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Environmental Assessments & Approvals

April 30, 2025

AEC 20-397

Peter Raikes  
c/o Raikes Geomatics Inc.  
670 Balm Beach Road East, Unit 1  
Midland, ON  
L4R 0J6  
praikes@survey4u.com

Re: **Response to Peer Review Comments Provided by The Town of  
Penetanguishene February 27, 2024 – Proposed Severance 1500 Sandy Bay  
Road**

Dear Mr. Raikes:

Azimuth Environmental Consulting, Inc. (Azimuth) is pleased to provide our responses to the Town of Penetanguishene's environmental peer review consultant's (WSP Canada Inc. [WSP]) 2<sup>nd</sup> Submission comments pertaining to the proposed severance of three (3) lots plus a retained lot on the aforementioned property. The 2<sup>nd</sup> Submission Comments were provided in WSP's Peer Review Response to Azimuth Comment Response Letter for the Peer Review of the Environmental Impact Study – 1500 Sandy Bay Road, Town of Penetanguishene (dated February 15, 2024). These comments pertain to Azimuth's Environmental Impact Study - Proposed Severance 1500 Sandy Bay Road, Town of Penetanguishene, Simcoe County (dated March 1, 2023), and subsequent Response to Peer Review Comments Provided by The Town of Penetanguishene September 15, 2023 – Proposed Severance 1500 Sandy Bay Road (dated January 18, 2024).

All comments and responses have been included within the attached Comment/Response Matrix (Second Submission)(Appendix A). Additionally, Figures 2 and 3 of Azimuth's EIS have been revised and are provided for the purposes of supporting discussion, based on 2024 field work completed to address WSP's 2<sup>nd</sup> Submission Review Comments (see attached). Responses have been prepared to address WSP's 2<sup>nd</sup> Submission Review comments. WSP's 2<sup>nd</sup> Submission Review is attached for reference (see Appendix B).



Should you have any questions, please feel free to contact the undersigned.

Yours truly,

AZIMUTH ENVIRONMENTAL CONSULTING, INC.

David d'Entremont, H.B.Sc.  
Terrestrial Ecologist

Colin Ross, P.Geo.  
Senior Hydrogeologist/Partner

cc: Patrick Townes, MHBC

Attach:

Figure 2 – Environmental Features (Updated January 2025)

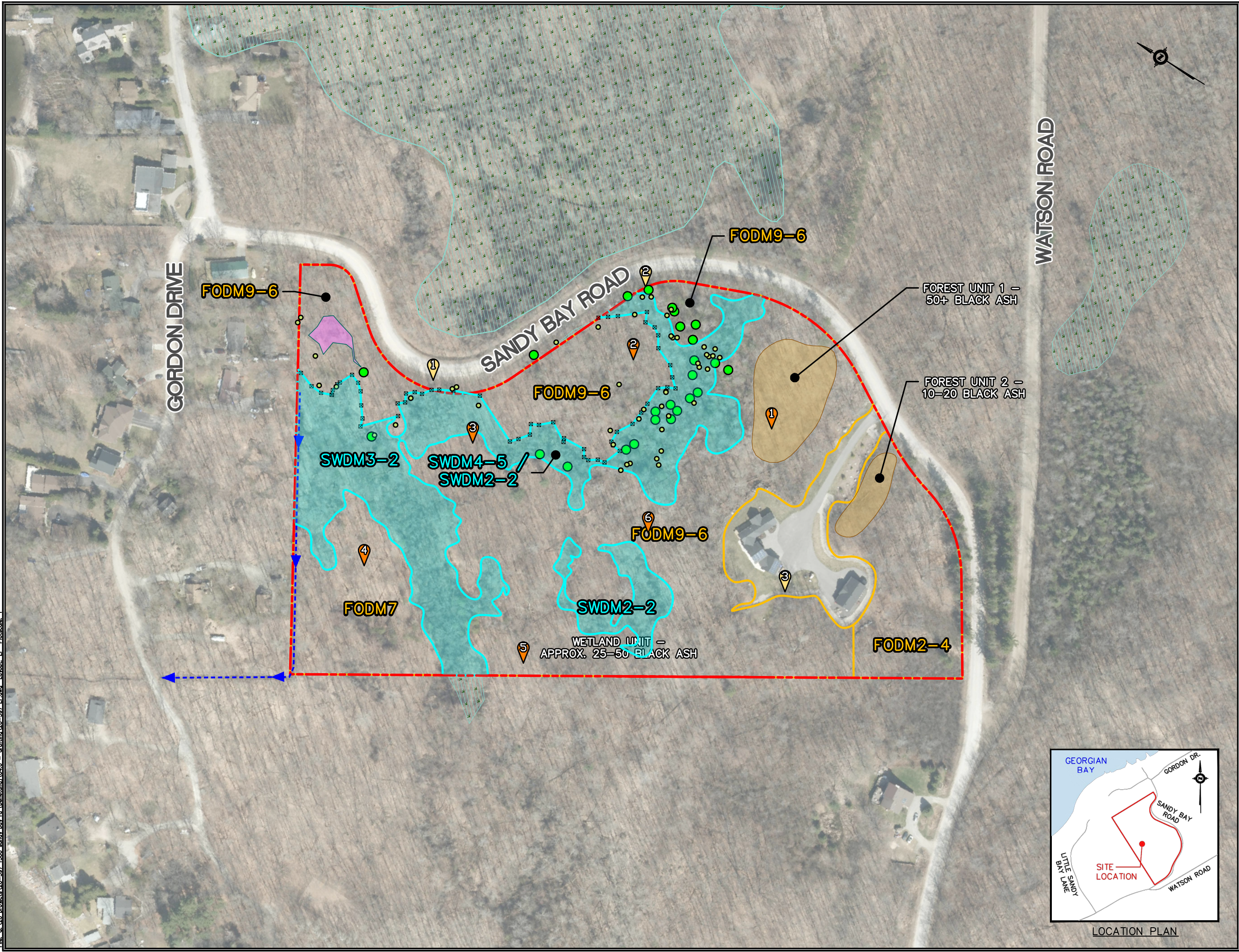
Figure 3 – Severance Plan Overlay (Updated January 2025)

Appendix A – Comment/Response Matrix (April 30, 2025)

Appendix B – Peer Review Response to Azimuth Comment Response Letter for the Peer Review of the Environmental Impact Study – 1500 Sandy Bay Road, Town of Penetanguishene (WSP; February 15, 2024)



Plotted by: ALU on January 31, 2025 at 4:15pm  
File: G:\20 projects\20-397 1500 sandy bay rd (penetanguishene)\04.0 - draft\20-397 EF.dwg Layout: EF Plot scale: 1



**LEGEND:**

- APPROX. PROPERTY BOUNDARY
- PROPOSED SEVERANCE
- UNEVALUATED WETLAND (MNR, 2021)
- DRAINAGE FEATURE



**ELC UPLAND COMMUNITIES:**

- FODM2-4 DRY-FRESH OAK-HARDWOOD DECIDUOUS FOREST
- FODM3-1 DRY-FRESH POPLAR DECIDUOUS FOREST
- FODM7 FRESH-MOIST LOWLAND DECIDUOUS FOREST
- FODM9-6 FRESH-MOIST OAK-HARDWOOD DECIDUOUS FOREST



**ELC WETLAND COMMUNITIES:**

- SWDM2-2 GREEN ASH MINERAL DECIDUOUS SWAMP
- SWDM3-2 SILVER MAPLE MINERAL DECIDUOUS SWAMP
- SWDM4-5 POPLAR MINERAL DECIDUOUS SWAMP

JOINT WETLAND STAKING, WSP AND AZIMUTH, JULY 17 2024 (PRECISION SURVEY OF STAKES COMPLETED BY RAIKES GEOMATICS, INC.)

**POINT COUNT / SURVEY STATIONS:**

- AMPHIBIAN / EASTERN WHIP-POOR-WILL SURVEY STATION
- DAWN BREEDING BIRD SURVEY STATION



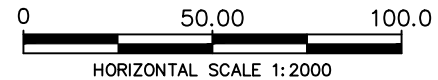
FOREST UNIT (BLACK ASH)



REVISED WETLAND INCLUSION BOUNDARY, WSP AND AZIMUTH, JULY 17, 2024

**BLACK ASH ASSESSMENT DATA:**

- HEALTHY BLACK ASH  $\geq 8$ cm DBH
- UNHEALTHY LIVING BLACK ASH  $\geq 8$ cm DBH



**ENVIRONMENTAL FEATURES**

1500 SANDY BAY ROAD  
PENETANGUISHENE, ON

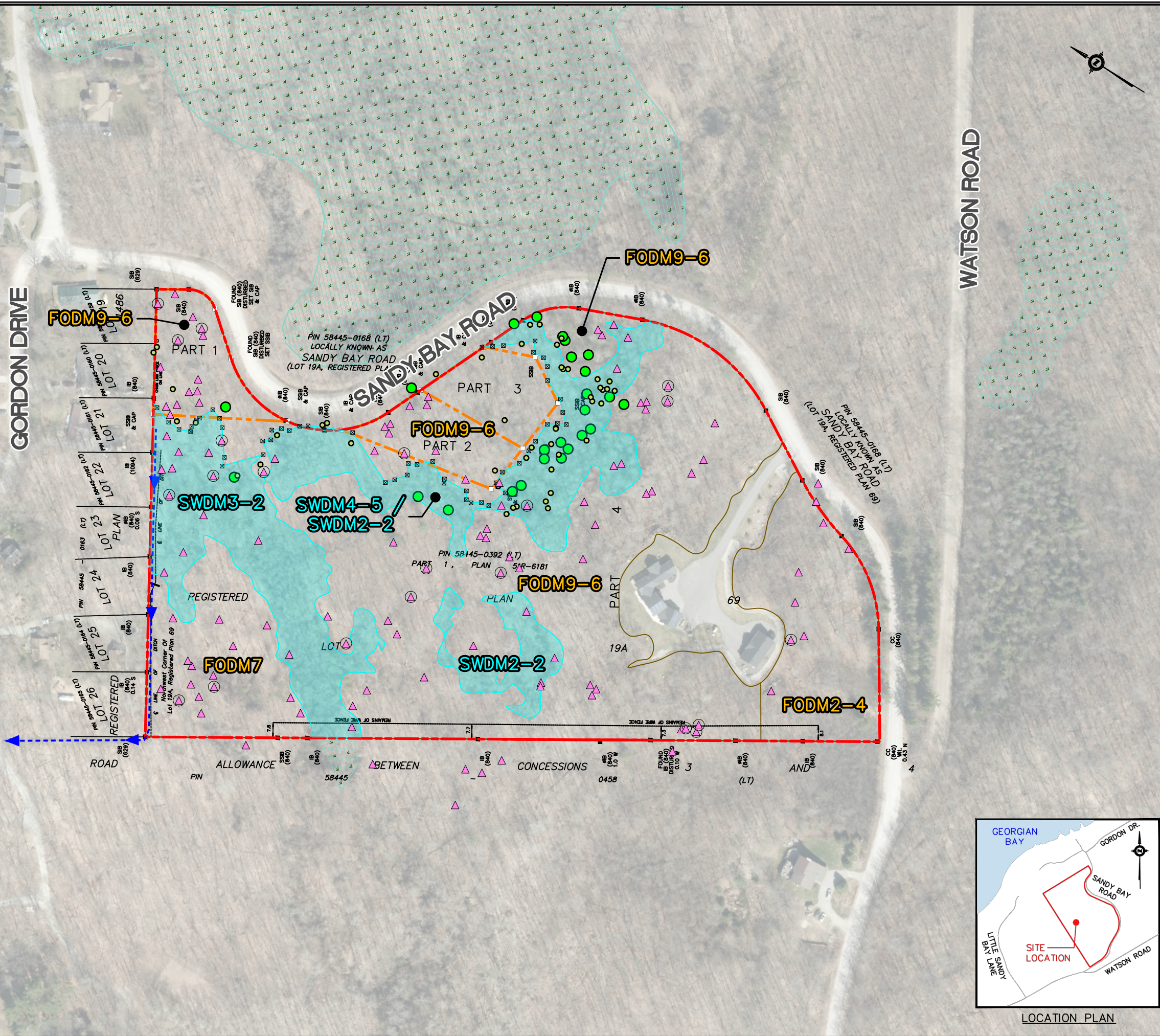
DATE ISSUED:	JANUARY 2025	Figure No.  2
CREATED BY:	A.L.	
PROJECT NO.:	20-397	
REFERENCE:	SIMCOE COUNTY	



LOCATION PLAN



Printed by: ALU on January 31, 2025 at 4:17pm  
File: G:\20\_projects\20-397\_1500\_sandy\_bay\_rd\penetangushene\04.0 - draft\20-397 EF.dwg Layout: BSNG Plotstyle: 1



**LEGEND:**

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- PROPOSED SEVERANCE
- DRAINAGE FEATURE
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JOINT WETLAND STAKING, WSP AND AZIMUTH, JULY 17 2024 (PRECISION SURVEY OF STAKES COMPLETED BY RAIKES GEOMATICS, INC.)

**BLACK ASH ASSESSMENT DATA:**

- HEALTHY BLACK ASH  $\geq 8$ cm DBH
- UNHEALTHY LIVING BLACK ASH  $\geq 8$ cm DBH

**BAT SNAG CLASSIFICATION:**

- CIRCLED - HIGH QUALITY
- UNCIRCLED - LOW QUALITY



**AZIMUTH ENVIRONMENTAL CONSULTING, INC.**  
ENVIRONMENTAL ASSESSMENTS & APPROVALS

**SEVERANCE PLAN OVERLAY**

**1500 SANDY BAY ROAD  
PENETANGUSHENE, ON**

DATE ISSUED:	JANUARY 2025	Figure No. <b>3</b>
CREATED BY:	A.L.	
PROJECT NO.:	20-397	
REFERENCE:	SIMCOE COUNTY	





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## **APPENDIX A**

### **Comment/Response Matrix (April 30, 2025)**

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Table 1: Comment Response Matrix for the Environmental Impact Study - 1500 Sandy Bay Road, Town of Penetanguishene (2nd Submission) - April 30, 2025

Comment #	WSP EIS Comment (September 2023)	Azimuth Comment Response (January 2024)	WSP Response (February 2024)	Azimuth Response (April 2025)
1	<p>Section 2.0 provides an outline of the planning context and considers some of the planning policy and legislation that applies to the site from a municipal, provincial, and federal perspective. This section should also include a summary and assessment of other policy and legislation including the Migratory Birds Convention Act (MBCA; including consideration for the Migratory Bird Regulations, 2022), Simcoe County Regional Official Plan, and federal Species at Risk Act.</p>	<p>The Planning Context section of the EIS only addresses natural heritage planning policy applicable to the proposed development, as well as applicable legislation that supercedes those policies (i. e., Sections 2.1.6 and 2.1. 7 of the PPS refer to fish habitat and habitat of threatened and endangered species, which defer to the Fisheries Act and Ontario's Endangered Species Act, 2007 (ESA)).</p> <p>We do not refer to the federal Species at Risk Act (SARA) because with the exception of aquatic species/fish, SARA is applicable only on federal lands (except under exceptional circumstances under a specific Minister's order). The EIS determined that the drainage feature does not represent fish habitat, and no endangered or threatened aquatic species are identified locally in background data. Given that the subject and adjacent lands are privately owned, the SARA is not applicable to the proposed development and hence was not summarized/assessed. We understand that the natural heritage policies of the Simcoe County Official Plan are not applicable as the subject lands are located in the Penetanguishene settlement area and hence the regional/county OP was not summarized/assessed.</p> <p>The federal Migratory Birds Convention Act (MBCA) and provincial Fish and Wildlife Conservation Act (FWCA) were addressed in Section 8 of the EIS with respect to the recommended timing of vegetation clearing to avoid the combined bat active season and woodland bird nesting season. This was the appropriate place to address these Acts, since they do not technically speak to development potential/conformity within applicable natural heritage policy, but instead only require avoidance of active nests. For most species, this can be accomplished by avoiding the bird nesting season, although 2022 updates to MBCA regulations require extended assessment in the case of the 18 species listed under Schedule 1 of the Migratory Birds Regulations, 2022 (SOR/2022-105) to confirm disuse. Given that only one Schedule 1-listed species was observed (Pileated Woodpecker), for which there was no nest observed and no probable or confirmed nesting evidence, basic mitigation through a vegetation clearing timing window was deemed suitable. A Planning Justification Report ([PJR], July 2023) was prepared by MHBC in which applicable planning policy (natural heritage and otherwise) was summarized/addressed. The PJR is the authoritative report with respect to planning context and conformity. The Planning Context section of the EIS is accurate and complete as it relates to the proposed development.</p>	<p><b>Addressed.</b></p> <p>This comment response from Azimuth has provided the context needed for missing policy and legislation in the EIS. It is helpful to describe all planning context for the site and provide rationale as to why certain policies, legislation, or plans do not apply. While Planning Justification Reports provide an outline of conformity with applicable policy and legislation, it is WSP's experience that these reports do not usually go into detail on more specific natural heritage policies and legislation (e.g., MBCA, FWCA, MBR, 2022) and reviewing the PJR was out of scope for WSP's peer review. Furthermore, the approved TOR for the EIS included the following language related to providing an outline of conformance with applicable policy, legislation, and plans:</p> <p>"Provide an outline of conformance with applicable policy, legislation, and plans (e.g., Town of Penetanguishene Official Plan, County of Simcoe Official Plan, Provincial Policy Statement 2020, Endangered Species Act, Species at Risk Act, Migratory Birds Convention Act, Fisheries Act), including any potential permits or authorizations that may be required for future development plans. "</p>	<p><b>Noted.</b></p>
2	<p>The background review sources outlined in Section 3.2 are comprehensive and are in line with the Terms of Reference. However, based on WSP's review of background sources, several species afforded protection under the Endangered Species Act, 2007 (ESA) have records in the vicinity of the site and are not included in the species at risk (SAR) assessment in Appendix I. Additional species WSP identified are as follows:</p> <p>-Least Bittern (Ixobrychus exilis; eBird; OBBA) -Eastern Foxsnake (Pantherophis gloydi; ORAA) -Eastern Hog-nosed Snake (Heterodon platirhinos; ORAA) -Massasauga (Sistrurus catenatus pop. 1; NHIC; ORAA)</p> <p>An assessment for these species or rationale as to why they are not included should be incorporated into the EIS .</p>	<p>Azimuth has provided assessment of the species outlined in WPS Comment #2 in their comment response letter.</p> <p>Refer to Attachment A to this letter for the full comment response outlining the findings of the assessments.</p>	<p><b>Addressed.</b></p> <p>WSP agrees with the assessment provided by Azimuth for additional SAR.</p>	<p><b>Noted.</b></p>
3	<p>As outlined in Section 3.3 of the EIS, habitat for Special Concern (SC) and provincially rare species (S1 -S3) are not afforded protection under the ESA but are considered Significant Wildlife Habitat (SWH). Generally, WSP recommends that these species (generally referred to as Species of Conservation Concern; SOCC) are included in the habitat screening to identify candidate habitat and to inform the SWH assessment. The SWH assessment in Appendix H does consider these species for the Special Concern and Rare Wildlife Species SWH type if identified through field studies (i.e., Eastern Wood-pewee, Contopus virens), however, no assessment of suitable habitat was completed for other SC and provincially rare species with records in the vicinity of the site. In the absence of targeted surveys for other SC and provincially rare species (e.g. , snakes, turtles, insects), suitable habitat for these species would be subject to SWH policies in the PPS and Town of Penetanguishene Official Plan (TPOP) as candidate SWH.</p>	<p>Other Special Concern (SC) &amp; provincially rare (S1-3) species identified in background data for the subject and adjacent lands include: Wood Thrush (SC); Common Nighthawk (SC); Snapping Turtle (SC) and Eastern Musk Turtle (SC).</p> <p><u>Birds</u> As per Section 4.4 of the EIS, dawn breeding bird surveys were completed in June 2022 and confirmed no use of the subject or adjacent lands by Wood Thrush. As per Section 4.4 of the EIS, nocturnal bird surveys completed in June 2022 confirmed no use of the subject or adjacent lands by Common Nighthawk.</p> <p><u>Turtles</u> As per the Significant Wildlife Habitat Assessment table in Appendix Hof the EIS - Wetlands provide shallow water only (water not deep enough to provide overwintering habitat). As per Section 4.4 of the EIS - searches of vernal pools and the drainage feature were completed at times and under observation conditions when turtles would be active and hence detectable on the following dates: April 11, May 18, June 4, June 23, July 8, September 14, 2022. No turtles or signs of turtles (predated turtle nests, etc.) were observed.</p> <p><u>Summary</u> The field program completed by Azimuth was sufficient to address the potential for SC birds and turtles reported in background data for the area, with none found. Therefore, the there is no candidate habitat for SC or provincially rare species associated with the subject or adjacent lands as per the findings and conclusions of the EIS.</p>	<p><b>Addressed.</b></p> <p>WSP agrees with the assessment provided by Azimuth for additional SOCC.</p>	<p><b>Noted.</b></p>
4	<p>Based on a review of the field investigations outlined in Section 3.1, WSP agrees with the protocols referenced and timing of the completed surveys. However, Azimuth references a technical note on survey methods from 2015 for bat snag density mapping in Section 3.1 and the most recent bat survey standards note from 2022 in Section 7.2. In the absence of a summary of the methods for the snag density mapping in Section 4.4, WSP requests confirmation that the updated SAR bat guidance (MECP, 2022a; 2022b) was utilized as referenced in Section 7.2. This 2022 reference should also be included in the list of references (Section 10).</p>	<p>The Technical Note Species at Risk (SAR) Bats ("Technical Note"; MNRF, 2015) remains the most comprehensive and closest-to-publication Ministry document relating to Endangered bat study methods for EIS work in Ontario. As such, it is the Technical Note that Azimuth referenced in the methods section, although it should have been clarified that the updated guidance from the MECP's unpublished "Bat Survey Standards Note 2022" was applied to bat snag density mapping field work in this EIS.</p> <p>Regardless of protocol, Azimuth notes that our EIS concluded, conservatively, that there was potential for the study area to function as habitat for Endangered bats (little Brown Myotis, Northern Myotis, Tri-colored Bat and potentially Eastern Small-footed Myotis), and as such these were considered in the Impact Assessment.</p> <p>The Bat Survey Standards Note 2022 was referenced in Section 7.2 instead of the Technical Note because specific timing guidance for the bat active season has changed rapidly since the Technical Note publication, and it has long been irrelevant to cite the Technical Note in that regard. The Bat Survey Standards Note 2022 was not cited in our references list because it is not dated, not officially designated as "draft" or "published", does not credit an author, and (to ourknowledge) cannot be found on a webpage through a link; as such there are no details to provide as part of the citation. However, Azimuth will</p>	<p><b>Addressed.</b></p> <p>WSP appreciates the clarification that the snag density surveys were completed in accordance with the updated MECP guidance from 2022. We also acknowledge the challenge with referencing MECP guidance documents that are unpublished and undated.</p> <p>WSP agrees with using the timing windows from MECPP (2022a). The EIS refers to a timing window of March 15 to November 30, which is the active season for Eastern Small-footed Myotis (Myotis leibii) and is outlined in the "Rock Features". Azimuth outlines in their assessment for SAR snakes in Comment #2 that there are no noted habitat elements containing crevices, rock barren, or outcrops. WSP agrees with using the longer timing window (March 15 - November 30) as a conservative approach to reduce potential for impacts; however, if no suitable rock features are present, a timing window of April 1 to September 30 would be suitable in accordance with the "Treed Habitats (Maternity and Day Roosts)" section in MECP (2022a).</p>	<p><b>Noted.</b></p>



