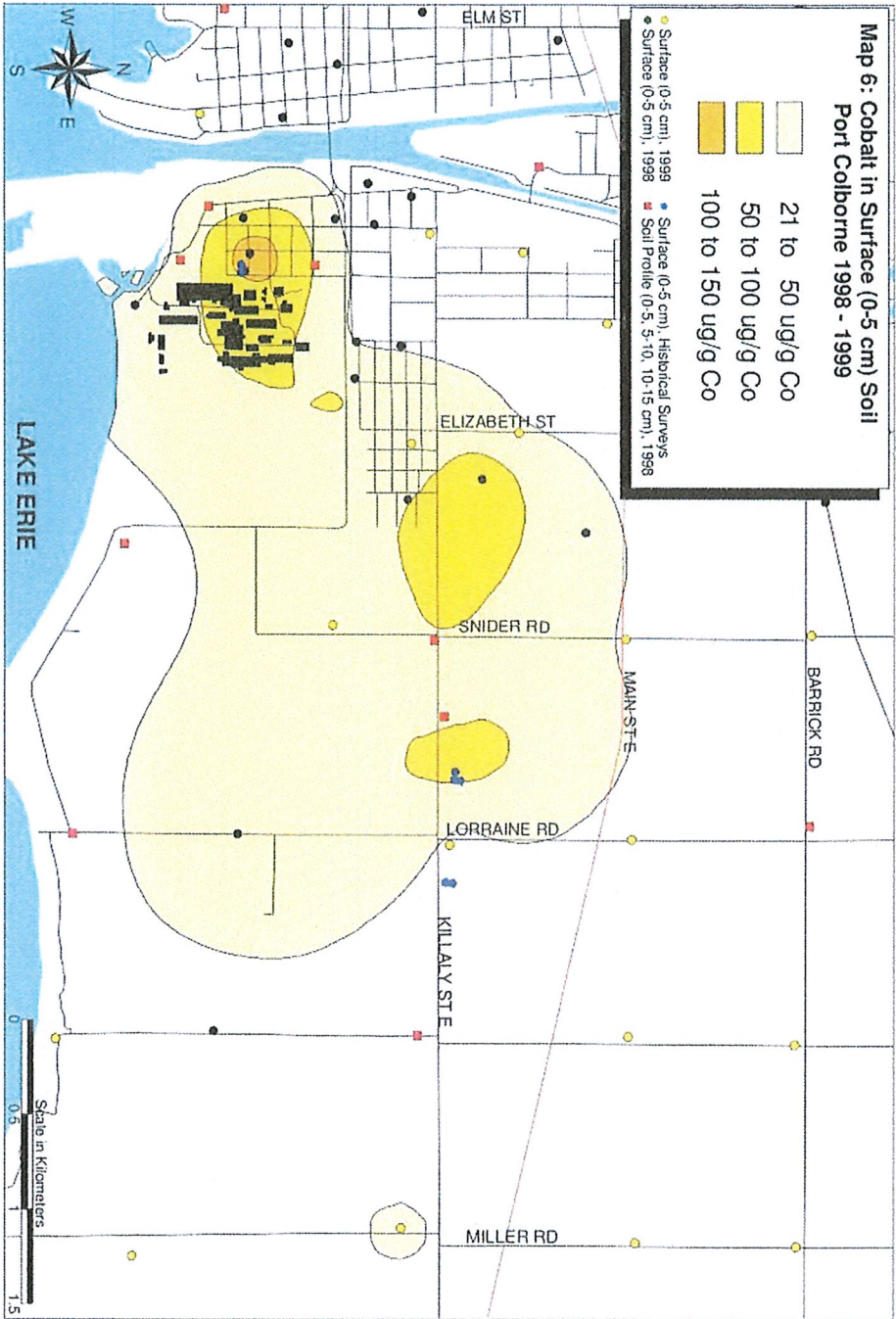
Concentrations of Nickel, Copper, Cobalt in soil (0-5cm) collected in November 1999 – INCO Port Colborne
Ontario Ministry of the Environment