Table 1: Comment Response Matrix for the Environmental Impact Study - 1500 Sandy Bay Road, Town of Penetanguishene (2nd Submission) - April 30, 2025

Comment #	WSP EIS Comment (September 2023)	Azimuth Comment Response (January 2024)	WSP Response (February 2024)	Azimuth Response (April 2025)
5	<p>Based on a review of the background records (as outlined in Comment #2 above), there are records of SAR snakes within the vicinity of site, and it appears there is suitable habitat within the study area. No snake species were included in the SAR assessment in Appendix G. WSP acknowledges that surveyors conducted searches in areas deemed to have the greatest likelihood of snake activity. However, Ontario SAR snakes are cryptic and their detectability is highly dependent on weather conditions (MNRF, 2016). The MNRF Survey Protocol for Ontario's Species at Risk Snakes (MNRF, 2016) provides a detailed outline of the required environmental conditions and level of effort to reliably determine presence/absence. This guidance recommends a minimum of ten snake visual encounter surveys (VES), with at least five prior to July 1", at a search effort of approximately 1-2 hours per hectare (MNRF, 2016). Please update the SAR assessment to consider SAR snakes that have the potential to occur within the vicinity of the site.</p> <p>Unless no suitable habitat is present based on the SAR assessment or targeted surveys under appropriate conditions are completed in accordance with MNRF (2016), all suitable habitat on-site would be considered candidate SAR habitat and would be subject to ESA considerations, as well as applicable PPS and TPOP policies.</p>	<p>As per the results of the habitat assessments for Eastern Foxsnake, Eastern Hognosed Snake and Massasauga presented in response to WSP Comment# 2, the subject and adjacent lands do not provide candidate habitat for any of the snake species and hence are not subject to ESA considerations - i.e., no damage or destruction to habitat of ESA protected snakes, and no expectation of kill, harm or harassment of individuals. The six reptile specific surveys completed as part of the EIS on April 11 , May 18, June 4, June 23, July 8, September 14, 2022, were more than adequate to screen the subject lands for snakes, particularly in areas not expected to provide habitat for these species - no snakes or signs of snakes (shed skins, etc.) found.</p>	<p><b>Addressed.</b></p> <p>WSP agrees that targeted SAR snake surveys are not required based on the habitat assessment provided in response to Comment #2.</p> <p>Please note that the standard survey protocol for SAR snakes (MNRF, 2016) recommends a minimum of ten surveys, with five surveys prior to July 1 " . It is WSP's opinion that if suitable habitat was present for SAR snakes, then targeted SAR snake surveys would be required to meet the snake survey protocol level of effort MNRF (2016).</p>	<p><b>Noted.</b></p>
6	<p>Azimuth outlines that there are no Provincially Significant Wetlands (PSWs) identified on or adjacent to the site. However, no wetland evaluation was completed to determine significance for the large wetland adjacent to the site (&gt; 2 ha), as per the Ontario Wetland Evaluation System (OWES; MNRF, 2022), which should be clarified in the text. Surface water connectivity (if any) to the wetlands to the east of the site (i.e., via culverts below Sandy Bay Road) should be discussed in the EIS.</p>	<p>Azimuth 's statement in Section 5.1 of the EIS that "there are no Provincially Significant Wetlands identified on or adjacent (i.e. , within 120m) to the property" is accurate, as there are no Provincially Significant Wetlands (PSWs) identified on or adjacent to the subject lands as per Town of Penetanguishene Natural Heritage Study mapping (SSEA 2017) provided in Appendix C of the EIS. Likewise, the Province's Natural Heritage mapping (NHIC 2023) corroborates this mapping.</p> <p>It is our understanding that there is no underlying requirement by the PPS or municipal policy to complete an OWES evaluation on nearby unevaluated wetlands as part of an EIS process (as this would be prohibitively burdensome), and as such in Azimuth's experience there is typically no reason to specify that an OWES evaluation has not been completed. Azimuth notes there may be a degree of confusion here between OWES evaluation and LSW evaluation (see response to WSP Comment #7 for details).</p> <p>For clarity, Azimuth did not complete an OWES evaluation of any wetlands as part of this EIS. The completion of a full Wetland Evaluation under OWES is an extensive process requiring thorough background research and field work extending to areas well beyond the defined subject lands and adjacent lands, as well as a degree of labor- intensive analysis. Since this is not a typical standard for a one-property EIS, an OWES evaluation would require early clarification in a given EIS Terms of Reference. There was no requirement to complete either a "wetland staking ," OWES evaluation, or scoped LSW evaluation specified when establishing the Terms of Reference for the EIS with the Town/WSP as per Appendix B of the EIS. As such, these items were not undertaken as part of the EIS.</p> <p>Sections 4.5 and 7.4 of the EIS address drainage, indicating that the subject lands are drained to the west and then north to Georgian Bay. Surface water connections across/beneath Sandy Bay Road were not raised because no connections (i.e. no culverts) were identified crossing Sandy Bay Road. While historically the wetlands east and west of Sandy Bay Road may have been contiguous, any such surface connectivity appears to have been interrupted by the construction of Sandy Bay Road, with flow rate between these areas negligible/insufficient to require culvert connection. There are no alterations proposed to this pattern of drainage or alterations to roadside drainage associated with Sandy Bay Road and hence as per Section 7.4 of the EIS - the proposed development does not impact the hydrology of wetlands. Therefore, the status of local wetlands is accurately reported and surface water connectivity and drainage impacts have been considered adequately in the EIS.</p>	<p><b>Partially Addressed.</b></p> <p>While WSP acknowledges that no PSWs were identified through the background review process, that does not mean that unevaluated wetlands identified through the background review are confirmed as not provincially significant, rather that they have not been evaluated for significance (including no OWES assessments completed as part of the Natural Heritage Study Update [SSEA, 20171]. As per the approved TOR, Azimuth has agreed to "Evaluate severance potential based on results of field studies and analysis of significance of natural heritage features and related functions ;". As wetlands are considered a key natural heritage feature as per the TPOP (Town of Penetanguishene, 2018) and significant wetlands are also identified as a natural heritage feature in the PPS, an analysis of significance is required.</p> <p>WSP disagrees that there is no underlying requirement in the PPS or municipal policy to complete an OWES evaluation on unevaluated wetlands. Under the PPS, Policy 2.1.4 outlines "Development and site alteration shall not be permitted in: a) significant wetlands in EcoRegions 5E, 6E and 7E" and Policy 2.1.8 outlines "Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 2. 1. 4, 2. 1. 5, and 2. 1. 6 unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions. "</p> <p>The definition for significance for wetlands in the PPS is outlined as "Significant: means a) in regard to wetlands, coastal wetlands and areas of natural and scientific interest, an area identified as provincially significant by the Ontario Ministry of Natural Resources and Forestry using evaluation procedures established by the Province, as amended from time to time; ... While some significant resources may already be identified and inventoried by official sources, the significance of others can only be determined after evaluation."</p> <p>The current evaluation procedure in effect is OWES (MNRF, 2022). As Azimuth mentions in their response to Comment #11 , the updated OWES protocol no longer requires MNRF sign-off of PSW evaluation and it is the responsibility of the evaluator. As per the PPS, some significant resources (i.e., PSWs) may be already evaluated; however, significance of others can only be determined after evaluation (i .e., unevaluated wetlands"). As these have not been evaluated by the Province, it is the proponent's responsibility to evaluate the significance to maintain compliance with PPS policies in accordance with standard evaluation protocols (i .e., OWES, 2022).</p> <p>Furthermore, the OWES Manual (MNRF, 2022) outlines the following with regards to the application of OWES: "To aid in identifying those wetlands that have value at a provincial scale, MNRF has developed, this wetland evaluation system ... Since this evaluation system is designed to identify and measure recognized values of wetlands, it should provide a mechanism or framework through which conflicting claims about wetland values and uses can be resolved. The application of this system provides knowledge of the different kinds of wetland values, which is then available for examination and review by any interested person, agency or group ... The results of evaluations made under this system are primarily used by a municipality or county government as part of the municipal planning process where there is a need to know: (a) whether a specific wetland has been evaluated or not, to assist in determining if it should be evaluated, and (b) whether a wetland has been identified as a PSW".</p> <p>While WSP understands that OWES evaluations require a high level of effort, that does not preclude a proponent from undertaking an evaluation of the significance for a feature. Should development be proposed in proximity to a wetland that has not been evaluated (i.e., unevaluated wetland per provincial mapping), it is WSP's experience that it is the proponent's responsibility to demonstrate that a feature is not considered significant under the PPS.</p> <p>To clarify from WSP's original comment, WSP is not stating that an OWES evaluation is required, necessarily. However, an analysis of whether an OWES evaluation is required should be included for wetlands within adjacent lands to the proposed activities. For example, this analysis might outline insufficient size of wetlands (i.e., &lt; 2 ha) with rationale as to why any smaller wetlands are likely to lack the significant function as per OWES page 9 and/or that there will be no impacts to any potential PSWs (i .e., regardless of evaluation outcome, no negative impact will occur).</p> <p>WSP appreciates the updated information provided by Azimuth on drainage/connectivity related to the wetland on the east side of Sandy Bay Road. Based on the updated information provided, WSP agrees that although these features may have been contiguous at one time,</p>	<p>Azimuth disagrees with WSP's rationale outlined in Paragraphs 1 -5 regarding the expectation to evaluate wetlands under OWES in circumstances where a wetland meets minimum size criteria for evaluation. While Azimuth understands that for many Key Natural Heritage Features, it is often the proponent's responsibility to demonstrate that a feature is not considered significant under the PPS, Azimuth notes that there are important exceptions for provincially important categories that do not fit this criteria, such as ANSIs or Significant Wildlife Habitat such as Deer Wintering Areas, both of which are mapped by the province. In Azimuth's experience, Provincially Significant Wetlands typically fall into this category, except where a wetland may be contiguous with, or within 30m of, an existing mapped PSW (in which case significance is not being evaluated, but instead the extent of an already-significant wetland complex is being refined).</p> <p>Azimuth reiterates that the requirement for an OWES Evaluation was not requested by the Town/WSP at the time of Terms of Reference submission, and maintains that it would be inappropriate to request this additional study at this stage in the application process.</p> <p>Azimuth disagrees that an analysis speculating on whether a wetland should be evaluated under OWES should be undertaken (see Comment 7 response), as wetland evaluation should be a fulsome exercise that considers all criteria in the manual.</p> <p>Azimuth will defer discussion relating to water balance to the response for comment #11.</p> <p>Azimuth notes that a 30m setback cannot be accommodated in this circumstance. While Azimuth has not evaluated the wetland as LSW or PSW, Azimuth has characterized in detail the context of the wetlands within the property, including all wetlands in proximity to development. No superficial change in municipal or provincial designation will change the ecological context of these features, such as their sensitivity to disturbance. Additional detail regarding wetland sensitivity and impact assessment is discussed as part of the response to comment #11. Regardless of municipal or provincial designation, it is our opinion that potential impacts to wetlands have been evaluated in a fulsome manner such that direct and/or indirect impacts to the wetlands and their ecological features/functions are anticipated to be avoided through recommendations and mitigation measures included in the EIS. It is our opinion that completion of an OWES evaluation to accompany the EIS submission would result in the same conclusion as is currently presented and therefore completion of an OWES evaluation would not yield additional useful information that would influence the result of the wetland impact assessment provided in the EIS.</p> <p>Regarding the precise location of the wetland line, at the proponent's and WSP's request, Azimuth completed a joint wetland staking site visit with WSP on July 17, 2024, with updated mapping produced as a result of follow-up precision surveying of the stakes (see updated Azimuth Figures 2 and 3). Azimuth notes that the resulting wetland edge is very similar to that reported on by Azimuth's EIS.</p>



Table 1: Comment Response Matrix for the Environmental Impact Study - 1500 Sandy Bay Road, Town of Penetanguishene (2nd Submission) - April 30, 2025

Comment #	WSP EIS Comment (September 2023)	Azimuth Comment Response (January 2024)	WSP Response (February 2024)	Azimuth Response (April 2025)
			<p>Sandy Bay Road has severed any past connection. With the removal of wetland complexing from OWES (2022), nearbywetlands do not need to be evaluated together. Given the lack of hydrologic connectivity, WSP agrees that regardless of evaluation outcome, Azimuth's assessment that no impacts are anticipated to the wetlands east of Sandy Bay Road is reasonable.</p> <p>As Azimuth outlines in Section 5.1 of the EIS and their response to Comment #7, the wetland within the subject property (and extending off-site to the west) is likely greater than 2 ha and thus, may require evaluation. It is WSP's experience that assessment of natural heritage features extends to adjacent lands (generally within 120 m and referred to as the 'Study Area') to determine conformity with the PPS and official plans. While access can limit what information can be gathered, this does not preclude consideration of features that are within adjacent lands and best effort using available background information and aerial photography/roadside assessments are standard practice. WSP's reference to the 2 ha criteria is not related to Locally Significant Wetlands, but to the OWES "Wetland Size" criteria outlined on page 9 of the OWES manual (2022).</p> <p>In WSP's opinion, the impact assessment (assuming full clearing of trees) and policy conformity sections of the EIS do not adequately address potential impacts to wetlands (e.g., reference to water balance studies, indirect impacts to adjacent wetlands, etc.). In WSP's experience, it is standard to provide a setback to PSWs (ideally 30 m) to avoid impacts based on their sensitivity and ecological function, which makes understanding the classification of the wetland important (e.g., PSW vs. LSW). Based on the proposed development being immediately adjacent to a potentially significant wetland and the limited accuracy of handheld GPS units (specifically in wooded areas with dense canopy cover), WSP maintains its position that a site visit is required to confirm the delineation of the wetland and stake the boundaries to determine compliance with the PPS and TPOP (i.e., no development within PSWs or LSWs).</p>	
7	<p>Based on the proximity of the wetland on-site to the lots proposed for severance, the limits of the wetland will require staking, to be confirmed (and subject to revision) in the field with WSP and Azimuth certified wetland evaluators. Following the confirmation of the staking, the limits will need to be surveyed by an Ontario Land Surveyor. Once surveyed, updated mapping will be required to determine any changes to the wetland limits and an updated impact assessment may be required. Further, should the limits change such that the contiguous wetland is &gt;2 ha, a wetland evaluation using the OWES (MNRF, 2022) may be required to determine its significance.</p>	<p><u>Wetland Delineation and Staking</u></p> <p>The wetland boundary was delineated under appropriate summer conditions by qualified professionals based on the "50% rule" of the OWES consistent with the requirements of the terms of reference for the EIS established with the Town/WSP. This is discussed in further detail in the "Wetland Delineation" response to WSP comment #11.</p> <p><u>Wetland Evaluation</u></p> <p>As per Section 5.1 of the EIS:</p> <p>"site specific wetland delineation revealed an area of treed swamp covering much of the lowland portion of the northern portion of the property below the ridge. This wetland covers approx. 1.6ha of/he property and is continuous with wetland habitat that extends off onto adjacent lands to the west that is partially mapped as unevaluated wetland by the province and more extensively mapped as Local (coastal) Wetlands by the Town (i.e., continuous area of wetland associated with property and adjacent lands 2 Zha). Therefore, the EIS indicates that contiguous wetlands exceed Zha and hence are considered Locally Significant Wetlands (as per Sections 2.4 and 7.1 of the EIS) - a factor compelling consideration of conformity to the requirements of Section 3. 10 of the TPOP that "development and site alteration shall not be permitted within, and potentially adjacent to Locally Significant Wetlands"</p> <p>Based on the above approach, regardless of Provincially Significant or Locally Significant Wetland status, the proposed site plan is already established to locate development outside of contiguous wetlands &gt;2ha in size, a factor requiring reduction of the number of lots proposed from five to three as per Section 6.0 of the EIS. The requirement for no development and site alteration within Locally Significant Wetlands of the TPOP is the same as the requirement of Section 2.1.4 of the PPS with respect to Provincially Significant Wetlands. Given that wetlands will be avoided, we see no need to complete a wetland evaluation using the OWES moving forward as the outcome, as far as satisfying the objective of configuring lots outside of wetland limits remains the same.</p> <p>As noted in our response to WSP comment #6, it is our understanding that there is no underlying requirement by the PPS or municipal policy to complete an OWES evaluation on nearby unevaluated wetlands as part of an EIS process (as this would be prohibitively burdensome). Azimuth notes there may be a degree of confusion here between OWES evaluation and LSW evaluation. The Terms of Reference requests a wetland delineation per OWES standards, which is a common standard. TPOP suggests the use of a "scoped wetland evaluation" fordetermining local significance of wetlands in proximity to development, which is the TPOP's prerogative for Locally Significant Wetlands (LSW). However, it should be clarified that OWES evaluation is not the standard referenced for evaluation in the TPOP (OWES is not cited anywhere in the TPOP), and while OWES lists several locally significant feature categories to consider in the evaluation process, OWES has is no protocol for determining LSW status. Likewise, the TPOP also does not recommend evaluating provincial significance for wetlands &gt;2ha under OWES. This makes practical sense; if an OWES evaluation was required to characterize LSW, all LSW would be PSW, and the designation would be meaningless.</p> <p>Further, as stated in response to WSP Comment #6, the completion of a full Wetland Evaluation under OWES is an extensive process requiring thorough background research and field work, extending to areas well beyond the defined subject lands and adjacent lands, as well as a degree of labour-intensive analysis. Since there is no underlying requirement by the PPS or municipal policy to complete an OWES evaluation on nearby unevaluated wetlands as part of an EIS process (as this would be prohibitively burdensome), it is not a typical consideration for a one-property EIS. Due to the requirement to evaluate adjacent wetland elements beyond their own property, it is not typically incumbent on a landowner to complete an OWES evaluation. As landowners do not own the adjacent lands they are not assured access for wetland assessment and if the result of the wetland evaluation indicates provincial significance - development capability of the adjacent lands are highly constrained. Thus, application of an OWES assessment by a private landowner has the capability of severely impacting</p>	<p><b>Not Addressed.</b></p> <p>WSP maintains its position that a site visit is required to confirm the delineation of the wetland and stake the boundaries to determine compliance with the PPS and TPOP (i.e., no development within PSWs or LSWs). Based on WSP's experience, staking and surveying the limits of a wetland is standard practice when proposed development is located adjacent to a protected wetland feature (e.g., PSW, LSW, or candidate PSW in the absence of evaluation). Surveyed limits are required to inform the limit of development and any setbacks applied to the adjacent feature, given the limited accuracy of hand held GPS units.</p> <p>WSP notes that there may be some confusion between LSW and PSW designation based on Azimuth's comment response. As per TPOP Policy 3.10.1 .2, LSWs "that are 2 hectares or larger are identified with an Environmental Protection Overlay on Schedule B1"; whereas PSWs are designated as "Environmental Protection" on Schedule A to the TPOP. The Natural Heritage System Study Update (SSEA, 2017) defines LSWs as "Wetlands evaluated under the Ontario Wetland Evaluation System that are identified as non-provincially significant are sometimes also known as locally significant wetlands". As such, the PSW and LSW designations do not overlap; however, both generally need to meet the 2 ha size criteria to be mapped. Further, this underscores the importance of properly evaluating the significance to determine the sensitivity and ecological function of the wetland feature on- and adjacent to site. As outlined in the comment response to Comment #6, an OWES evaluation may not be required depending on the outcome of the site visit and demonstration that regardless of evaluation outcome there will be no negative impacts. In WSP's experience, it may be of benefit to the client to proceed with characterizing the wetland as a 'candidate PSW' and ensuring protection of the feature rather than completing a full OWES evaluation, which we acknowledge is an extensive undertaking and often results in designation as provincially significant.</p> <p>Evaluation of significance for natural features is standard practice for an EIS when development is proposed within or adjacent to natural heritage features to outline compliance with applicable policies.</p>	<p>Azimuth completed a joint site visit with WSP for the purposes of wetland staking (July 17, 2024, S. Gibbs representing WSP). Wetland stakes were mapped through a precision survey by a qualified land surveyor (Raikes Geomatics, Inc.). Azimuth notes that the resulting wetland edge is very similar to that reported on by Azimuth's EIS. We trust that WSP is now satisfied with our wetland delineation, as depicted on our updated Figures 2 and 3.</p> <p>Regarding the point on confusion of LSW vs. PSW, Azimuth's comment no longer applies now that WSP has clarified their stance on PSW evaluation under OWES. It is now Azimuth's understanding that, as per WSP's response to Comment #6, WSP intended to reference PSW evaluation under OWES, and this was not the result of an error/confusion.</p> <p>Azimuth disagrees with WSP's approach to pre-emptively designate an unevaluated wetland as Candidate PSW and we are not willing to label site wetlands as such. However, Azimuth is willing to proceed based on the threshold of "ensuring protection of the feature". As such, from an impact assessment perspective, Azimuth is willing to proceed on the basis of avoiding impacts/ensuring protection of the wetland features identified in Azimuth's EIS on the property, which includes wetland polygons as depicted on our updated Figure 3.</p>
8	<p>WSP generally agrees with the SWH assessment and screening, as provided in Section 5.5 and Appendix H. However, any SC and/or provincially rare species identified through the background review should be considered for candidate SWH in the absence of targeted surveys or if they cannot be screened out based on the existing surveys or other rationale. Generally, we recommend SOCC be included within the SAR screening table to show how SOCC have been screened out through a habitat assessment or appropriate surveys. Refer to Comment #3.</p>	<p>Please see Azimuth's response to WSP Comment #3. The subject and adjacent lands do not provide candidate habitat for any of the species of conservation concern identified locally in background data. No additional SWH functions to address.</p>	<p><b>Addressed.</b></p> <p>Refer to WSP response to Azimuth for Comment #3.</p>	<p><b>Noted.</b></p>
9	<p>WSP generally agrees with SAR assessment and screening, as provided in Section 5.8 and Appendix I. However, the background review identified multiple SAR snakes with potentially suitable habitat. An assessment of these species should be included in the EIS. Refer to Comment #2.</p>	<p>Please see Azimuth's response to WSP Comment #2. The subject and adjacent lands do not provide candidate habitat for any of the endangered or threatened species identified in the general area not addressed within the EIS.</p>	<p><b>Addressed.</b></p> <p>Refer to WSP response to Azimuth for Comment #2</p>	--



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10	<p>The impact assessment should focus on the impact of the lot severance (and potential for future single residential dwellings) only, rather than impacts of tree clearing and proposed future development since those details are unknown at this time. Future EIS(s) or an EIS Addendum will be required to assess potential impacts to ecological features and functions during the site plan application process(es). Furthermore, it is recommended that a tree inventory and tree protection plan be completed during the site plan application process and prior to any tree clearing.</p>	<p>The EIS does assess/review potential impacts and provides recommendations for mitigation measures. Section 9 of the EIS assesses compliance with applicable municipal, and provincial policy and regulations, as discussed in response to WSP Comment #1. The PJR by MHBC is the authoritative document addressing policy conformity with respect to the proposed development.</p> <p><u>General</u></p> <p>This is confusing as WSP indicates the impact assessment should consider "potential for future single residential dwellings" but advises that the impact assessment should not focus on "tree clearing for the future development as those details are unknown at this time". While it is true that the exact details of future development are unknown at this time, consider that:</p> <p>1) the proposed lots are tree covered throughout,</p> <p>2) the proposed lots are relatively small due to the constraints associated with wetlands; and,</p> <p>3) future development would be privately serviced with septic systems requiring considerable lot area to be maintained in a cleared condition (spatial requirements for servicing assessed by Jackie Coughlin, Azimuth - Partner/ Senior Environmental Engineer, P. Eng.).</p> <p>Given the above, it is reasonable to assume that requirements for tree clearing will involve most (essentially all) of the lot area. Therefore, Section 7.2 of the EIS assumes "full clearing of the severed lots (Parts 1, 2 and 3)" to assess impacts to Significant Woodland and related ecological functions. The impact assessment could not be completed without this fundamental assumption regarding tree clearing.</p>	<p><b>Partially Addressed.</b></p> <p>WSP appreciates the clarification provided in this Comment Response and the response to Comment #17 outlining that tree clearing will not occur as part of the lot severance. To clarify WSP's comment, the language in the EIS could be interpreted as tree clearing and severance approval being linked based on the language and timing (specifically in relation to the timing of submission for severance approval) outlined in the bullet points in Section 7.5 - Black Ash and in Section 8.0 - Recommendations as follows:</p> <p>- "Therefore, if severance plan approval and lot clearing occurs beyond February 25, 2024 removal of Black Ash will be subject to regulations the province establishes under the ESA with respect to this species."</p> <p>- "If development approval and site clearing does not occur before January 26, 2024 - evaluate requirements for impact to Black Ash that are enacted following expiry of the Temporary Suspension afforded the species under O. Reg. 23/22;"</p> <p>- "Minimize the extent of tree clearing on lots Part 1, Part 2 and Part 3 to the extent possible given the needs for space for a future single-detached dwelling, accessory structures, septic bed, amenity spaces, etc.;"</p> <p>Whereas the recommendation for erosion and sediment control (Section 7.1 and Section 8.0) specifies that this recommendation should be implemented "at the time of future development".</p> <p>WSP agrees that it is important to consider future plans for the site in the impact assessment and agrees with the approach outlined in Section 7.2 of the EIS (conservatively assuming full clearing of lots in the assessment given the lack of development plan). However, it is premature to issue a tree clearing permit.</p> <p>WSP agrees with Azimuth 's second bullet outlined above that there is a need to re-evaluate the impacts to Black Ash on-site based on the decision made by the provincial government and enactment of O.Reg 6124 and 7/24 under the ESA. Refer to Comment #16 for additional details.</p>	<p>Noted. Azimuth only stipulated a timing window because Endangered Species consideration changed after February 25, 2024, and did not intend to imply that a tree clearing permit was being requested. Azimuth is in agreement that a tree clearing permit is premature at this time. Regardless, given that Black Ash protections are now in effect, we consider this comment no longer applicable, and defer Black Ash discussion to Comment #16.</p>
11	<p>WSP acknowledges the configuration of the lot severance has considered the wetland communities on-site (based on the current wetland limits) and adjacent to the site, and that the number of severed lots has been reduced from five to three. In principle, WSP agrees that the development of a single residential dwelling on each of the three severed parcels may be feasible with no impacts to the adjacent wetland features and functions, however further information is required to make this determination. Furthermore, as noted in Comment #10, the impact assessment should be re-framed from the perspective of the lot severance with potential for future single residential dwellings, rather than the 'proposed development' as the details of the proposed development (e.g., tree clearing limits, building footprint, area of impermeable land), are unknown, particularly the required details to assess water balance. WSP also notes that the final statement of: "the proposed development can be achieved with no direct or indirect impacts to Local/Coastal Wetlands as per the requirements of Section 3. 10 of the TPOP and Section 2. 1. 5 f) of the PPS", cannot be made at this stage (i.e., lot severance) and without confirmation of the wetland limits.</p>	<p>Azimuth has provided a detailed response to WSP Comment #11 in their comment response letter.</p> <p>Refer to Attachment A to this letter for the full comment response.</p>	<p><b>Partially Addressed</b></p> <p><u>Development</u></p> <p>WSP understands and agrees that lot creation and change in land-use is considered development per the PPS; however, the language in the EIS is confusing as to what was being proposed as part of the lot severance approval (e.g., reference to tree clearing shortly after submission of lot severance approval documents with no development plan, specific reference to "at the time of future development" for some of the EIS recommendations, etc.; refer to comment response to Comment#10 above). WSP appreciates the clarification that no site works are proposed as part of the lot severance approval. WSP agrees that there is no need to re-frame the impact assessment, but that further considerations will be made on Black Ash as part of this submission and other impacts and associated mitigation will be re-evaluated at the site plan approval stage.</p> <p><u>Wetland Delineation</u></p> <p>WSP maintains its position that a site visit is required to confirm the delineation of the wetland and stake the boundaries to determine compliance with the PPS and TPOP (i.e., no development within PSWs or LSWs). Based on WSP's experience, staking and surveying the limits of a wetland is standard practice when proposed development is located adjacent to a protected wetland feature (e.g., PSW, LSW, or candidate PSW in the absence of evaluation) or a setback is being applied to the feature. Surveyed limits are required to inform the limit of development and any setbacks applied to the adjacent feature, given the limited accuracy of handheld GPS units.</p> <p>While WSP understands that a combined site delineation was not specifically referenced in the TOR, this was not necessarily required depending on the proximity of the proposed lots for severance and wetland delineation. Furthermore, the TOR that was reviewed by WSP did not include any severance plan or information on the proposed layout. As such, identification of a site visit to confirm wetland boundaries was premature; however, WSP acknowledges that additional clarity regarding the potential need for wetland staking would be beneficial to include during future TOR reviews. Given that the lots proposed for severance are located immediately adjacent to the wetland boundaries, along with the limited accuracy for hand held GPS units, it is standard practice to confirm the limits of the wetland with the peer reviewer through a staking exercise in the field. Once staked, a certified Ontario Land Surveyor can more precisely survey the staked limits to inform the development plan (i.e., severed lots).</p> <p>While WSP agrees that no external validation is required for OWES evaluations given all required actions are completed (e.g., attestation, landowner notification, wetland evaluation score card submission, etc.), the application of the OWES is to "provide knowledge of different wetland values ... for examination and review by any interested person, agency, or group" (MNRF, 2022; page 2). Furthermore, the results of evaluation are primarily used by a municipality (or other government) as part of the municipal planning process (MNRF, 2022; page 2). Regardless of whether a full evaluation was completed and submitted, WSP has been retained by the Town to review the EIS on their behalf and have requested a site visit to confirm the findings of the EIS. Based on WSP's review, the following bullet points outline rationale for a site visit to delineate and confirm the extent of wetlands onsite:</p> <p>- ELC was completed using Lee et al. (1998) and the 2008 update, as per Section 3.1 of the EIS; however, no reference to soils is made in the text of the EIS. Soil analysis is especially important for determining classification between swamp and forest ecosites (e.g., SWD vs. FOD, etc.).</p> <p>-The plant list provided in Appendix E to the EIS documents a very similar vegetative composition between swamp ecosites (SWD) and the adjacent deciduous forest ecosites (FODM), including numerous plant species indicative of wetland communities.</p> <p>- Figure 2 and 3 in the EIS outline dense concentrations of Black Ash, a species generally associated with swamp ecosites, within the deciduous forest ecosites. While this may represent inclusions or historical presence of this species in an altered landscape (e.g., due to the construction of Sandy Bay Road and fragmentation from the wetland east of Sandy Bay Road), it warrants further review.</p> <p>-The aerial photography does not show a clear difference between the wetland communities and portions of deciduous forest communities mapped in the EIS. Furthermore, topographic map shows a gradual decline in elevation from south to north towards the bay. While on-site assessment is more accurate than desktop mapping, this feature warrants review, specifically in the vicinity of the lots proposed for severance.</p> <p>- Handheld GPS units have limited accuracy, specifically in dense wooded areas. Based on the proximity of the severed lots, more precise limits and mapping are required to confirm that 'development' (i.e., lot creation, change in land-use) is not occurring within the feature, in accordance with applicable policies.</p>	<p><u>Development Subsection:</u></p> <p>Noted.</p> <p><u>Wetland Delineation Subsection:</u></p> <p>Azimuth appreciates WSP's willingness to include items such as joint wetland staking and precision surveying of wetland stakes up-front within future TORs, even if this relates conditionally to proximity of development to wetland. This would provide the proponent with an opportunity to reach out during the first season of field surveys, avoiding unnecessary complications and delays, and minimize sudden scope extensions for the client. Azimuth notes that in our experience, at the time of TOR establishment and field surveys, proponents often do not have a final severance plan or proposed layout, as these are frequently refined as a direct result of key environmental constraints. On the subject property for this project, many alternative lot layouts were considered prior to submission due to the presence of environmental constraints, particularly wetland. As such, this information would have been unavailable or unreliable at the time of TOR establishment and would not have helped to determine the necessity of wetland staking.</p> <p>Azimuth completed a joint site visit with WSP for the purposes of wetland staking (July 17, 2024, S. Gibbs representing WSP). Wetland stakes were mapped through a precision survey by a qualified land surveyor (Raikes Geomatics, Inc.). Azimuth notes that the resulting wetland edge is very similar to that reported on by Azimuth's EIS. Azimuth understands the basis for concerns relating to the wetland line (no soils reported, overlap of wetland species reported from upland polygons, Black Ash presence, aerial photograph ambiguity, GPS accuracy concerns), however we trust that WSP is now satisfied with our wetland delineation (see updated Figures 2 and 3).</p> <p>Regarding concerns with wetland species, Azimuth notes that we reported all species from within each polygon for full transparency, which led to occasional occurrences of wetland species within upland polygons, as is expected to occur where boundaries are decided by an OWES delineation (i.e. uplands start where relative cover of wetland plants drops below 50%, [not 0%]; OBL wetland plants almost always occur in wetlands &gt;99% probability], facultative wetland plants typically occur in wetlands [67-99% probability]), but neither group occurs in wetlands 100% of the time [OWES, 2022]).</p> <p><u>Impacts to Wetlands Subsection:</u></p> <p>As discussed in Azimuth's previous response to comment #11, given the scale of change, there is no expectation of a scenario leading to water balance-related impacts. No water balance was requested as part of the terms of reference, and Azimuth expects that a water balance relating to such a low number of such small impermeable surfaces as those proposed would result in a predictable small change water balance values in this circumstance. Typical alterations resulting from addition of pervious surface may alter the flow paths, but do not typically reduce the overall contributions either through surface runoff or ground water infiltration. This is owing to the fact that runoff from impervious surfaces is typically directed to grassed areas that would promote infiltration. These measures are considered LID mitigation measures in most water balance assessments. Secondly, addition of hard surface area reduces evapotranspiration values thus typically creating a small increase in overall volume either through runoff or infiltration which would help support wetland function post development. Finally, a general review of the catchment / contributing area of the wetland (~30 ha) would indicate that the development represents only approximately 0.68 ha, or 2.27% of the contributing area, such that a meaningful change to wetland inputs is considered unlikely.</p> <p>Based on Azimuth's Servicing Feasibility Assessment (2023), it was determined that septic bed servicing for each severed lot is feasible as a design component within the property boundary of each severance. The report concludes that "it is concluded that the hydrogeological conditions upon the Site are suitable for the proposed severance and development of three residential dwellings with a new potable water well and a conventional septic system." (Azimuth, 2023). As such, there is no expectation that the requirement for septic servicing will require site alteration beyond the proposed lot framework, and direct impacts relating to the installation of septic servicing would therefore not extend beyond the proposed severances.</p> <p>Azimuth understands the concern regarding encroachment. Azimuth recommends that where property edges abut retained natural areas, additional physical boundary markers should be installed to ensure that the precise edge of the retained parcel (and its natural features) is clearly defined. Provided that the physical property boundary is clearly delimited, and considering that the retained parcel will remain occupied by the proponent who is anticipated to remain vigilant regarding encroachment into their own property, the well-delimited property edges are expected to prevent intrusion into retained natural features and to prevent inadvertent trespassing on the retained parcel of land.</p> <p><u>Additional Impact Assessment Discussion (Azimuth 2025)</u></p> <p>As depicted in the updated Figure 3, due to the slight variation in the precise limits of site wetlands following staking and precision survey, the proposed lot lines slightly encroach the edge of the wetlands present on-site, including both the SWDM4-5/SWDM2-2 wetland and SWDM3-2 wetlands originally described in Azimuth's 2023 EIS. However, these areas of encroachment are few and very small (approx. &lt;5m in each circumstance; see Figure 3), and the revised wetland</p>