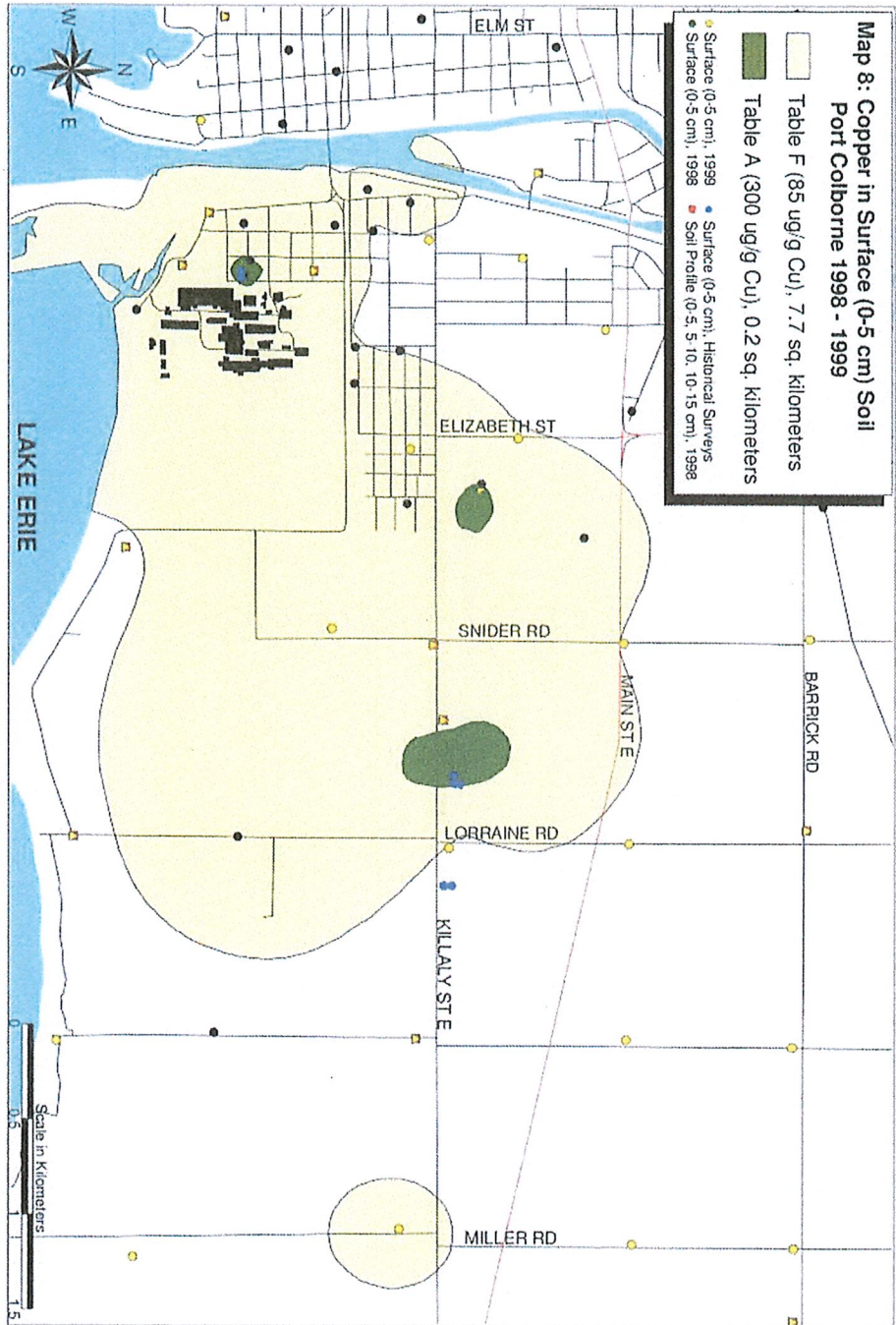


**Map 5: Copper in Surface (0-5 cm) Soil
Port Colborne 1998 - 1999**



**Map 6: Cobalt in Surface (0-5 cm) Soil
Port Colborne 1998 - 1999**





**Map 9: Cobalt Table A and F
Port Colborne 1998 - 1999**