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11			<p>While the delineation may be accurate (within the limits of handheld GPS units), it is WSP's opinion that a site visit is warranted for due diligence on behalf of the Town to address the municipal planning responsibilities under the TPOP and to maintain consistency with the PPS (as outlined in Part I, II, and III of the PPS).</p> <p><u>Impacts to Wetlands</u></p> <p>As WSP has outlined in Comment #11, there is a degree of agreement that the proposed development may be feasible with no impacts to adjacent wetlands. However, there is conflicting information on the water balance and hydrogeological assessment. For example, Azimuth outlines in Section 7.1 (page 11) of the EIS that runoff from impervious surfaces will "infiltrate within the proposed lots"; however, the conclusion in the following sentence refers to the capacity for infiltration on the adjacent lands to the proposed development. No reference to a water balance study, or simple area calculation to support the statement that "the scale of the proposed development is minor relative to the area of land on the retained lot", has been provided. Given that the adjacent lands are wetlands (unevaluated; &gt;2 ha indicating potential provincial significance), with no vegetated buffer/ setback to this feature, additional data to support the conclusions in the EIS is warranted. Furthermore, while nutrient output for the septic system has been considered, there is no clear discussion on impacts of surface water run off from impervious or less pervious surfaces (e.g., driveways, lawns/compacted areas, etc.). Given Azimuth's conclusion that the lots will have to be maintained in a cleared condition, it is likely that impervious cover will increase and grassed areas may be compacted and will provide little infiltration within the lots. While it is fair to rely on other studies to assess impacts to hydrology and/or water balance, it is important for an EIS to review these findings and apply them to the impact assessment. Without reference to these studies, it is unclear how the conclusions were reached.</p> <p>Furthermore, it is unclear how boundary markers will prevent encroachment into the adjacent wetland without fencing (or other physical barrier), or other mitigation measures post-development. It is WSP's opinion that although the proposed development may be feasible, additional assessment and information are required to conclude no negative impact, specifically in the absence of a vegetated buffer/setback.</p>	<p>edge is expected to represent a negligible change to existing conditions. Given the negligible encroachment by the proposed lot lines, there is no expectation that the proposed development would negatively impact the form and function of these wetland communities. As such, provided that mitigation proposed within the EIS and resulting from this comment matrix is adhered to, the proposed development is not anticipated to result in direct impacts to the function of wetlands within the study area.</p> <p>As noted under Comment 6, it is Azimuth's opinion that superficial change in municipal or provincial designation of property wetlands will not change the ecological context of these features, such as their sensitivity to disturbance. Azimuth will reiterate and expand on our comment response from January 2024 regarding indirect impacts to wetlands.</p> <p>The locations proposed for lot severance and development occur in the external, disturbed areas of forest adjacent the wetland polygons and near the existing road edge. The wetland elements adjacent Lots Part 2 and Part 3 (SWDM4-5/SWDM2-2) are early-successional, with significant components of Green Ash and Trembling Aspen, indicative of a history of anthropogenic influence (potentially associated with historical works adjacent Sandy Bay Road). These wetlands are highly invaded by the invasive <i>Frangula alnus</i>, which has likely impaired their quality. These vegetation types are not rare or unique to this part of the study area, and these successional community types are not anticipated to be highly sensitive to disturbance.</p> <p>Lot Part 1 is proposed adjacent a wetland polygon dominated by Silver Maple swamp (SWDM3-2); while this is a later-successional vegetation type overall, it includes more disturbed Ash Swamp inclusions, and regardless the proposed severance is only adjacent to the very tip of this polygon and the vast majority of this vegetation type extends deep into the interior of the subject lands and onto adjacent lands. Further, given the apparent near-road historical site alteration, including localized historical earthworks which appear to have altered some soils within this location, there is a potential that a historical driveway or other site feature may have historically occupied part of this location (this discussed briefly on-site with WSP). As such, Part 1 is considered relatively disturbed and has likely already been exposed to site alteration, and would not be expected to be highly sensitive.</p> <p>While Black Ash are present throughout all of these wetlands, Black Ash are very common throughout property wetlands in general, and no living Black Ash within 30m of the proposed lot lines exceeded 20cm DBH (most assessed trees were 8-12cm DBH), with the largest Healthy Black Ash being 14cm DBH. Overall the Black Ash population within the property did not exhibit evident resistance to Emerald Ash Borer, with Healthy stems appearing to decline given suitable time, and large stems &gt;25cm DBH appearing dead or dying. Possible bat habitat was observed to be widely distributed throughout property woodlands, with the majority of identified potential snags occurring outside of wetlands. No unique SWH categories were identified within the SWDM4-5/SWDM2-2, with all reported SWH types generally attributable to woodlands (both upland and lowland) within and adjacent to the property. No rare or highly sensitive features are present within proximity to development. Further, all of these wetland vegetation types are unified into a larger wetland block, the majority of which is embedded deep within the part of the study area where development will be avoided. As such, regardless of the policy or legal designation of the wetlands, the estimated sensitivity of the wetland features within the property adjacent to proposed development is anticipated to be low.</p> <p>Azimuth notes that consistent buffer setbacks are not feasible within the available land area beyond wetland areas. Steep slopes border the existing dwelling on-site to both the north and the south of the dwelling, precluding placement of additional lots within the southern third of the property, leaving only the proposed severance areas as locations with level ground outside of wetland. While the final arrangement of houses and yards within the proposed severances are yet to be fully determined, there is very little opportunity to provide consistent setbacks while accommodating dwellings, servicing and septic requirements.</p> <p>However, considering the sensitivity analysis described above, even with very limited, irregular setbacks to wetland, there is no expectation that the proposed development will result in negative impacts to the form or function of wetlands on or adjacent to the property, provided recommendations in EIS report Section 8.0 are adhered to, and provided the additional recommendations following from discussion within comment matrix responses are adhered to. Based on Azimuth's assessment, the proposed severances, as well as subsequent construction of a single detached dwelling and associated servicing and amenities within each severance, are feasible in a manner that would avoid impacts to Key Natural Heritage Features and ecological functions, including wetland and its ecological function. The precise footprint of site alteration and disturbance, to be refined at the time of detailed design, would not be anticipated to change these conclusions.</p> <p>References: Azimuth Environmental Consulting, Inc. (Azimuth). 2023. Servicing Feasibility Assessment, Proposed 3-Lot Severance, 1500 Sandy Bay Road, Town of Penetanguishene, Simcoe County.</p>
12	WSP recommends that the mitigation measures included in the last paragraph of Section 7.1, be moved to a sub-section of Section 8.0, entitled 'Mitigation Recommendations for Future Development as they are more relevant to a future site plan application process.	No response provided by Azimuth.	<p><b>Addressed.</b></p> <p>Based on the additional information provided in Azimuth 's response to Comment #17, WSP understands that no site clearing or alteration is being proposed as part of the lot severance application. No further action required.</p>	<p><b>Noted.</b></p>
13	WSP agrees with the assessment that there will be no impact to the function of the SWH types identified in the EIS (Woodland Area-sensitive Breeding Bird Habitat, Bat Maternity Colonies, and Special Concern and Rare Wildlife Species - Eastern Woodpeewee) based on the proposed lot severance and pending resolution of Comments #3 and #7.	<b>Noted</b>	<p><b>Addressed.</b></p> <p>No additional SWH considerations are required.</p>	-
14	WSP generally agrees with the assessment that the removal of a maximum of 0.7 ha (i.e., ~2% of the Significant Woodland), assuming full clearing of the sites, is unlikely to impact the function of the Significant Woodland.	Noted and speaks to the necessity of evaluating impacts of tree clearing/extent of vegetation removal associated with future development (see reply to WSP Comment #10).	<p><b>Addressed.</b></p> <p>No action item was associated with this comment. WSP agrees that it is important to evaluate impacts of proposed tree clearing taking a conservative approach (i.e., full clearing of severed lots) when evaluating impacts. It should be clear in the EIS that this is an assumption for the purpose of evaluating impacts at this preliminary stage (i.e., severance), as this could be confused with the recommendation provided in Section 8.0 to "Minimize the extent of tree clearing on lots Part 1, Part 2, and Part 3 to the extent possible ... etc..".</p>	-
15	Please refer to Comments #2 and #9. Any updates to the candidate or confirmed SAR habitat identified on-site and within the Study Area should be considered in the impact assessment and mitigation sections (e.g., SAR snakes).	Addressed - please see responses to WSP Comments #2, and #9.	<p><b>Addressed.</b></p> <p>Refer to WSP response to Azimuth for Comment #2 and #3.</p>	<p><b>Noted.</b></p>
16	WSP agrees with the assessment related to Black Ash ( <i>Fraxinus nigra</i> ) that any proposed removal of these species after January 25, 2024 (as per 0. Reg 23/22 to the ESA) will require ESA considerations. Section 7.5 outlines a date of "February 25, 2024"; however, the rest of the report refers to the correct date in January.	<p>The province released information recently indicating probable direction to be taken with respect to enacting protections to Black Ash under Ontario's ESA, summarized as follows:</p> <p>Black Ash was listed as endangered in Ontario in January 2022 but the province, through 0. Reg. 23/22 enacted a temporary suspension of protections under Ontario's Endangered Species Act, 2007 (ESA) until January 26, 2024. Therefore, the species is not currently protected under the ESA (nor is it assessed as provincially rare - S Rank 4 ). We understand that the province may extend the suspension of protections for another year to "no later than January 2025 so that the proposed regulatory approach can be implemented" (Environmental Registry of Ontario [ERO] number 019-7378 [Comment period September 18, 2023 - November 2, 2023], <a href="https://ero.ontario.ca/notice/019-7378">https://ero.ontario.ca/notice/019-7378</a>). The proposed regulatory approach outlined in the ERO posting - Protecting Black Ash and its habitat under the Endangered Species Act 2007,) states: "Ontario is proposing to limit the application of the 'species protection' prohibitions in subsection 9(1) of the ESA to healthy Black Ash, those that appear appear (sic) to have survived exposure to EAB, located in areas of the province that have experienced significant EAB-caused mortality of ash trees. A healthy Black Ash tree is one that appears to have survived exposure to EAB, remains in a healthy condition ('lingering ash'), and has a trunk diameter at breast height (DBH) of at least 8 cm (sic). Ontario is proposing to apply 'habitat protection prohibitions in subsection 10 (1) of the ESA to a radial distance of 30 metres around each Black Ash tree protected under subsection 9 (1 )" (i.e., 30m from a healthy Black Ash with IDBH "8cm). Note: EAB = Emerald Ash Borer.</p>	<p><b>Partially Addressed.</b></p> <p>As outlined in WSP Comment #16, WSP agrees with the approach and was requesting confirmation that the January 25, 2024 date would be used for timing related to site clearing and Black Ash considerations and not the February 25, 2024 outlined in Section 7.5 of the EIS.</p> <p>The decision on this species has now been made and regulations are in effect as of January 26, 2024 (0. Reg 6124; 0. Reg 7124). The final decision outlines that species protection only applies to Black Ash greater than 1.37 min height and 8 cm diameter-at-breast-height. Species protection do not apply to Black Ash determined to be unhealthy in the report required in Subsection 3 of 0. Reg 6/24.Habitat protection applies to the 30 m radial distance around each Black Ash tree that meets the above criteria for species protection.</p> <p>It is important to note that the EIS outlines that Black Ash are found in each vegetation community on-site (Appendix E) and a patch of 25-30 Black Ash were documented in Lot, Part 1 (Figure 2; Figure 3). Given that no tree clearing or site alteration are proposed as part of the severance application, no 'activity' will impact these individuals. However, as Azimuth outlines in comment responses above, lot creation is considered 'development' under the TPOP and PPS. PPS Policy 2.1.7 outlines that "Development and site alteration shall not be permitted in habitat of endangered species and threatened species, except in accordance with provincial and federal requirements." Furthermore, TPOP Policy 3.10.2(3) reiterates the PPS policy and TPOP Policy 3.10.2(4) provides protection to adjacent lands to habitat for endangered and threatened species unless no negative impact to the ecological function of the SAR habitat. No tree inventory or Black Ash health assessments have been completed outlining the locations of Black Ash individuals on-site or to determine whether Black Ash on-site meet</p>	<p>Azimuth completed an in-season detailed Black Ash inventory and Black Ash Assessment which screened all areas within at least 30m of potential development parcels (July 17, 31, and August 2, 2024). This was completed using the Black Ash Assessment Guidelines: Assessment of Black Ash (<i>Fraxinus nigra</i>) for the purposes of the <i>Endangered Species Act, 2007</i> (MECP, 2024).</p> <p>The key results of this assessment are presented on updated Figures 2 and 3. Based on this assessment, 72 Black Ash were identified within at least 30m of the proposed severances which were alive and ≥ 8 centimetres (cm) Diameter at Breast Height (DBH). Of these 72, 25 trees were assessed as Healthy Black Ash ≥ 8cm DBH. Of these 25, two (2) have potential to require complete removal as a result of the proposed development. 1390 Black Ash &lt;8cm DBH and/or &lt;1.37m tall were identified within 30m of the proposed development, overwhelmingly within swamp features (these are not pictured on Figures 2 and 3).</p> <p>Azimuth recommends that a Black Ash Assessment Report should be submitted to the MECP prior to the initiation of any site alteration, and a Permit should be secured with MECP prior to any physical site disturbance within 30m of Healthy Black Ash marked on Azimuth's Figures 2 and 3. Azimuth notes that all living Healthy <u>and</u> Unhealthy Black Ash ≥ 8 cm DBH, including all stems depicted on Figures 2 and 3, remain protected under the ESA until a Black Ash Assessment Report is submitted, and all Healthy Black Ash ≥ 8 cm DBH remain protected under the ESA until a permit from the MECP is secured.</p> <p>Given the jurisdiction of the MECP regarding protection and habitat regulation of Threatened and Endangered species, provided that the proponent adheres to the above criteria and permitting requirements, Azimuth trusts that these steps address WSP's concerns with respect to Black Ash.</p>



Table 1: Comment Response Matrix for the Environmental Impact Study - 1500 Sandy Bay Road, Town of Penetanguishene (2nd Submission) - April 30, 2025

Comment #	WSP EIS Comment (September 2023)	Azimuth Comment Response (January 2024)	WSP Response (February 2024)	Azimuth Response (April 2025)
		<u>Summary</u> At present Black Ash receives no protection under the ESA, protections may be extended to January 2025 and protections would likely only apply to healthy Black Ash larger than 8cm DBH. The size class distribution and health status of Black Ash on the subject lands has not been established pending issue of regulations and guidance documents by the province and approval of the property severance by the Town.	the criteria for protection under O.Reg 6124 to the ESA. Therefore, it is WSP's opinion that the entire site would be considered Candidate Black Ash habitat (i.e., within 30 m of any Black Ash on-site in the absence of a Black Ash assessment report as per Subsection 3 of O.Reg 6124).  Given the outcome of the decision from the provincial government and that development is proposed within candidate Black Ash habitat, WSP recommends that the Black Ash assessment and associated report be provided prior to approval. This approach is recommended to fully understand the constraints of the SAR habitat, if protected Black Ash individuals are identified. It is WSP's opinion that approval at this stage would be premature without fully understanding the potential impacts to protected Black Ash individuals within 30 m of the lots proposed for severance.	
17	WSP recommends separating the recommendations into two parts: 1) recommendations to be completed prior to the lot severance and 2) mitigation recommendations for future development.	None of the recommendations are to be completed prior to the lot severance. Therefore, all six recommendations are recommendations for future/post severance development activities. No need to disaggregate recommendations.	<b>Addressed.</b>  Based on the additional information provided in Azimuth's response to Comment #17, WSP understands that no site clearing or alteration is being proposed as part of the lot severance application. No further action required.	<b>Noted.</b>
18	WSP agrees with the recommendation to minimize the extent of tree clearing, where possible, to maintain the woodland functions (e.g., SWH, SAR bat habitat, etc.). To facilitate this recommendation, WSP recommends that a tree inventory and tree protection plan be prepared during the site plan application process prior to any tree clearing. Furthermore, WSP recommends consideration of TPOP Policy 3.10.2 related to tree replacement to mitigate loss of trees as a result of the proposed development, in consultation with the Town of Penetanguishene.	<b>Noted.</b>	<b>Addressed.</b>  It is WSP's understanding that there will be minimal capacity for tree retention within the proposed lots based on Azimuth's response to Comment #10. The tree clearing permit and any associated replacements will be determined during the next application, pending a tree inventory, tree protection plan, and in accordance with the Town's tree by-law.	<b>Noted.</b>
19	WSP recommends that the Clean Equipment Protocol for Industry (Halloran et al., 2013) be implemented during construction and tree clearing to mitigate the spread of invasive species to the site. Furthermore, an Invasive Species Management Plan should be completed and approved by the Town at the time of the proposed development.	<b>Noted.</b>	<b>Addressed.</b>  WSP interprets Azimuth 's response of "Noted" to mean that the Clean Equipment Protocol for industry will be implemented and an Invasive Species Management Plan will be completed as part of the EIS recommendations through this Comment Response Matrix and peer review process.	-
20	Based on the above comments provided through this Peer Review, it is WSP's opinion that additional information is required to assess the project's feasibility and compliance with municipal, provincial, and federal legislation and policy. In particular, confirmation of the wetland limits, an updated SAR screening and more clarity in the impact assessment section are required. The final conclusions should speak only to the proposed severance rather than the proposed development, as development details are unknown. Pending the resolution of the above comments, it is WSP's opinion that it is likely that the proposed severance will be in compliance with applicable legislation based on the assessment in the EIS.	We recommend that the Town/WSP rely on the PJR by MHBC as the authoritative source with respect to planning conformity.  An updated/expanded SAR screening is provided in responses to WSP Comments #2 and #3 above. Results indicate that the subject lands do not provide habitat for the additional endangered and threatened species considered consistent with field observations indicating none present. Results also indicate that the subject lands do not provide habitat for the SC and provincially rare (S1 -3) species identified locally in background data consistent with field observations indicating none present.  The wetland boundary was delineated at an appropriate time of year (summer) by qualified professionals based on the 50% rule of the OWES consistent with the requirements of the terms of reference for the EIS established with the Town/WSP.  As per response to WSP Comment #10, the approach to impact assessment speaking to likely extent of lot clearing to facilitate future residential development is appropriate as the proposed development is lot severance to construct privately serviced single-detached dwellings in the future. In our opinion these two factors - lot creation and construction - cannot be logically decoupled. The severance of a lot with a Rural Area designation conveys or implies certain development rights relating to the creation of a single detached dwelling; thus a lot cannot be severed without consideration of for how a single detached dwelling (and associated infrastructure) may be accommodated. We also note that both lot creation and construction are defined as development under the PPS.	<b>Partially Addressed.</b>  While the PJR does provide planning conformity, it is important for the EIS to outline compliance with the relevant natural heritage policies, legislation and plans, as per the TOR (Refer to WSP Comment #1 ). Furthermore, the PJR was out of scope for WSP's peer review and in WSP's experience the PJR utilizes the assessments in the EIS to inform their planning justification.  WSP agrees with the updated SAR and SWH assessments (related to SOCC); however, Azimuth 's conclusion that the subject lands do not provide habitat for endangered or threatened species is not accurate based on the presence of Black Ash (THR). While at the time of submission, this species' protection was suspended, it was still considered threatened under the ESA. As outlined by Azimuth in the EIS, re-evaluation for this species is required based on the decision made by the provincial government and the enactment of O. Reg 6124 and 7124 under the ESA on January 26, 2024. As lot creation is considered 'development' and Black Ash habitat has not been defined for the site through appropriate assessment as per O. Reg 6124 (as applicable Black Ash plus a 30 m radial distance from the stem), development within habitat for a threatened species can not be confirmed in accordance with the TPOP and PPS.  WSP maintains its position that a site visit and delineation is warranted. Please refer to WSP's response for Comment #11 .  WSP agrees that the impact assessment does not need to be re-framed based on the additional clarity provided by Azimuth through the comment response process.	Azimuth's 2023 EIS concludes with a statement of conformity, stating the following under Section 9.0:  "The proposed development can be achieved with no negative impacts to: Local/Coastal Wetlands; Significant Woodlands; Significant Wildlife Habitat Functions; Habitat Linkage or individuals or habitat of species protected under the ESA consistent with the requirements of the TPOP, PPS and Sections 9 and 10 of the ESA." Recommendations are provided to further avoid impacts under the Migratory Birds Convention Act and Fish and Wildlife Conservation Act.  Azimuth's EIS laid out our impact assessment based on features protected within the above-noted natural heritage laws and policies, provided mitigation recommendations to avoid impacts, and has included additional considerations within this comment matrix which fully address compliance with relevant natural heritage policies, legislation and plans. Based on Azimuth's assessment, the proposed severances, as well as subsequent construction of a single detached dwelling and associated servicing and amenities within each severance, are feasible in a manner that would avoid impacts to Key Natural Heritage Features and ecological functions, including wetland and its ecological function. The precise footprint of site alteration and disturbance, to be refined at the time of detailed design, would not be anticipated to change these conclusions. Further, it is our understanding that according to the Planning Justification Report, "the existing and proposed uses (single detached dwellings) are permitted within the RU [Rural] Zone" (MHBC, 2023) and that "the proposed Consent application to create three new lots, plus one retained lot, for a total of four lots on the subject lands is consistent or in conformity with the applicable land use planning policies and documents" (MHBC, 2023).  Azimuth has included discussion relating to Black Ash under Comment #16.  As noted in our comment #11 response, Azimuth completed a joint wetland delineation with WSP, with the results of this exercise depicted on updated Figures 2 and 3. Azimuth trusts this satisfies WSP's concerns relating to wetland boundaries.  References: MacNaughton Hermesen Britton Clarkson Planning Limited (MHBC). 2023. Planning Justification Report, Consent Application, 1500 Sandy Bay Road, Town of Penetanguishene.





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## **APPENDIX B**

**Peer Review Response to Azimuth Comment Response Letter for the Peer Review  
of the Environmental Impact Study – 1500 Sandy Bay Road, Town of  
Penetanguishene (WSP; February 15, 2024)**

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15 February 2024

Project No. 221-02768-00

**Andrea Betty, Director of Planning and Community Development**

Town of Penetanguishene  
10 Robert Street West  
P.O. Box 5009  
Penetanguishene, ON  
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**PEER REVIEW RESPONSE TO AZIMUTH COMMENT RESPONSE LETTER FOR THE PEER REVIEW OF  
THE ENVIRONMENTAL IMPACT STUDY – 1500 SANDY BAY ROAD, TOWN OF PENETANGUISHENE**

WSP Canada Inc. (WSP) was retained by the Town of Penetanguishene (the Town) to complete a peer review of the **Environmental Impact Study – 1500 Sandy Bay Road, Town of Penetanguishene** prepared by Azimuth Environmental Consulting, Inc. (Azimuth; March 2022), submitted on behalf of Raikes Geomatics Inc. WSP's peer review involved a review of the technical methods, results, conclusions, recommendations, and policy conformity for the Environmental Impact Study (EIS) for the property at 1500 Sandy Bay Road (hereafter referred to as the 'site'). WSP's peer review letter for the EIS was provided to the Town on September 13, 2023.

A response to WSP's peer review letter was prepared by Azimuth and provided to WSP in a comment response letter titled **Response to Peer Review Comments Provided by the Town of Penetanguishene September 15, 2023 – Proposed Severance 1500 Sandy Bay Road** (January 18, 2024). No updated EIS or addendum was provided; however, the comment response letter has directly included additional information and rationale to address peer review comments on the initial submission. The Town requested a review by WSP to determine whether the initial peer review comments had been adequately addressed.

To effectively organize and document the peer review and comment response process, WSP's initial comments and Azimuth's associated comment responses have been organized into a Comment Response Matrix in Table 1. The third column in Table 1, provides WSP's review comments for this submission.

**Table 1: Comment Response Matrix for the Environmental Impact Study – 1500 Sandy Bay Road, Town of Penetanguishene**

#	WSP EIS Comment (September 2023)	Azimuth Comment Response (January 2024)	WSP RESPONSE (February 2024)
1	<p>Section 2.0 provides an outline of the planning context and considers some of the planning policy and legislation that applies to the site from a municipal, provincial, and federal perspective. This section should also include a summary and assessment of other policy and legislation including the Migratory Birds Convention Act (MBCA); including consideration for the Migratory Bird Regulations, 2022), Simcoe County Regional Official Plan, and federal Species at Risk Act.</p>	<p>The Planning Context section of the EIS only addresses natural heritage planning policy applicable to the proposed development, as well as applicable legislation that supercedes those policies (i.e., Sections 2.1.6 and 2.1.7 of the PPS refer to fish habitat and habitat of threatened and endangered species, which defer to the Fisheries Act and Ontario's Endangered Species Act, 2007 (ESA)).</p> <p>We do not refer to the federal Species at Risk Act (SARA) because with the exception of aquatic species/fish, SARA is applicable only on federal lands (except under exceptional circumstances under a specific Minister's order). The EIS determined that the drainage feature does not represent fish habitat, and no endangered or threatened aquatic species are identified locally in background data. Given that the subject and adjacent lands are privately owned, the SARA is not applicable to the proposed development and hence was not summarized/assessed. We understand that the natural heritage policies of the Simcoe County Official Plan are not applicable as the subject lands are located in the Penetanguishene settlement area and hence the regional/county OP was not summarized/assessed.</p> <p>The federal Migratory Birds Convention Act (MBCA) and provincial Fish and Wildlife Conservation Act (FWCA) were addressed in Section 8 of the EIS with respect to the recommended timing of vegetation clearing to avoid the combined bat active season and woodland bird nesting season. This was the appropriate place to address these Acts, since they do not technically speak to development potential/conformity within applicable natural heritage policy, but instead only require avoidance of active nests. For most species, this can be accomplished by avoiding the bird nesting season, although 2022 updates to MBCA regulations require extended assessment in the case of the 18 species listed under Schedule 1 of the Migratory Birds Regulations, 2022 (SOR/2022-105) to confirm disuse. Given that only one Schedule 1-listed species was observed (Pileated Woodpecker), for which there was no nest observed and no probable or confirmed nesting evidence, basic mitigation through a vegetation clearing timing window was deemed suitable. A Planning Justification Report ([PJR], July 2023) was prepared by MHBC in which applicable planning policy (natural heritage and otherwise) was summarized/addressed. The PJR is the authoritative report with respect to planning context and conformity. The Planning Context section of the EIS is accurate and complete as it relates to the proposed development.</p>	<p><b>Addressed.</b></p> <p>This comment response from Azimuth has provided the context needed for missing policy and legislation in the EIS. It is helpful to describe all planning context for the site and provide rationale as to why certain policies, legislation, or plans do not apply. While Planning Justification Reports provide an outline of conformity with applicable policy and legislation, it is WSP's experience that these reports do not usually go into detail on more specific natural heritage policies and legislation (e.g., MBCA, FWCA, MBR, 2022) and reviewing the PJR was out of scope for WSP's peer review. Furthermore, the approved TOR for the EIS included the following language related to providing an outline of conformance with applicable policy, legislation, and plans:</p> <p>"Provide an outline of conformance with applicable policy, legislation, and plans (e.g., Town of Penetanguishene Official Plan, County of Simcoe Official Plan, Provincial Policy Statement 2020, Endangered Species Act, Species at Risk Act, Migratory Birds Convention Act, Fisheries Act), including any potential permits or authorizations that may be required for future development plans."</p>
2	<p>The background review sources outlined in <b>Section 3.2</b> are comprehensive and are in line with the Terms of Reference. However, based on WSP's review of background sources, several species afforded protection under the <i>Endangered Species Act, 2007</i> (ESA) have records in the vicinity of the site and are not included in the species at risk (SAR) assessment in <b>Appendix I</b>. Additional species WSP identified are as follows:</p> <ul style="list-style-type: none"> <li>■ Least Bittern (<i>Ixobrychus exilis</i>; eBird; OBBA)</li> <li>■ Eastern Foxsnake (<i>Pantherophis gloydi</i>; ORAA)</li> <li>■ Eastern Hog-nosed Snake (<i>Heterodon platirhinos</i>; ORAA)</li> <li>■ Massasauga (<i>Sistrurus catenatus</i> pop. 1; NHIC; ORAA)</li> </ul>	<p>Azimuth has provided assessment of the species outlined in WPS Comment #2 in their comment response letter.</p> <p><b>Refer to Attachment A to this letter for the full comment response outlining the findings of the assessments.</b></p>	<p><b>Addressed.</b></p> <p>WSP agrees with the assessment provided by Azimuth for additional SAR.</p>



#	WSP EIS Comment (September 2023)	Azimuth Comment Response (January 2024)	WSP RESPONSE (February 2024)
	An assessment for these species or rationale as to why they are not included should be incorporated into the EIS.		
3	<p>As outlined in <b>Section 3.3</b> of the EIS, habitat for Special Concern (SC) and provincially rare species (S1-S3) are not afforded protection under the ESA but are considered Significant Wildlife Habitat (SWH). Generally, WSP recommends that these species (generally referred to as Species of Conservation Concern; SOCC) are included in the habitat screening to identify candidate habitat and to inform the SWH assessment. The SWH assessment in <b>Appendix H</b> does consider these species for the <u>Special Concern and Rare Wildlife Species</u> SWH type if identified through field studies (i.e., Eastern Wood-pewee, <i>Contopus virens</i>), however, no assessment of suitable habitat was completed for other SC and provincially rare species with records in the vicinity of the site. In the absence of targeted surveys for other SC and provincially rare species (e.g., snakes, turtles, insects), suitable habitat for these species would be subject to SWH policies in the PPS and Town of Penetanguishene Official Plan (TPOP) as candidate SWH.</p>	<p>Other Special Concern (SC) &amp; provincially rare (S1-3) species identified in background data for the subject and adjacent lands include: Wood Thrush (SC); Common Nighthawk (SC); Snapping Turtle (SC) and Eastern Musk Turtle (SC).</p> <p><u>Birds</u></p> <p>As per Section 4.4 of the EIS, dawn breeding bird surveys were completed in June 2022 and confirmed no use of the subject or adjacent lands by Wood Thrush. As per Section 4.4 of the EIS, nocturnal bird surveys completed in June 2022 confirmed no use of the subject or adjacent lands by Common Nighthawk.</p> <p><u>Turtles</u></p> <p>As per the Significant Wildlife Habitat Assessment table in Appendix H of the EIS – Wetlands provide shallow water only (water not deep enough to provide overwintering habitat). As per Section 4.4 of the EIS - searches of vernal pools and the drainage feature were completed at times and under observation conditions when turtles would be active and hence detectable on the following dates: April 11, May 18, June 4, June 23, July 8, September 14, 2022. No turtles or signs of turtles (predated turtle nests, etc.) were observed.</p> <p><u>Summary</u></p> <p>The field program completed by Azimuth was sufficient to address the potential for SC birds and turtles reported in background data for the area, with none found. Therefore, there is no candidate habitat for SC or provincially rare species associated with the subject or adjacent lands as per the findings and conclusions of the EIS.</p>	<p><b>Addressed.</b></p> <p>WSP agrees with the assessment provided by Azimuth for additional SOCC.</p>
4	<p>Based on a review of the field investigations outlined in <b>Section 3.1</b>, WSP agrees with the protocols referenced and timing of the completed surveys. However, Azimuth references a technical note on survey methods from 2015 for bat snag density mapping in <b>Section 3.1</b> and the most recent bat survey standards note from 2022 in <b>Section 7.2</b>. In the absence of a summary of the methods for the snag density mapping in <b>Section 4.4</b>, WSP requests confirmation that the updated SAR bat guidance (MECP, 2022a; 2022b) was utilized as referenced in <b>Section 7.2</b>. This 2022 reference should also be included in the list of references (Section 10).</p>	<p>The Technical Note Species at Risk (SAR) Bats ("Technical Note"; MNRF, 2015) remains the most comprehensive and closest-to-publication Ministry document relating to Endangered bat study methods for EIS work in Ontario. As such, it is the Technical Note that Azimuth referenced in the methods section, although it should have been clarified that the updated guidance from the MECP's unpublished "Bat Survey Standards Note 2022" was applied to bat snag density mapping field work in this EIS.</p> <p>Regardless of protocol, Azimuth notes that our EIS concluded, conservatively, that there was potential for the study area to function as habitat for Endangered bats (Little Brown Myotis, Northern Myotis, Tri-colored Bat and potentially Eastern Small-footed Myotis), and as such these were considered in the Impact Assessment.</p> <p>The Bat Survey Standards Note 2022 was referenced in Section 7.2 instead of the Technical Note because specific timing guidance for the bat active season has changed rapidly since the Technical Note publication, and it has long been irrelevant to cite the Technical Note in that regard. The Bat Survey Standards Note 2022 was not cited in our references list because it is not dated, not officially designated as "draft" or "published", does not credit an author, and (to our</p>	<p><b>Addressed.</b></p> <p>WSP appreciates the clarification that the snag density surveys were completed in accordance with the updated MECP guidance from 2022. We also acknowledge the challenge with referencing MECP guidance documents that are unpublished and undated.</p> <p>WSP agrees with using the timing windows from MECPP (2022a). The EIS refers to a timing window of March 15 to November 30, which is the active season for Eastern Small-footed Myotis (<i>Myotis leibii</i>) and is outlined in the "Rock Features". Azimuth outlines in their assessment for SAR snakes in Comment #2 that there are no noted habitat elements containing crevices, rock barren, or outcrops. WSP agrees with using the longer timing window (March 15 – November 30) as a conservative approach to reduce potential for impacts; however, if no suitable rock features are present, a timing window of April 1 to September 30 would be suitable in accordance with the "Treed Habitats (Maternity and Day Roosts)" section in MECP (2022a).</p>



#	WSP EIS Comment (September 2023)	Azimuth Comment Response (January 2024)	WSP RESPONSE (February 2024)
		knowledge) cannot be found on a webpage through a link; as such there are no details to provide as part of the citation. However, Azimuth will include this reference in the future.	
5	<p>Based on a review of the background records (as outlined in Comment #2 above), there are records of SAR snakes within the vicinity of site, and it appears there is suitable habitat within the study area. No snake species were included in the SAR assessment in <b>Appendix G</b>. WSP acknowledges that surveyors conducted searches in areas deemed to have the greatest likelihood of snake activity. However, Ontario SAR snakes are cryptic and their detectability is highly dependent on weather conditions (MNR, 2016). The MNR <u>Survey Protocol for Ontario's Species at Risk Snakes</u> (MNR, 2016) provides a detailed outline of the required environmental conditions and level of effort to reliably determine presence / absence. This guidance recommends a minimum of ten snake visual encounter surveys (VES), with at least five prior to July 1<sup>st</sup>, at a search effort of approximately 1-2 hours per hectare (MNR, 2016). Please update the SAR assessment to consider SAR snakes that have the potential to occur within the vicinity of the site.</p> <p>Unless no suitable habitat is present based on the SAR assessment or targeted surveys under appropriate conditions are completed in accordance with MNR (2016), all suitable habitat on-site would be considered candidate SAR habitat and would be subject to ESA considerations, as well as applicable PPS and TPOP policies.</p>	<p>As per the results of the habitat assessments for Eastern Foxsnake, Eastern Hog-nosed Snake and Massasauga presented in response to WSP Comment # 2, the subject and adjacent lands do not provide candidate habitat for any of the snake species and hence are not subject to ESA considerations – i.e., no damage or destruction to habitat of ESA protected snakes, and no expectation of kill, harm or harassment of individuals. The six reptile specific surveys completed as part of the EIS on April 11, May 18, June 4, June 23, July 8, September 14, 2022, were more than adequate to screen the subject lands for snakes, particularly in areas not expected to provide habitat for these species – no snakes or signs of snakes (shed skins, etc.) found.</p>	<p><b>Addressed.</b></p> <p>WSP agrees that targeted SAR snake surveys are not required based on the habitat assessment provided in response to Comment #2.</p> <p>Please note that the standard survey protocol for SAR snakes (MNR, 2016) recommends a minimum of ten surveys, with five surveys prior to July 1<sup>st</sup>. It is WSP's opinion that if suitable habitat was present for SAR snakes, then targeted SAR snake surveys would be required to meet the snake survey protocol level of effort MNR (2016).</p>
6	<p>Azimuth outlines that there are no Provincially Significant Wetlands (PSWs) identified on or adjacent to the site. However, no wetland evaluation was completed to determine significance for the large wetland adjacent to the site (&gt; 2 ha), as per the Ontario Wetland Evaluation System (OWES; MNR, 2022), which should be clarified in the text. Surface water connectivity (if any) to the wetlands to the east of the site (i.e., via culverts below Sandy Bay Road) should be discussed in the EIS.</p>	<p>Azimuth's statement in Section 5.1 of the EIS that "there are no Provincially Significant Wetlands identified on or adjacent (i.e., within 120m) to the property" is accurate, as there are no Provincially Significant Wetlands (PSWs) identified on or adjacent to the subject lands as per Town of Penetanguishene Natural Heritage Study mapping (SSEA 2017) provided in Appendix C of the EIS. Likewise, the Province's Natural Heritage mapping (NHIC 2023) corroborates this mapping.</p> <p>It is our understanding that there is no underlying requirement by the PPS or municipal policy to complete an OWES evaluation on nearby unevaluated wetlands as part of an EIS process (as this would be prohibitively burdensome), and as such in Azimuth's experience there is typically no reason to specify that an OWES evaluation has not been completed. Azimuth notes there may be a degree of confusion here between OWES evaluation and LSW evaluation (see response to WSP Comment #7 for details).</p> <p>For clarity, Azimuth did not complete an OWES evaluation of any wetlands as part of this EIS. The completion of a full Wetland Evaluation under OWES is an extensive process requiring thorough background research and field work extending to areas well beyond the defined subject lands and adjacent lands, as well as a degree of labor-intensive analysis. Since this is not a typical standard for a one-property EIS, an OWES evaluation would require early clarification in a given EIS Terms of Reference. There was no requirement to complete either a "wetland staking," OWES evaluation, or scoped LSW evaluation specified when establishing</p>	<p><b>Partially Addressed.</b></p> <p>While WSP acknowledges that no PSWs were identified through the background review process, that does not mean that unevaluated wetlands identified through the background review are <b>confirmed</b> as not provincially significant, rather that they have not been evaluated for significance (including no OWES assessments completed as part of the Natural Heritage Study Update [SSEA, 2017]). As per the approved TOR, Azimuth has agreed to "Evaluate severance potential based on results of field studies and analysis of significance of natural heritage features and related functions". As wetlands are considered a key natural heritage feature as per the TPOP (Town of Penetanguishene, 2018) and significant wetlands are also identified as a natural heritage feature in the PPS, an analysis of significance is required.</p> <p>WSP disagrees that there is no underlying requirement in the PPS or municipal policy to complete an OWES evaluation on unevaluated wetlands. Under the PPS, Policy 2.1.4 outlines "Development and site alteration shall not be permitted in: a) significant wetlands in EcoRegions 5E, 6E and 7E" and Policy 2.1.8 outlines "Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 2.1.4, 2.1.5, and 2.1.6 unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions."</p>



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		<p>the Terms of Reference for the EIS with the Town/WSP as per Appendix B of the EIS. As such, these items were not undertaken as part of the EIS.</p> <p>Sections 4.5 and 7.4 of the EIS address drainage, indicating that the subject lands are drained to the west and then north to Georgian Bay. Surface water connections across/beneath Sandy Bay Road were not raised because no connections (i.e. no culverts) were identified crossing Sandy Bay Road. While historically the wetlands east and west of Sandy Bay Road <u>may</u> have been contiguous, any such surface connectivity appears to have been interrupted by the construction of Sandy Bay Road, with flow rate between these areas negligible/insufficient to require culvert connection. There are no alterations proposed to this pattern of drainage or alterations to roadside drainage associated with Sandy Bay Road and hence as per Section 7.4 of the EIS - the proposed development does not impact the hydrology of wetlands. Therefore, the status of local wetlands is accurately reported and surface water connectivity and drainage impacts have been considered adequately in the EIS.</p>	<p>The definition for significance for wetlands in the PPS is outlined as "Significant: means a) in regard to wetlands, coastal wetlands and areas of natural and scientific interest, an area identified as provincially significant by the Ontario Ministry of Natural Resources and Forestry using evaluation procedures established by the Province, as amended from time to time;... While some significant resources may already be identified and inventoried by official sources, the significance of others can only be determined after evaluation."</p> <p>The current evaluation procedure in effect is OWES (MNR, 2022). As Azimuth mentions in their response to Comment #11, the updated OWES protocol no longer requires MNR sign-off of PSW evaluation and it is the responsibility of the evaluator. As per the PPS, some significant resources (i.e., PSWs) may be already evaluated; however, significance of others can only be determined after evaluation (i.e., unevaluated wetlands"). As these have not been evaluated by the Province, it is the proponent's responsibility to evaluate the significance to maintain compliance with PPS policies in accordance with standard evaluation protocols (i.e., OWES, 2022).</p> <p>Furthermore, the OWES Manual (MNR, 2022) outlines the following with regards to the application of OWES:</p> <p><i>"To aid in identifying those wetlands that have value at a provincial scale, MNR has developed, this wetland evaluation system... Since this evaluation system is designed to identify and measure recognized values of wetlands, it should provide a mechanism or framework through which conflicting claims about wetland values and uses can be resolved. The application of this system provides knowledge of the different kinds of wetland values, which is then available for examination and review by any interested person, agency or group... The results of evaluations made under this system are primarily used by a municipality or county government as part of the municipal planning process where there is a need to know: (a) whether a specific wetland has been evaluated or not, to assist in determining if it should be evaluated, and (b) whether a wetland has been identified as a PSW."</i></p> <p>While WSP understands that OWES evaluations require a high level of effort, that does not preclude a proponent from undertaking an evaluation of the significance for a feature. Should development be proposed in proximity to a wetland that has not been evaluated (i.e., unevaluated wetland per provincial mapping), it is WSP's experience that it is the proponent's responsibility to demonstrate that a feature is not considered significant under the PPS.</p> <p>To clarify from WSP's original comment, WSP is not stating that an OWES evaluation is required, necessarily. However, an analysis of whether an OWES evaluation is required should be included for wetlands within adjacent lands to the proposed activities. For example, this analysis might outline insufficient size of wetlands (i.e., &lt; 2 ha) with rationale as to why any smaller wetlands are likely to lack the significant function as per OWES page 9 and/or that there will be no impacts to any potential PSWs (i.e., regardless of evaluation outcome, no negative impact will occur).</p> <p>WSP appreciates the updated information provided by Azimuth on drainage / connectivity related to the wetland on the east side of Sandy Bay Road. Based on the updated information provided, WSP agrees that although these features may have been contiguous at one time, Sandy Bay Road has severed any past connection. With the removal of wetland complexing from OWES (2022), nearby</p>

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			<p>wetlands do not need to be evaluated together. Given the lack of hydrologic connectivity, WSP agrees that regardless of evaluation outcome, Azimuth's assessment that no impacts are anticipated to the wetlands east of Sandy Bay Road is reasonable.</p> <p>As Azimuth outlines in Section 5.1 of the EIS and their response to Comment #7, the wetland within the subject property (and extending off-site to the west) is <b>likely greater than 2 ha and thus, may require evaluation</b>. It is WSP's experience that assessment of natural heritage features extends to adjacent lands (generally within 120 m and referred to as the 'Study Area') to determine conformity with the PPS and official plans. While access can limit what information can be gathered, this does not preclude consideration of features that are within adjacent lands and best effort using available background information and aerial photography / roadside assessments are standard practice. WSP's reference to the 2 ha criteria is not related to Locally Significant Wetlands, but to the OWES "Wetland Size" criteria outlined on page 9 of the OWES manual (2022).</p> <p>In WSP's opinion, the impact assessment (assuming full clearing of trees) and policy conformity sections of the EIS do not adequately address potential impacts to wetlands (e.g., reference to water balance studies, indirect impacts to adjacent wetlands, etc.). In WSP's experience, it is standard to provide a setback to PSWs (ideally 30 m) to avoid impacts based on their sensitivity and ecological function, which makes understanding the classification of the wetland important (e.g., PSW vs. LSW). Based on the proposed development being immediately adjacent to a potentially significant wetland <b>and</b> the limited accuracy of handheld GPS units (specifically in wooded areas with dense canopy cover), WSP maintains its position that a site visit is required to confirm the delineation of the wetland and stake the boundaries to determine compliance with the PPS and TPOP (i.e., no development within PSWs or LSWs).</p>
7	<p>Based on the proximity of the wetland on-site to the lots proposed for severance, the limits of the wetland will require staking, to be confirmed (and subject to revision) in the field with WSP and Azimuth certified wetland evaluators. Following the confirmation of the staking, the limits will need to be surveyed by an Ontario Land Surveyor. Once surveyed, updated mapping will be required to determine any changes to the wetland limits and an updated impact assessment may be required. Further, should the limits change such that the contiguous wetland is &gt;2 ha, a wetland evaluation using the OWES (MNRF, 2022) may be required to determine its significance.</p>	<p><u>Wetland Delineation and Staking</u></p> <p>The wetland boundary was delineated under appropriate summer conditions by qualified professionals based on the "50% rule" of the OWES consistent with the requirements of the terms of reference for the EIS established with the Town/WSP. This is discussed in further detail in the "Wetland Delineation" response to WSP comment #11.</p> <p><u>Wetland Evaluation</u></p> <p>As per Section 5.1 of the EIS:</p> <p><i>"site specific wetland delineation revealed an area of treed swamp covering much of the lowland portion of the northern portion of the property below the ridge. This wetland covers approx. 1.6ha of the property and is continuous with wetland habitat that extends off onto adjacent lands to the west that is partially mapped as unevaluated wetland by the province and more extensively mapped as Local (coastal) Wetlands by the Town (i.e., continuous area of wetland associated with property and adjacent lands ≥ 2ha). Therefore, the EIS indicates that contiguous wetlands exceed 2ha and hence are considered Locally Significant Wetlands (as per Sections 2.4 and 7.1 of the EIS) – a factor compelling consideration of conformity to the requirements of Section 3.10 of the TPOP that "development and</i></p>	<p><b>Not Addressed.</b></p> <p>WSP maintains its position that a site visit is required to confirm the delineation of the wetland and stake the boundaries to determine compliance with the PPS and TPOP (i.e., no development within PSWs or LSWs). Based on WSP's experience, staking and surveying the limits of a wetland is standard practice when proposed development is located adjacent to a protected wetland feature (e.g., PSW, LSW, or candidate PSW in the absence of evaluation). Surveyed limits are required to inform the limit of development and any setbacks applied to the adjacent feature, given the limited accuracy of handheld GPS units.</p> <p>WSP notes that there may be some confusion between LSW and PSW designation based on Azimuth's comment response. As per TPOP Policy 3.10.1.2, LSWs "that are 2 hectares or larger are identified with an Environmental Protection Overlay on Schedule B1"; whereas PSWs are designated as "Environmental Protection" on Schedule A to the TPOP. The Natural Heritage System Study Update (SSEA, 2017) defines LSWs as "Wetlands evaluated under the Ontario Wetland Evaluation System that are identified as non-provincially significant are sometimes also known as locally significant wetlands". As such, the PSW and LSW designations do not overlap; however, both generally need to meet the 2 ha size criteria to be mapped. Further, this underscores the importance of properly evaluating the significance to determine the sensitivity and ecological function of the wetland feature on- and adjacent to site. As outlined in the comment response</p>



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		<p>site alteration shall not be permitted within, and potentially adjacent to Locally Significant Wetlands<sup>o</sup></p> <p>Based on the above approach, regardless of Provincially Significant or Locally Significant Wetland status, the proposed site plan is already established to locate development outside of contiguous wetlands &gt;2ha in size, a factor requiring reduction of the number of lots proposed from five to three as per Section 6.0 of the EIS. The requirement for no development and site alteration within Locally Significant Wetlands</p> <p>of the TPOP is the same as the requirement of Section 2.1.4 of the PPS with respect to Provincially Significant Wetlands. Given that wetlands will be avoided, we see no need to complete a wetland evaluation using the OWES moving forward as the outcome, as far as satisfying the objective of configuring lots outside of wetland limits remains the same.</p> <p>As noted in our response to WSP comment #6, it is our understanding that there is no underlying requirement by the PPS or municipal policy to complete an <i>OWES evaluation</i> on nearby unevaluated wetlands as part of an EIS process (as this would be prohibitively burdensome). Azimuth notes there may be a degree of confusion here between OWES evaluation and LSW evaluation. The Terms of Reference requests a wetland <i>delineation</i> per OWES standards, which is a common standard. TPOP suggests the use of a "scoped wetland evaluation" for determining <i>local significance</i> of wetlands in proximity to development, which is the TPOP's prerogative for Locally Significant Wetlands (LSW). However, it should be clarified that <i>OWES evaluation</i> is not the standard referenced for evaluation in the TPOP (OWES is not cited anywhere in the TPOP), and while OWES lists several locally significant feature categories to consider in the evaluation process, OWES has no protocol for determining LSW status. Likewise, the TPOP also does not recommend evaluating <i>provincial significance</i> for wetlands &gt;2ha under OWES. This makes practical sense; if an OWES evaluation was required to characterize LSW, all LSW would be PSW, and the designation would be meaningless.</p> <p>Further, as stated in response to WSP Comment #6, the completion of a full Wetland Evaluation under OWES is an extensive process requiring thorough background research and field work, extending to areas well beyond the defined subject lands and adjacent lands, as well as a degree of labour-intensive analysis. Since there is no underlying requirement by the PPS or municipal policy to complete an OWES evaluation on nearby unevaluated wetlands as part of an EIS process (as this would be prohibitively burdensome), it is not a typical consideration for a one-property EIS. Due to the requirement to evaluate adjacent wetland elements beyond their own property, it is not typically incumbent on a landowner to complete an OWES evaluation. As landowners do not own the adjacent lands they are not assured access for wetland assessment and if the result of the wetland evaluation indicates provincial significance - development capability of the adjacent lands are highly constrained. Thus, application of an OWES assessment by a private landowner has the capability of severely impacting neighbor relations.</p>	<p>to Comment #6, an OWES evaluation may not be required depending on the outcome of the site visit and demonstration that regardless of evaluation outcome there will be no negative impacts. In WSP's experience, it may be of benefit to the client to proceed with characterizing the wetland as a 'candidate PSW' and ensuring protection of the feature rather than completing a full OWES evaluation, which we acknowledge is an extensive undertaking and often results in designation as provincially significant.</p> <p>Evaluation of significance for natural features is standard practice for an EIS when development is proposed within or adjacent to natural heritage features to outline compliance with applicable policies.</p>
8	WSP generally agrees with the SWH assessment and screening, as provided in Section 5.5 and Appendix H. However, any SC and/or provincially rare species identified through the background review should be considered for candidate SWH in the absence of targeted surveys or if they cannot be screened out based on the	Please see Azimuth's response to WSP Comment #3. The subject and adjacent lands do not provide candidate habitat for any of the species of conservation concern identified locally in background data. No additional SWH functions to address.	<p><b>Addressed.</b></p> <p>Refer to WSP response to Azimuth for Comment #3.</p>

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	existing surveys or other rationale. Generally, we recommend SOCC be included within the SAR screening table to show how SOCC have been screened out through a habitat assessment or appropriate surveys. Refer to Comment #3.		
9	WSP generally agrees with SAR assessment and screening, as provided in Section 5.8 and Appendix I. However, the background review identified multiple SAR snakes with potentially suitable habitat. An assessment of these species should be included in the EIS. Refer to Comment #2.	Please see Azimuth's response to WSP Comment #2. The subject and adjacent lands do not provide candidate habitat for any of the endangered or threatened species identified in the general area not addressed within the EIS.	<b>Addressed.</b> Refer to WSP response to Azimuth for Comment #2
10	The impact assessment should focus on the impact of the lot severance (and potential for future single residential dwellings) only, rather than impacts of tree clearing and proposed future development since those details are unknown at this time. Future EIS(s) or an EIS Addendum will be required to assess potential impacts to ecological features and functions during the site plan application process(es). Furthermore, it is recommended that a tree inventory and tree protection plan be completed during the site plan application process and prior to any tree clearing.	<p>The EIS does assess/review potential impacts and provides recommendations for mitigation measures. Section 9 of the EIS assesses compliance with applicable municipal, and provincial policy and regulations, as discussed in response to WSP Comment #1. The PJR by MHBC is the authoritative document addressing policy conformity with respect to the proposed development.</p> <p><u>General</u></p> <p>This is confusing as WSP indicates the impact assessment should consider "potential for future single residential dwellings" but advises that the impact assessment should not focus on "tree clearing for the future development as those details are unknown at this time". While it is true that the exact details of future development are unknown at this time, consider that:</p> <ol style="list-style-type: none"> <li>1) the proposed lots are tree covered throughout,</li> <li>2) the proposed lots are relatively small due to the constraints associated with wetlands; and,</li> <li>3) future development would be privately serviced with septic systems requiring considerable lot area to be maintained in a cleared condition (spatial requirements for servicing assessed by Jackie Coughlin, Azimuth - Partner/ Senior Environmental Engineer, P. Eng.).</li> </ol> <p>Given the above, it is reasonable to assume that requirements for tree clearing will involve most (essentially all) of the lot area. Therefore, Section 7.2 of the EIS assumes "full clearing of the severed lots (Parts 1, 2 and 3)" to assess impacts to Significant Woodland and related ecological functions. The impact assessment could not be completed without this fundamental assumption regarding tree clearing.</p>	<p><b>Partially Addressed.</b></p> <p>WSP appreciates the clarification provided in this Comment Response and the response to Comment #17 outlining that tree clearing will not occur as part of the lot severance. To clarify WSP's comment, the language in the EIS could be interpreted as tree clearing and severance approval being linked based on the language and timing (specifically in relation to the timing of submission for severance approval) outlined in the bullet points in <b>Section 7.5 - Black Ash</b> and in <b>Section 8.0 - Recommendations</b> as follows:</p> <ul style="list-style-type: none"> <li>▪ "Therefore, if <b>severance plan approval and lot clearing</b> occurs beyond February 25, 2024 removal of Black Ash will be subject to regulations the province establishes under the ESA with respect to this species."</li> <li>▪ "If <b>development approval and site clearing does not occur before January 26, 2024</b> – evaluate requirements for impact to Black Ash that are enacted following expiry of the Temporary Suspension afforded the species under O. Reg. 23/22:"</li> <li>▪ "Minimize the extent of tree clearing on lots Part 1, Part 2 and Part 3 to the extent possible given the needs for space for a future single-detached dwelling, accessory structures, septic bed, amenity spaces, etc.;"</li> </ul> <p>Whereas the recommendation for erosion and sediment control (Section 7.1 and Section 8.0) specifies that this recommendation should be implemented "at the time of future development".</p> <p>WSP agrees that it is important to consider future plans for the site in the impact assessment and agrees with the approach outlined in Section 7.2 of the EIS (conservatively assuming full clearing of lots in the assessment given the lack of development plan). However, it is premature to issue a tree clearing permit.</p> <p>WSP agrees with Azimuth's second bullet outlined above that there is a need to re-evaluate the impacts to Black Ash on-site based on the decision made by the provincial government and enactment of O.Reg 6/24 and 7/24 under the ESA. Refer to Comment #16 for additional details.</p>
11	WSP acknowledges the configuration of the lot severance has considered the wetland communities on-site (based on the current wetland limits) and adjacent to the site, and that the number of severed lots has been reduced from five to three. In principle, WSP agrees that the development of a single residential dwelling on each of the three severed parcels may be feasible with no	<p>Azimuth has provided a detailed response to WSP Comment #11 in their comment response letter.</p> <p><b>Refer to Attachment A to this letter for the full comment response.</b></p>	<p><b>Partially Addressed</b></p> <p><u>Development</u></p> <p>WSP understands and agrees that lot creation and change in land-use is considered development per the PPS; however, the language in the EIS is confusing as to what was being proposed as part of the lot severance approval</p>



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	<p>impacts to the adjacent wetland features and functions, however further information is required to make this determination. Furthermore, as noted in Comment #10, the impact assessment should be re-framed from the perspective of the lot severance with potential for future single residential dwellings, rather than the 'proposed development' as the details of the proposed development (e.g., tree clearing limits, building footprint, area of impermeable land), are unknown, particularly the required details to assess water balance. WSP also notes that the final statement of: <i>"the proposed development can be achieved with no direct or indirect impacts to Local/Coastal Wetlands as per the requirements of Section 3.10 of the TPOP and Section 2.1.5 f) of the PPS"</i>, cannot be made at this stage (i.e., lot severance) and without confirmation of the wetland limits.</p>		<p>(e.g., reference to tree clearing shortly after submission of lot severance approval documents with no development plan, specific reference to "at the time of future development" for some of the EIS recommendations, etc.; refer to comment response to Comment #10 above). WSP appreciates the clarification that no site works are proposed as part of the lot severance approval. WSP agrees that there is no need to re-frame the impact assessment, but that further considerations will be made on Black Ash as part of this submission and other impacts and associated mitigation will be re-evaluated at the site plan approval stage.</p> <p><u>Wetland Delineation</u></p> <p>WSP maintains its position that a site visit is required to confirm the delineation of the wetland and stake the boundaries to determine compliance with the PPS and TPOP (i.e., no development within PSWs or LSWs). Based on WSP's experience, staking and surveying the limits of a wetland is standard practice when proposed development is located adjacent to a protected wetland feature (e.g., PSW, LSW, or candidate PSW in the absence of evaluation) or a setback is being applied to the feature. Surveyed limits are required to inform the limit of development and any setbacks applied to the adjacent feature, given the limited accuracy of handheld GPS units.</p> <p>While WSP understands that a combined site delineation was not specifically referenced in the TOR, this was not necessarily required depending on the proximity of the proposed lots for severance and wetland delineation. Furthermore, the TOR that was reviewed by WSP did not include any severance plan or information on the proposed layout. As such, identification of a site visit to confirm wetland boundaries was premature; however, WSP acknowledges that additional clarity regarding the potential need for wetland staking would be beneficial to include during future TOR reviews. Given that the lots proposed for severance are located immediately adjacent to the wetland boundaries, along with the limited accuracy for handheld GPS units, it is standard practice to confirm the limits of the wetland with the peer reviewer through a staking exercise in the field. Once staked, a certified Ontario Land Surveyor can more precisely survey the staked limits to inform the development plan (i.e., severed lots).</p> <p>While WSP agrees that no external validation is required for OWES evaluations given all required actions are completed (e.g., attestation, landowner notification, wetland evaluation score card submission, etc.), the application of the OWES is to "provide knowledge of different wetland values...for <b>examination and review</b> by any interested person, agency, or group" (MNRF, 2022; page 2). Furthermore, the results of evaluation are primarily used by a municipality (or other government) as part of the municipal planning process (MNRF, 2022; page 2). Regardless of whether a full evaluation was completed and submitted, WSP has been retained by the Town to review the EIS on their behalf and have requested a site visit to confirm the findings of the EIS. Based on WSP's review, the following bullet points outline rationale for a site visit to delineate and confirm the extent of wetlands on-site:</p> <ul style="list-style-type: none"> <li>▪ ELC was completed using Lee et al. (1998) and the 2008 update, as per Section 3.1 of the EIS; however, no reference to soils is made in the text of the EIS. Soil analysis is especially important for determining classification between swamp and forest ecosites (e.g., SWD vs. FOD, etc.).</li> </ul>

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			<ul style="list-style-type: none"> <li>▪ The plant list provided in Appendix E to the EIS documents a very similar vegetative composition between swamp ecosites (SWD) and the adjacent deciduous forest ecosites (FODM), including numerous plant species indicative of wetland communities.</li> <li>▪ Figure 2 and 3 in the EIS outline dense concentrations of Black Ash, a species generally associated with swamp ecosites, within the deciduous forest ecosites. While this may represent inclusions or historical presence of this species in an altered landscape (e.g., due to the construction of Sandy Bay Road and fragmentation from the wetland east of Sandy Bay Road), it warrants further review.</li> <li>▪ The aerial photography does not show a clear difference between the wetland communities and portions of deciduous forest communities mapped in the EIS. Furthermore, topographic map shows a gradual decline in elevation from south to north towards the bay. While on-site assessment is more accurate than desktop mapping, this feature warrants review, specifically in the vicinity of the lots proposed for severance.</li> <li>▪ Handheld GPS units have limited accuracy, specifically in dense wooded areas. Based on the proximity of the severed lots, more precise limits and mapping are required to confirm that 'development' (i.e., lot creation, change in land-use) is not occurring within the feature, in accordance with applicable policies.</li> </ul> <p>While the delineation may be accurate (within the limits of handheld GPS units), it is WSP's opinion that a site visit is warranted for due diligence on behalf of the Town to address the municipal planning responsibilities under the TPOP and to maintain consistency with the PPS (as outlined in Part I, II, and III of the PPS).</p> <p><u>Impacts to Wetlands</u></p> <p>As WSP has outlined in Comment #11, there is a degree of agreement that the proposed development may be feasible with no impacts to adjacent wetlands. However, there is conflicting information on the water balance and hydrogeological assessment. For example, Azimuth outlines in Section 7.1 (page 11) of the EIS that runoff from impervious surfaces will "infiltrate within the proposed lots"; however, the conclusion in the following sentence refers to the capacity for infiltration on the adjacent lands to the proposed development. No reference to a water balance study, or simple area calculation to support the statement that "the scale of the proposed development is minor relative to the area of land on the retained lot", has been provided. Given that the adjacent lands are wetlands (unevaluated; &gt;2 ha indicating potential provincial significance), with no vegetated buffer / setback to this feature, additional data to support the conclusions in the EIS is warranted. Furthermore, while nutrient output for the septic system has been considered, there is no clear discussion on impacts of surface water run off from impervious or less pervious surfaces (e.g., driveways, lawns/compacted areas, etc.). Given Azimuth's conclusion that the lots will have to be maintained in a cleared condition, it is likely that impervious cover will increase and grassed areas may be compacted and will provide little infiltration within the lots. While it is fair to rely on other studies to assess impacts to hydrology and/or water balance, it is important for an EIS to review these findings and apply them to the impact assessment. Without reference to these studies, it is unclear how the conclusions were reached.</p>



#	WSP EIS Comment (September 2023)	Azimuth Comment Response (January 2024)	WSP RESPONSE (February 2024)
			Furthermore, it is unclear how boundary markers will prevent encroachment into the adjacent wetland without fencing (or other physical barrier), or other mitigation measures post-development. It is WSP's opinion that although the proposed development may be feasible, additional assessment and information are required to conclude no negative impact, specifically in the absence of a vegetated buffer / setback.
12	WSP recommends that the mitigation measures included in the last paragraph of Section 7.1, be moved to a sub-section of Section 8.0, entitled 'Mitigation Recommendations for Future Development as they are more relevant to a future site plan application process.	<b>No response provided by Azimuth.</b>	<b>Addressed.</b> Based on the additional information provided in Azimuth's response to Comment #17, WSP understands that no site clearing or alteration is being proposed as part of the lot severance application. No further action required.
13	WSP agrees with the assessment that there will be no impact to the function of the SWH types identified in the EIS (Woodland Area-sensitive Breeding Bird Habitat, Bat Maternity Colonies, and Special Concern and Rare Wildlife Species – Eastern Wood-pewee) based on the proposed lot severance and pending resolution of Comments #3 and #7.	Noted.	<b>Addressed.</b> No additional SWH considerations are required.
14	WSP generally agrees with the assessment that the removal of a maximum of 0.7 ha (i.e., ~2% of the Significant Woodland), assuming full clearing of the sites, is unlikely to impact the function of the Significant Woodland.	Noted and speaks to the necessity of evaluating impacts of tree clearing/extent of vegetation removal associated with future development (see reply to WSP Comment #10).	<b>Addressed.</b> No action item was associated with this comment. WSP agrees that it is important to evaluate impacts of proposed tree clearing taking a conservative approach (i.e., full clearing of severed lots) when evaluating impacts. It should be clear in the EIS that this is an assumption for the purpose of evaluating impacts at this preliminary stage (i.e., severance), as this could be confused with the recommendation provided in Section 8.0 to "Minimize the extent of tree clearing on lots Part 1, Part 2, and Part 3 to the extent possible...etc."
15	Please refer to Comments #2 and #9. Any updates to the candidate or confirmed SAR habitat identified on-site and within the Study Area should be considered in the impact assessment and mitigation sections (e.g., SAR snakes).	Addressed – please see responses to WSP Comments #2, and #9.	<b>Addressed.</b> Refer to WSP response to Azimuth for Comment #2 and #3.
16	WSP agrees with the assessment related to Black Ash ( <i>Fraxinus nigra</i> ) that any proposed removal of these species after January 25, 2024 (as per O. Reg 23/22 to the ESA) will require ESA considerations. Section 7.5 outlines a date of "February 25, 2024"; however, the rest of the report refers to the correct date in January.	The province released information recently indicating probable direction to be taken with respect to enacting protections to Black Ash under Ontario's ESA, summarized as follows:  Black Ash was listed as endangered in Ontario in January 2022 but the province, through O. Reg. 23/22 enacted a temporary suspension of protections under Ontario's  <i>Endangered Species Act, 2007 (ESA)</i> until January 26, 2024. Therefore, the species is	<b>Partially Addressed.</b>  As outlined in WSP Comment #16, WSP agrees with the approach and was requesting confirmation that the January 25, 2024 date would be used for timing related to site clearing and Black Ash considerations and not the February 25, 2024 outlined in Section 7.5 of the EIS.  The decision on this species has now been made and regulations are in effect as of January 26, 2024 (O. Reg 6/24; O. Reg 7/24). The final decision outlines that species protection only applies to Black Ash greater than 1.37 m in height and 8 cm diameter-at-breast-height. Species protection do not apply to Black Ash determined to be unhealthy in the report required in Subsection 3 of O. Reg 6/24.

#	WSP EIS Comment (September 2023)	Azimuth Comment Response (January 2024)	WSP RESPONSE (February 2024)
		<p>not currently protected under the ESA (nor is it assessed as provincially rare – S Rank 4). We understand that the province may extend the suspension of protections for another</p> <p>year to “no later than January 2025 so that the proposed regulatory approach can be implemented” (Environmental Registry of Ontario [ERO] number 019-7378 [Comment period September 18, 2023 - November 2, 2023], <a href="https://ero.ontario.ca/notice/019-7378">https://ero.ontario.ca/notice/019-7378</a>). The proposed regulatory approach outlined in the ERO posting - <a href="#">Protecting Black Ash</a> and its habitat under the Endangered Species Act, 2007.) states: “Ontario is proposing to limit the application of the ‘species protection’ prohibitions in subsection 9(1) of the ESA to healthy Black Ash, those that appear appear (sic) to have survived exposure to EAB, located in areas of the province that have experienced significant EAB-caused mortality of ash trees. A healthy Black Ash tree is one that appears to have survived exposure to EAB, remains in a healthy condition (‘lingering ash’), and has a trunk diameter at breast height (DBH) of at least 8 cm (sic). Ontario is proposing to apply ‘habitat protection prohibitions in subsection 10 (1) of the ESA to a radial distance of 30 metres around each Black Ash tree protected under subsection 9 (1)” (i.e., 30m from a healthy Black Ash with DBH ≥ 8cm). Note: EAB = Emerald Ash Borer.</p> <p><i>Summary</i></p> <p>At present Black Ash receives no protection under the ESA, protections may be extended to January 2025 and protections would likely only apply to healthy Black Ash larger than 8cm DBH. The size class distribution and health status of Black Ash on the subject lands has not been established pending issue of regulations and guidance documents by the province <u>and</u> approval of the property severance by the Town.</p>	<p>Habitat protection applies to the 30 m radial distance around each Black Ash tree that meets the above criteria for species protection.</p> <p>It is important to note that the EIS outlines that Black Ash are found in each vegetation community on-site (Appendix E) and a patch of 25-30 Black Ash were documented in Lot, Part 1 (Figure 2; Figure 3). Given that no tree clearing or site alteration are proposed as part of the severance application, no ‘activity’ will impact these individuals. However, as Azimuth outlines in comment responses above, lot creation is considered ‘development’ under the TPOP and PPS. PPS Policy 2.1.7 outlines that “<i>Development and site alteration shall not be permitted in habitat of endangered species and threatened species, except in accordance with provincial and federal requirements.</i>” Furthermore, TPOP Policy 3.10.2(3) reiterates the PPS policy and TPOP Policy 3.10.2(4) provides protection to adjacent lands to habitat for endangered and threatened species unless no negative impact to the ecological function of the SAR habitat.</p> <p>No tree inventory or Black Ash health assessments have been completed outlining the locations of Black Ash individuals on-site or to determine whether Black Ash on-site meet the criteria for protection under <i>O.Reg 6/24</i> to the ESA. Therefore, it is WSP’s opinion that the entire site would be considered Candidate Black Ash habitat (i.e., within 30 m of any Black Ash on-site in the absence of a Black Ash assessment report as per Subsection 3 of <i>O.Reg 6/24</i>).</p> <p>Given the outcome of the decision from the provincial government and that development is proposed within candidate Black Ash habitat, WSP recommends that the Black Ash assessment and associated report be provided prior to approval. This approach is recommended to fully understand the constraints of the SAR habitat, if protected Black Ash individuals are identified. It is WSP’s opinion that approval at this stage would be premature without fully understanding the potential impacts to protected Black Ash individuals within 30 m of the lots proposed for severance.</p>
17	WSP recommends separating the recommendations into two parts: 1) recommendations to be completed prior to the lot severance and 2) mitigation recommendations for future development.	None of the recommendations are to be completed prior to the lot severance. Therefore, all six recommendations are recommendations for future/post severance development activities. No need to disaggregate recommendations.	<p><b>Addressed.</b></p> <p>Based on the additional information provided in Azimuth’s response to Comment #17, WSP understands that no site clearing or alteration is being proposed as part of the lot severance application. No further action required.</p>
18	WSP agrees with the recommendation to minimize the extent of tree clearing, where possible, to maintain the woodland functions (e.g., SWH, SAR bat habitat, etc.). To facilitate this recommendation, WSP recommends that a tree inventory and tree protection plan be prepared during the site plan application process prior to any tree clearing. Furthermore, WSP recommends consideration of TPOP Policy 3.10.2 related to tree replacement to mitigate loss of trees as a result of the proposed development, in consultation with the Town of Penetanguishene.	Noted.	<p><b>Addressed.</b></p> <p>It is WSP’s understanding that there will be minimal capacity for tree retention within the proposed lots based on Azimuth’s response to Comment #10. The tree clearing permit and any associated replacements will be determined during the next application, pending a tree inventory, tree protection plan, and in accordance with the Town’s tree by-law.</p>



#	WSP EIS Comment (September 2023)	Azimuth Comment Response (January 2024)	WSP RESPONSE (February 2024)
19	WSP recommends that the Clean Equipment Protocol for Industry (Halloran et al., 2013) be implemented during construction and tree clearing to mitigate the spread of invasive species to the site. Furthermore, an Invasive Species Management Plan should be completed and approved by the Town at the time of the proposed development.	Noted.	<b>Addressed.</b>  WSP interprets Azimuth's response of "Noted" to mean that the Clean Equipment Protocol for industry will be implemented and an Invasive Species Management Plan will be completed as part of the EIS recommendations through this Comment Response Matrix and peer review process.
20	Based on the above comments provided through this Peer Review, it is WSP's opinion that additional information is required to assess the project's feasibility and compliance with municipal, provincial, and federal legislation and policy. In particular, confirmation of the wetland limits, an updated SAR screening and more clarity in the impact assessment section are required. The final conclusions should speak only to the proposed severance rather than the proposed development, as development details are unknown. Pending the resolution of the above comments, it is WSP's opinion that it is likely that the proposed severance will be in compliance with applicable legislation based on the assessment in the EIS.	<p>We recommend that the Town/WSP rely on the PJR by MHBC as the authoritative source with respect to planning conformity.</p> <p>An updated/expanded SAR screening is provided in responses to WSP Comments #2 and #3 above. Results indicate that the subject lands do not provide habitat for the additional endangered and threatened species considered consistent with field observations indicating none present. Results also indicate that the subject lands do not provide habitat for the SC and provincially rare (S1-3) species identified locally in background data consistent with field observations indicating none present.</p> <p>The wetland boundary was delineated at an appropriate time of year (summer) by qualified professionals based on the 50% rule of the OWES consistent with the requirements of the terms of reference for the EIS established with the Town/WSP.</p> <p>As per response to WSP Comment #10, the approach to impact assessment speaking to likely extent of lot clearing to facilitate future residential development is appropriate as the proposed development is lot severance to construct privately serviced single-detached dwellings in the future. In our opinion these two factors - lot creation and construction - cannot be logically decoupled. The severance of a lot with a Rural Area designation conveys or implies certain development rights relating to the creation of a single detached dwelling; thus a lot cannot be severed without consideration of for how a single detached dwelling (and associated infrastructure) may be accommodated. We also note that both lot creation and construction are defined as development under the PPS.</p>	<p><b>Partially Addressed.</b></p> <p>While the PJR does provide planning conformity, it is important for the EIS to outline compliance with the relevant natural heritage policies, legislation and plans, as per the TOR (Refer to WSP Comment #1). Furthermore, the PJR was out of scope for WSP's peer review and in WSP's experience the PJR utilizes the assessments in the EIS to inform their planning justification.</p> <p>WSP agrees with the updated SAR and SWH assessments (related to SOCC); however, Azimuth's conclusion that the subject lands do not provide habitat for endangered or threatened species is not accurate based on the presence of Black Ash (THR). While at the time of submission, this species' protection was suspended, it was still considered threatened under the ESA. As outlined by Azimuth in the EIS, re-evaluation for this species is required based on the decision made by the provincial government and the enactment of <i>O. Reg 6/24 and 7/24</i> under the ESA on January 26, 2024. As lot creation is considered 'development' and Black Ash habitat has not been defined for the site through appropriate assessment as per <i>O. Reg 6/24</i> (as applicable Black Ash plus a 30 m radial distance from the stem), development within habitat for a threatened species can not be confirmed in accordance with the TPOP and PPS.</p> <p>WSP maintains its position that a site visit and delineation is warranted. Please refer to WSP's response for Comment #11.</p> <p>WSP agrees that the impact assessment does not need to be re-framed based on the additional clarity provided by Azimuth through the comment response process.</p>

## Conclusions

Based on the above comments and associated responses provided through this Peer Review, it is WSP's opinion that additional actions are required to conform to applicable policies and legislation. Specifically, assessment of Black Ash and a site visit to confirm existing wetland conditions and stake the wetland boundary are required prior to approval.

## Limitations

This peer review was prepared based on information provided by the Town of Penetanguishene relating to the proposed development, and within WSP's scope of work. Review and comment on other aspects of the project, including but not limited to contamination / remediation, planning, etc. outside of the comments addressed herein, is outside the scope of this review. WSP defers to relevant agencies with respect to compliance of the proposed development to policies under their jurisdiction.

Sincerely,

**WSP Canada Inc.**



Nathan DeCarlo, MES  
*Senior Ecologist*



Heather Drost, BSc  
*Senior Ecologist*

ND/HD/lld

Attachments: Attachment A: Azimuth Peer Review Comment Response Letter

[https://wsponline.sharepoint.com/sites/ca-221-02768-00/14tech\\_profservices/6.1500sandybayroad/eispeerreview/2024commentresponse/draft/221-02768-00-1500sandybayroadpeerreviewcommentresponseletter\\_wsp\\_15feb202.docx](https://wsponline.sharepoint.com/sites/ca-221-02768-00/14tech_profservices/6.1500sandybayroad/eispeerreview/2024commentresponse/draft/221-02768-00-1500sandybayroadpeerreviewcommentresponseletter_wsp_15feb202.docx)



**ATTACHMENT A**

**Azimuth Peer Review Comment  
Response Letter**



Environmental Assessments & Approvals

January 18, 2024

AEC 20-397

Peter Raikes  
c/o Raikes Geomatics Inc.  
670 Balm Beach Road East, Unit 1  
Midland, ON  
L4R 0J6  
praikes@survey4u.com

Re: **Response to Peer Review Comments Provided by The Town of  
Penetanguishene September 15, 2023 – Proposed Severance 1500 Sandy  
Bay Road**

Dear Mr. Raikes:

As requested, we provide the following responses to the Town of Penetanguishene's environmental peer review consultant's (WSP Canada Inc. [WSP]) comments on Azimuth's Environmental Impact Study - Proposed Severance 1500 Sandy Bay Road, Town of Penetanguishene, Simcoe County (March 1, 2023).

**WSP Comment:**

**Planning Context, Background Review, and Agency Consultation**

1. Section 2.0 provides an outline of the planning context and considers some of the planning policy and legislation that applies to the site from a municipal, provincial, and federal perspective. This section should also include a summary and assessment of other policy and legislation including the Migratory Birds Convention Act (MBCA; including consideration for the Migratory Bird Regulations, 2022), Simcoe County Regional Official Plan, and federal Species at Risk Act.

*Azimuth Response:*

The Planning Context section of the EIS only addresses natural heritage planning policy applicable to the proposed development, as well as applicable legislation that supercedes those policies (*i.e.*, Sections 2.1.6 and 2.1.7 of the PPS refer to fish habitat and habitat of





threatened and endangered species, which defer to the *Fisheries Act* and Ontario's *Endangered Species Act, 2007* (ESA)).

We do not refer to the federal Species at Risk Act (SARA) because with the exception of aquatic species/fish, SARA is applicable only on federal lands (except under exceptional circumstances under a specific Minister's order). The EIS determined that the drainage feature does not represent fish habitat, and no endangered or threatened aquatic species are identified locally in background data. Given that the subject and adjacent lands are privately owned, the SARA is not applicable to the proposed development and hence was not summarized/assessed. We understand that the natural heritage policies of the Simcoe County Official Plan are not applicable as the subject lands are located in the Penetanguishene settlement area and hence the regional/county OP was not summarized/assessed.

The federal *Migratory Birds Convention Act* (MBCA) and provincial *Fish and Wildlife Conservation Act* (FWCA) were addressed in Section 8 of the EIS with respect to the recommended timing of vegetation clearing to avoid the combined bat active season and woodland bird nesting season. This was the appropriate place to address these Acts, since they do not technically speak to development potential/conformity within applicable natural heritage policy, but instead only require avoidance of active nests. For most species, this can be accomplished by avoiding the bird nesting season, although 2022 updates to MBCA regulations require extended assessment in the case of the 18 species listed under Schedule 1 of the Migratory Birds Regulations, 2022 (SOR/2022-105) to confirm disuse. Given that only one Schedule 1-listed species was observed (Pileated Woodpecker), for which there was no nest observed and no probable or confirmed nesting evidence, basic mitigation through a vegetation clearing timing window was deemed suitable. A Planning Justification Report ([PJR], July 2023) was prepared by MHBC in which applicable planning policy (natural heritage and otherwise) was summarized/addressed. The PJR is the authoritative report with respect to planning context and conformity. The Planning Context section of the EIS is accurate and complete as it relates to the proposed development.



### WSP Comment:

2. The background review sources outlined in **Section 3.2** are comprehensive and are in line with the Terms of Reference. However, based on WSP's review of background sources, several species afforded protection under the *Endangered Species Act, 2007* (ESA) have records in the vicinity of the site and are not included in the species at risk (SAR) assessment in **Appendix I**. Additional species WSP identified are as follows:

- Least Bittern (*Ixobrychus exilis*; eBird; OBBA)
- Eastern Foxsnake (*Pantherophis gloydi*; ORAA)
- Eastern Hog-nosed Snake (*Heterodon platirhinos*; ORAA)
- Massasauga (*Sistrurus catenatus* pop. 1; NHIC; ORAA)

An assessment for these species or rationale as to why they are not included should be incorporated into the EIS.

### *Azimuth Response:*

**Least Bittern** – This species strongly prefers relatively large cattail marshes with a mix of open pools and channels for nesting as they provide dense vegetation for nest concealment and nearby aquatic habitat for foraging on frogs, small fish and aquatic insects. The subject and adjacent lands do not provide these habitat conditions and no Least Bittern were detected during breeding bird surveys.

### *Summary*

The subject and adjacent lands do not provide habitat conditions of value to Least Bittern. Given the lack of suitable habitat, combined with the lack of observation of this species during breeding bird surveys (or at any other time), this species is not an issue related to the proposed development.

**Eastern Foxsnake** - Species is reported for the 100km<sup>2</sup> atlas square covering the subject and adjacent lands (17NK86). Atlas Square 17NK86 covers portions of Beausoleil Island known to contain relatively large numbers of this and other snake species. Provincial data (NHIC) for grid squares covering a 15km<sup>2</sup> area covering the subject and adjacent lands do not report Eastern Foxsnake. Range maps for Eastern Foxsnake indicate that the Georgian Bay population is not associated with the subject lands/Town of Penetanguishene (see below).



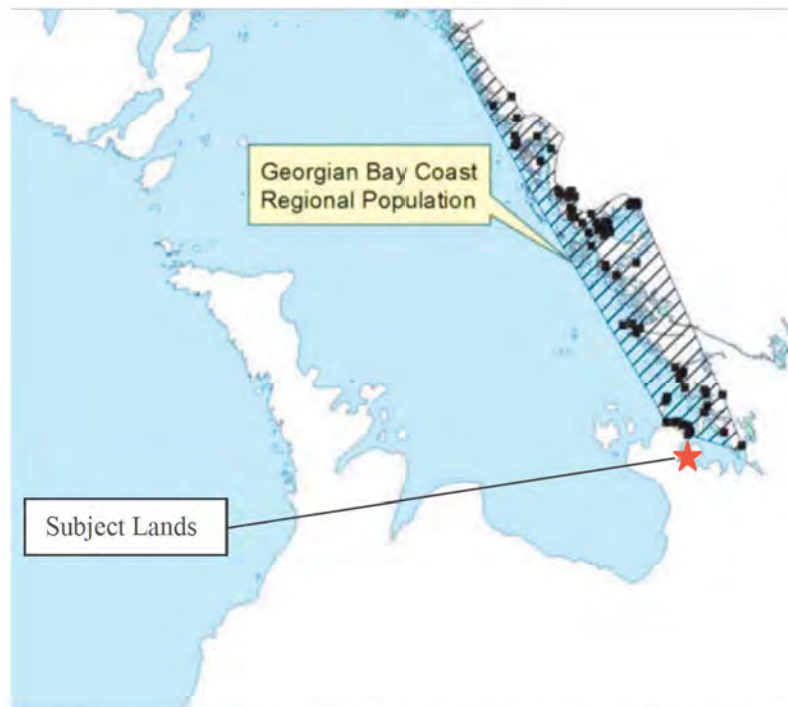


Image from: Figure 2. Eastern Foxsnake (*Elaphe gloydi*) distribution in Ontario, Canada (COSEWIC. 2008. COSEWIC assessment and update status report on the Eastern Foxsnake *Elaphe gloydi*, Carolinian population and Great Lakes/St. Lawrence population, in Canada. Committee on the Status of Endangered Wildlife in Canada. Ottawa. vii + 45 pp. ([www.sararegistry.gc.ca/status/status\\_e.cfm](http://www.sararegistry.gc.ca/status/status_e.cfm)). Subject Lands are highlighted using a red star.

### *Summary*

The subject lands do not occur within the range of Eastern Foxsnake, and there are no provincial/NHIC species records to suggest the presence of this species in the vicinity of the subject lands. Therefore this species is not an issue related to the proposed development.

**Eastern Hog-nosed Snake** - Species is reported for the 100km<sup>2</sup> atlas square covering the subject and adjacent lands (17NK86). Atlas Square 17NK86 covers portions of Beausoleil Island known to contain relatively large numbers of this and other snake species. Provincial data (NHIC) for grid squares covering a 15km<sup>2</sup> area covering the subject and adjacent lands do not report Eastern Hog-nosed snake. The species is reported in Simcoe County with Wasaga Beach being the source of most sightings. Therefore, there is no evidence of the species occurring on or adjacent to the subject lands. However, there may be a low (but non-zero) probability of occurrence. Therefore,



out of an abundance of caution, we will address habitat requirements below based on: COSEWIC. 2007. COSEWIC assessment and update status report on the Eastern Hog-nosed Snake

*Heterodon platirhinos* in Canada. Committee on the Status of Endangered Wildlife in Canada. Ottawa. viii + 36 pp. ([www.sararegistry.gc.ca/status/status\\_e.cfm](http://www.sararegistry.gc.ca/status/status_e.cfm)).

#### *Habitat Requirements*

Platt (1969) described **six features to define the preferred habitat** of *H. platirhinos*: **well-drained soil; loose or sandy soil; open vegetative cover such as open woods; brushland or forest edge; proximity to water;** and climatic conditions typical of the eastern deciduous forest biome. An analysis of habitat used at **Wasaga Beach Provincial Park (P.P.)** in Ontario indicated that *H. platirhinos* preferred **forested areas as well as wetlands adjacent to conifer plantations**, and that meadows and areas currently being used by people (urban, agricultural, *etc.*) were the least suitable (Cunnington 2004b). Eastern Hog-nosed Snakes in shoreline areas such as Rondeau P.P. and Long Point P.P. often rely on driftwood and other ground cover in beach and beach dune habitats (Seburn 2005), where their prey of choice, *Bufo fowleri*, is found. A telemetry study done south of **Parry Sound** in Ontario suggests that, at the landscape level, Eastern Hog-nosed Snakes in that area **preferred meadow, sand, human impacted areas (i.e. private dwellings, trailer parks, sand/gravel pits), and forest habitats over rock, wetland, and aquatic habitats** (Rouse 2006) (COSEWIC 2007). Eastern Hog-nosed Snake is a prey specialist, preferring amphibians – mainly toads and hence availability of frogs and toads as a prey base is important (G. Cunnington, *Personal Communications with J. Broadfoot* on unrelated project in Wasaga Beach).

#### *Habitat Assessment*

As per Section 4.2 of the EIS, surficial soils of the property and adjacent lands are composed of VASEY series – sandy loam till underlain by silt till. The soils are not well drained as per the presence of wetlands and a drainage feature constructed to address poor drainage. As per the Significant Wildlife Habitat assessment in Appendix H of the EIS, there are no areas of sand barren or areas of disturbance providing bare sand/meadow associated with the subject lands, and none of these features were evident on adjacent lands. The subject and adjacent lands contain closed canopied forests/swamp wetlands and hence do not provide open canopy conditions. As per Section 4.4 of the EIS, the results of evening calling amphibian surveys revealed no amphibian calling within wetlands of the property (even by American Toad, the most common of Eastern Hog-nosed Snake's two preferred prey species in Ontario), which suggests no forage base for required prey.





### *Summary*

The subject lands do not provide habitat conditions or a forage base of value to Eastern Hog-nosed Snake. No provincial/NHIC species records occur in the vicinity of the subject lands. Further, no observations of the species were documented during multiple search efforts (n=6), all of which were completed at suitable times and under suitable observation conditions when snakes would be active and hence detectable. This species is not an issue related to the proposed development.

**Massasauga** – The province (NHIC) indicates that it has records of Massasauga tagged to all 15 1km<sup>2</sup> NHIC grid squares associated with the subject and adjacent lands (*i.e.* all of the following squares: ATLAS NAD83 IDENT 17NK8761, 17NK8560, 17NK8561, 17NK8562, 17NK8660, 17NK8661, 17NK8662, 17NK8760, 17NK8762, 17NK8860, 17NK8861, 17NK8862, 17NK8960, 17NK8961, 17NK8962). Azimuth has confirmed with the NHIC that the records - in spite of each record having unique OGF IDs – are not fully independent observations/unique records. Some records intersect with multiple NHIC grid squares, and hence represent duplicates with low reporting accuracy. The NHIC advised that it has three records of Massasauga that intersect with the block of 15 NHIC grid squares listed above – one historic (1969), two from a decade ago (2011, 2013) and none recent. As such, there is very limited evidence of Massasauga associated with the region surrounding the subject lands. However, out of an abundance of caution, we will address habitat requirements below based on: COSEWIC. 2012. COSEWIC assessment and status report on the Massasauga *Sistrurus catenatus* in Canada. Committee on the Status of Endangered Wildlife in Canada. Ottawa. xiii + 84 pp. ([www.registrelep-sararegistry.gc.ca/default\\_e.cfm](http://www.registrelep-sararegistry.gc.ca/default_e.cfm)).

Range maps for Massasauga indicate that the Georgian Bay population is not associated with the subject lands/Town of Penetanguishene (see below).

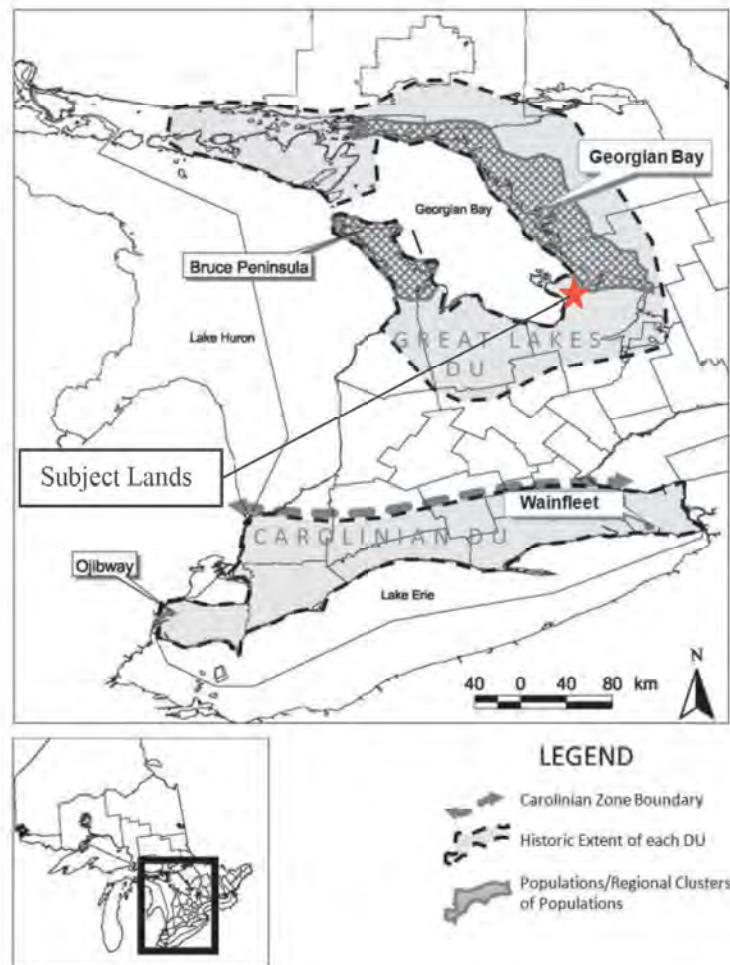


Image from: Figure 5. Approximate maximum extent of Massasauga (*Sistrurus catenatus*) designatable units in Canada based on historical and contemporary occurrence records (see Search Effort). Northern boundary of the Carolinian faunal province is approximate (COSEWIC 2009b). Image adapted from Rouse and Willson 2002 (COSEWIC 2012). Subject Lands are highlighted using a red star.

#### *Habitat Assessment*

##### General Habitat Use/Foraging Habitat

Massasaugas utilize strikingly different macrohabitats across their range (Reinert and Kodrich 1982; Seigel 1986; Weatherhead and Prior 1992; Johnson 1995; Kingsbury 1996, 1999; Johnson and Leopold 1998; Rouse 2005, Sage 2006; Bissell 2006). Preference for suitable microhabitats appears to drive habitat selection in Massasaugas (Harvey and Weatherhead 2006a). **During the active season, this species prefers microhabitats with relatively low canopy cover (including gaps in forest), large rocks and dense ground cover or shrubbery** (retreat sites) (Harvey and Weatherhead





2006a; Sage 2006). Great Lakes/St. Lawrence Designatable Unit (DU): Radio telemetry data have shown Georgian Bay Massasaugas to **use a mosaic of bedrock barrens, conifer swamps, beaver meadows, fens, bogs, and shoreline habitats** (Beausoleil Island, Villeneuve unpub. data; Killbear Provincial Park (KPP), Parent unpub. data; Hwy 69 corridor; Rouse et al. 2001). On the **upper Bruce Peninsula**, radio telemetry data have demonstrated that Massasaugas are habitat generalists and the use of habitat **varies seasonally from forested habitats (dense deciduous, dense coniferous and sparse forest) during hibernation to open, wetland, and edge habitat with canopy closure < 50% in mid-late summer** (Harvey and Weatherhead 2006a; Harvey pers. comm. 2011).

#### Hibernation Habitat

Successful hibernacula for the Massasauga includes some or all of the following necessary features: structural stability, **access to the water table/moist substrate, access to sufficient depth below the frost line, protection from extreme temperature fluctuations (e.g., presence of vegetative cover or large rocks)** and space to adjust to changing conditions (Maple 1968; Reinert 1978; Johnson 1995; Johnson et al. 2000; Harvey and Weatherhead 2006b). Great Lakes/St. Lawrence DU: In Bruce Peninsula National Park, Massasaugas hibernate singly or in small groups in **old root systems, rodent burrows, and rock crevices, typically within forested habitats**. In Parry Sound District, Massasaugas demonstrate strong hibernacula fidelity and **hibernate in treed depressions in rock-outcrops and areas of wet conifer forest** (Rouse 2005).

#### Gestation Sites

The most important aspects of gestation sites are favourable thermal conditions for embryonic development (*i.e.*, **open canopy** areas with sufficient solar exposure) and available refuge that provides protection from predators and warmth during cool weather (Harvey and Weatherhead 2006a). Great Lakes/St. Lawrence DU: Gestation sites at KPP are usually located on the **rock-barren habitats** and consist of **large perched table rocks, with sufficient cover habitat (small bushes, grasses)**, and easily accessible protective retreat sites (Rouse 2005).

#### *Summary*

The subject and adjacent lands are heavily wooded throughout and hence do not provide open/semi-open habitat conditions preferred by the species (open habitat is limited to areas of highly disturbed existing residential development). There are no rock outcrops/rock barrens located on or adjacent to the subject lands and hence no suitable gestation habitat. The subject lands do not provide wet conifer forest preferred by Massasauga in the Georgian Bay population (*i.e.*, DU/population 1) and there are no obvious habitat elements such as rock crevices that would provide access to underground.



The water table is relatively high in the area of proposed development and hence opportunities to access moist but not saturated sites underground below the frost line are not apparent. Further, no Massasauga were observed during multiple search efforts (n=6) completed at times and under suitable observation conditions when snakes would be active and hence detectable. For these reasons Massasauga is not an issue related to the proposed development.

#### WSP Comment:

3. As outlined in **Section 3.3** of the EIS, habitat for Special Concern (SC) and provincially rare species (S1-S3) are not afforded protection under the ESA but are considered Significant Wildlife Habitat (SWH). Generally, WSP recommends that these species (generally referred to as Species of Conservation Concern; SOCC) are included in the habitat screening to identify candidate habitat and to inform the SWH assessment. The SWH assessment in **Appendix H** does consider these species for the Special Concern and Rare Wildlife Species SWH type if identified through field studies (i.e., Eastern Wood-pewee, *Contopus virens*), however, no assessment of suitable habitat was completed for other SC and provincially rare species with records in the vicinity of the site. In the absence of targeted surveys for other SC and provincially rare species (e.g., snakes, turtles, insects), suitable habitat for these species would be subject to SWH policies in the PPS and Town of Penetanguishene Official Plan (TPOP) as candidate SWH.

#### *Azimuth Response:*

Other Special Concern (SC) & provincially rare (S1-3) species identified in background data for the subject and adjacent lands include: Wood Thrush (SC); Common Nighthawk (SC); Snapping Turtle (SC) and Eastern Musk Turtle (SC).

#### Birds

As per Section 4.4 of the EIS, dawn breeding bird surveys were completed in June 2022 and confirmed no use of the subject or adjacent lands by Wood Thrush. As per Section 4.4 of the EIS, nocturnal bird surveys completed in June 2022 confirmed no use of the subject or adjacent lands by Common Nighthawk.

#### Turtles

As per the Significant Wildlife Habitat Assessment table in Appendix H of the EIS – Wetlands provide shallow water only (water not deep enough to provide overwintering habitat). As per Section 4.4 of the EIS - searches of vernal pools and the drainage feature were completed at times and under observation conditions when turtles would be active and hence detectable on the following dates: April 11, May 18, June 4, June 23, July 8, September 14, 2022. No turtles or signs of turtles (predated turtle nests, *etc.*) were observed.





### *Summary*

The field program completed by Azimuth was sufficient to address the potential for SC birds and turtles reported in background data for the area, with none found. Therefore, there is no candidate habitat for SC or provincially rare species associated with the subject or adjacent lands as per the findings and conclusions of the EIS.

### **WSP Comment:**

#### **Field Investigations**

4. Based on a review of the field investigations outlined in **Section 3.1**, WSP agrees with the protocols referenced and timing of the completed surveys. However, Azimuth references a technical note on survey methods from 2015 for bat snag density mapping in **Section 3.1** and the most recent bat survey standards note from 2022 in **Section 7.2**. In the absence of a summary of the methods for the snag density mapping in **Section 4.4**, WSP requests confirmation that the updated SAR bat guidance (MECP, 2022a; 2022b) was utilized as referenced in **Section 7.2**. This 2022 reference should also be included in the list of references (Section 10).

### *Azimuth Response:*

The Technical Note Species At Risk (SAR) Bats (“Technical Note”; MNRF, 2015) remains the most comprehensive and closest-to-publication Ministry document relating to Endangered bat study methods for EIS work in Ontario. As such, it is the Technical Note that Azimuth referenced in the methods section, although it should have been clarified that the updated guidance from the MECP’s unpublished “Bat Survey Standards Note 2022” was applied to bat snag density mapping field work in this EIS.

Regardless of protocol, Azimuth notes that our EIS concluded, conservatively, that there was potential for the study area to function as habitat for Endangered bats (Little Brown Myotis, Northern Myotis, Tri-colored Bat and potentially Eastern Small-footed Myotis), and as such these were considered in the Impact Assessment.

The Bat Survey Standards Note 2022 was referenced in Section 7.2 instead of the Technical Note because specific timing guidance for the bat active season has changed rapidly since the Technical Note publication, and it has long been irrelevant to cite the Technical Note in that regard. The Bat Survey Standards Note 2022 was not cited in our references list because it is not dated, not officially designated as “draft” or “published”, does not credit an author, and (to our knowledge) cannot be found on a webpage through a link; as such there are no details to provide as part of the citation. However, Azimuth will include this reference in the future.



#### **WSP Comment:**

5. Based on a review of the background records (as outlined in Comment #2 above), there are records of SAR snakes within the vicinity of site, and it appears there is suitable habitat within the study area. No snake species were included in the SAR assessment in **Appendix G**. WSP acknowledges that surveyors conducted searches in areas deemed to have the greatest likelihood of snake activity. However, Ontario SAR snakes are cryptic and their detectability is highly dependent on weather conditions (MNRF, 2016). The MNRF Survey Protocol for Ontario's Species at Risk Snakes (MNRF, 2016) provides a detailed outline of the required environmental conditions and level of effort to reliably determine presence / absence. This guidance recommends a minimum of ten snake visual encounter surveys (VES), with at least five prior to July 1<sup>st</sup>, at a search effort of approximately 1-2 hours per hectare (MNRF, 2016). Please update the SAR assessment to consider SAR snakes that have the potential to occur within the vicinity of the site.

Unless no suitable habitat is present based on the SAR assessment or targeted surveys under appropriate conditions are completed in accordance with MNRF (2016), all suitable habitat on-site would be considered candidate SAR habitat and would be subject to ESA considerations, as well as applicable PPS and TPOP policies.

#### *Azimuth Response:*

As per the results of the habitat assessments for Eastern Foxsnake, Eastern Hog-nosed Snake and Massasauga presented in response to WSP Comment # 2, the subject and adjacent lands do not provide candidate habitat for any of the snake species and hence are not subject to ESA considerations – *i.e.*, no damage or destruction to habitat of ESA protected snakes, and no expectation of kill, harm or harassment of individuals. The six reptile specific surveys completed as part of the EIS on April 11, May 18, June 4, June 23, July 8, September 14, 2022 were more than adequate to screen the subject lands for snakes, particularly in areas not expected to provide habitat for these species – no snakes or signs of snakes (shed skins, etc.) found.

#### **WSP Comment:**

##### **Wetlands**

6. Azimuth outlines that there are no Provincially Significant Wetlands (PSWs) identified on or adjacent to the site. However, no wetland evaluation was completed to determine significance for the large wetland adjacent to the site (> 2 ha), as per the Ontario Wetland Evaluation System (OWES; MNRF, 2022), which should be clarified in the text. Surface water connectivity (if any) to the wetlands to the east of the site (*i.e.*, via culverts below Sandy Bay Road) should be discussed in the EIS.





*Azimuth Response:*

Azimuth's statement in Section 5.1 of the EIS that "there are no Provincially Significant Wetlands identified on or adjacent (*i.e.*, within 120m) to the property" is accurate, as there are no Provincially Significant Wetlands (PSWs) identified on or adjacent to the subject lands as per Town of Penetanguishene Natural Heritage Study mapping (SSEA 2017) provided in Appendix C of the EIS. Likewise, the Province's Natural Heritage mapping (NHIC 2023) corroborates this mapping.

It is our understanding that there is no underlying requirement by the PPS or municipal policy to complete an *OWES evaluation* on nearby unevaluated wetlands as part of an EIS process (as this would be prohibitively burdensome), and as such in Azimuth's experience there is typically no reason to specify that an OWES evaluation has not been completed. Azimuth notes there may be a degree of confusion here between OWES evaluation and LSW evaluation (see response to WSP Comment #7 for details).

For clarity, Azimuth did not complete an OWES evaluation of any wetlands as part of this EIS. The completion of a full Wetland Evaluation under OWES is an extensive process requiring thorough background research and field work extending to areas well beyond the defined subject lands and adjacent lands, as well as a degree of labor-intensive analysis. Since this is not a typical standard for a one-property EIS, an OWES evaluation would require early clarification in a given EIS Terms of Reference. There was no requirement to complete either a "wetland staking," OWES evaluation, or scoped LSW evaluation specified when establishing the Terms of Reference for the EIS with the Town/WSP as per Appendix B of the EIS. As such, these items were not undertaken as part of the EIS.

Sections 4.5 and 7.4 of the EIS address drainage, indicating that the subject lands are drained to the west and then north to Georgian Bay. Surface water connections across/beneath Sandy Bay Road were not raised because no connections (*i.e.* no culverts) were identified crossing Sandy Bay Road. While historically the wetlands east and west of Sandy Bay Road may have been contiguous, any such surface connectivity appears to have been interrupted by the construction of Sandy Bay Road, with flow rate between these areas negligible/insufficient to require culvert connection. There are no alterations proposed to this pattern of drainage or alterations to roadside drainage associated with Sandy Bay Road and hence as per Section 7.4 of the EIS - the proposed development does not impact the hydrology of wetlands. Therefore, the status of local wetlands is accurately reported and surface water connectivity and drainage impacts have been considered adequately in the EIS.



### WSP Comment:

7. Based on the proximity of the wetland on-site to the lots proposed for severance, the limits of the wetland will require staking, to be confirmed (and subject to revision) in the field with WSP and Azimuth certified wetland evaluators. Following the confirmation of the staking, the limits will need to be surveyed by an Ontario Land Surveyor. Once surveyed, updated mapping will be required to determine any changes to the wetland limits and an updated impact assessment may be required. Further, should the limits change such that the contiguous wetland is >2 ha, a wetland evaluation using the OWES (MNR, 2022) may be required to determine its significance.

### *Azimuth Response:*

#### Wetland Delineation and Staking

The wetland boundary was delineated under appropriate summer conditions by qualified professionals based on the “50% rule” of the OWES consistent with the requirements of the terms of reference for the EIS established with the Town/WSP. This is discussed in further detail in the “Wetland Delineation” response to WSP comment #11.

#### Wetland Evaluation

As per Section 5.1 of the EIS:

*“site specific wetland delineation revealed an area of treed swamp covering much of the lowland portion of the northern portion of the property below the ridge. This wetland covers approx. 1.6ha of the property and is continuous with wetland habitat that extends off onto adjacent lands to the west that is partially mapped as unevaluated wetland by the province and more extensively mapped as Local (coastal) Wetlands by the Town (i.e., continuous area of wetland associated with property and adjacent lands  $\geq 2$ ha). Therefore, the EIS indicates that contiguous wetlands exceed 2ha and hence are considered Locally Significant Wetlands (as per Sections 2.4 and 7.1 of the EIS) – a factor compelling consideration of conformity to the requirements of Section 3.10 of the TPOP that “development and site alteration shall not be permitted within, and potentially adjacent to Locally Significant Wetlands”*

Based on the above approach, regardless of Provincially Significant or Locally Significant Wetland status, the proposed site plan is already established to locate development outside of contiguous wetlands >2ha in size, a factor requiring reduction of the number of lots proposed from five to three as per Section 6.0 of the EIS. The





requirement for no development and site alteration within Locally Significant Wetlands of the TPOP is the same as the requirement of Section 2.1.4 of the PPS with respect to Provincially Significant Wetlands. Given that wetlands will be avoided, we see no need to complete a wetland evaluation using the OWES moving forward as the outcome, as far as satisfying the objective of configuring lots outside of wetland limits remains the same.

As noted in our response to WSP comment #6, it is our understanding that there is no underlying requirement by the PPS or municipal policy to complete an *OWES evaluation* on nearby unevaluated wetlands as part of an EIS process (as this would be prohibitively burdensome). Azimuth notes there may be a degree of confusion here between OWES evaluation and LSW evaluation. The Terms of Reference requests a wetland *delineation* per OWES standards, which is a common standard. TPOP suggests the use of a “scoped wetland evaluation” for determining *local significance* of wetlands in proximity to development, which is the TPOP’s prerogative for Locally Significant Wetlands (LSW). However, it should be clarified that *OWES evaluation* is not the standard referenced for evaluation in the TPOP (OWES is not cited anywhere in the TPOP), and while OWES lists several locally significant feature categories to consider in the evaluation process, OWES has is no protocol for determining LSW status. Likewise, the TPOP also does not recommend evaluating *provincial significance* for wetlands >2ha under OWES. This makes practical sense; if an OWES evaluation was required to characterize LSW, all LSW would be PSW, and the designation would be meaningless.

Further, as stated in response to WSP Comment #6, the completion of a full Wetland Evaluation under OWES is an extensive process requiring thorough background research and field work, extending to areas well beyond the defined subject lands and adjacent lands, as well as a degree of labour-intensive analysis. Since there is no underlying requirement by the PPS or municipal policy to complete an OWES evaluation on nearby unevaluated wetlands as part of an EIS process (as this would be prohibitively burdensome), it is not a typical consideration for a one-property EIS. Due to the requirement to evaluate adjacent wetland elements beyond their own property, it is not typically incumbent on a landowner to complete an OWES evaluation. As landowners do not own the adjacent lands they are not assured access for wetland assessment and if the result of the wetland evaluation indicate provincial significance - development capability of the adjacent lands are highly constrained. Thus, application of an OWES assessment by a private landowner has the capability of severely impacting neighbor relations.



**WSP Comment:**

**Significant Wildlife Habitat & Appendix H – Significant Wildlife Habitat Assessment**

8. WSP generally agrees with the SWH assessment and screening, as provided in **Section 5.5** and **Appendix H**. However, any SC and/or provincially rare species identified through the background review should be considered for candidate SWH in the absence of targeted surveys or if they cannot be screened out based on the existing surveys or other rationale. Generally, we recommend SOCC be included within the SAR screening table to show how SOCC have been screened out through a habitat assessment or appropriate surveys. Refer to Comment #3.

*Azimuth Response:*

Please see Azimuth's response to WSP Comment #3. The subject and adjacent lands do not provide candidate habitat for any of the species of conservation concern identified locally in background data. No additional SWH functions to address.

**WSP Comment:**

**Habitat for Endangered and Threatened Species & Appendix I – Species at Risk Assessment**

9. WSP generally agrees with SAR assessment and screening, as provided in **Section 5.8** and **Appendix I**. However, the background review identified multiple SAR snakes with potentially suitable habitat. An assessment of these species should be included in the EIS. Refer to Comment #2.

*Azimuth Response:*

Please see Azimuth's response to WSP Comment #2. The subject and adjacent lands do not provide candidate habitat for any of the endangered or threatened species identified in the general area not addressed within the EIS.





### WSP Comment:

3) **Impact Assessment, Mitigation, and Policy Compliance**

A review of potential impacts, mitigation measures, and an assessment of compliance with municipal, provincial, and federal legislation should be included in the updated EIS. The following outlines comments from WSP's peer review of these components of the EIS:

**General**

10. The impact assessment should focus on the impact of the lot severance (and potential for future single residential dwellings) only, rather than impacts of tree clearing and proposed future development since those details are unknown at this time. Future EIS(s) or an EIS Addendum will be required to assess potential impacts to ecological features and functions during the site plan application process(es). Furthermore, it is recommended that a tree inventory and tree protection plan be completed during the site plan application process and prior to any tree clearing.

### *Azimuth Response:*

The EIS does assess/review potential impacts and provides recommendations for mitigation measures. Section 9 of the EIS assesses compliance with applicable municipal, and provincial policy and regulations, as discussed in response to WSP Comment #1. The PJR by MHBC is the authoritative document addressing policy conformity with respect to the proposed development.

### General

This is confusing as WSP indicates the impact assessment should consider “potential for future single residential dwellings” but advises that the impact assessment should not focus on “tree clearing for the future development as those details are unknown at this time”. While it is true that the exact details of future development are unknown at this time, consider that:

- 1) the proposed lots are tree covered throughout,
- 2) the proposed lots are relatively small due to the constraints associated with wetlands; and,
- 3) future development would be privately serviced with septic systems requiring considerable lot area to be maintained in a cleared condition (spatial requirements for servicing assessed by Jackie Coughlin, Azimuth - Partner/ Senior Environmental Engineer, P. Eng.).

Given the above, it is reasonable to assume that requirements for tree clearing will involve most (essentially all) of the lot area. Therefore, Section 7.2 of the EIS assumes “full clearing of the severed lots (Parts 1, 2 and 3)” to assess impacts to Significant Woodland and related ecological functions. The impact assessment could not be completed without this fundamental assumption regarding tree clearing.



## WSP Comment:

### Wetlands

11. WSP acknowledges the configuration of the lot severance has considered the wetland communities on-site (based on the current wetland limits) and adjacent to the site, and that the number of severed lots has been reduced from five to three. In principle, WSP agrees that the development of a single residential dwelling on each of the three severed parcels may be feasible with no impacts to the adjacent wetland features and functions, however further information is required to make this determination. Furthermore, as noted in Comment #10, the impact assessment should be re-framed from the perspective of the lot severance with potential for future single residential dwellings, rather than the 'proposed development' as the details of the proposed development (e.g., tree clearing limits, building footprint, area of impermeable land), are unknown, particularly the required details to assess water balance. WSP also notes that the final statement of: *"the proposed development can be achieved with no direct or indirect impacts to Local/Coastal Wetlands as per the requirements of Section 3.10 of the TPOP and Section 2.1.5 f) of the PPS"*, cannot be made at this stage (i.e., lot severance) and without confirmation of the wetland limits.

### *Azimuth Response:*

#### Development

As per Azimuth's response to WSP Comment #10, we see no need to "re-frame" the impact assessment. Azimuth notes that the PPS defines development as "the creation of a new lot, a change in land use, or the construction of buildings and structures requiring approval under the *Planning Act*", Therefore, the term development as used in the EIS is appropriate in two policy-based senses of the word, as it relates to the proposed severance (creation of new lots) and future construction of buildings or structures. Further, as per the title of the EIS "Environmental Impact Study - Proposed Severance 1500 Sandy Bay Road, Town of Penetanguishene, Simcoe County" it is clear that the focus of the study was lot severance.

#### Wetland Delineation

We disagree with WSP that confirmation of wetland limits is required for Azimuth to have concluded that "the proposed development can be achieved with no negative impacts to: Local/Coastal Wetlands; Significant Woodlands; Significant Wildlife Habitat Functions; Habitat Linkage or individuals or habitat of species protected under the ESA consistent with the requirements of the TPOP, PPS and Sections 9 and 10 of the ESA".

The Terms of Reference (WSP, 2022) insists on the OWES standard for delineation of wetland limits, which was implemented by Azimuth in good faith. As of the most recent iteration of OWES (MNRF, 2022), modern OWES broadly defers to trained evaluators operating under best professional judgment; even consequential OWES evaluations resulting in revisions to existing (or future) PSW boundaries are considered complete





when submitted by a trained OWES evaluator operating under their best professional judgment, as reflected in the change in text between the 2014 and 2022 manuals:

OWES, Southern Manual (MNR 2014), pp. 6, under “Approval of the Wetland Evaluation”:

*“Any trained wetland evaluator may carry out a full wetland evaluation; however, all wetland evaluations must be reviewed and approved by MNR before they are considered complete and ‘official’ (i.e. the wetland status may be used to make land use planning decisions)”*

This section has been removed in the updated manual. In its place, the OWES Southern Manual (MNR 2022), pp. 7, states the following in the section titled “A Complete Evaluation”:

*“A wetland evaluation, re-evaluation or mapping update will be considered complete and final once a trained wetland evaluator attests that they have undertaken an evaluation in accordance with OWES.”*

Comprehensive wetland evaluations (let alone simple wetland edge delineations) are no longer reviewed, even by MNR. The process only requires submission to the relevant planning authorities, notification of relevant landowners, and submission of final boundaries to MNR as part of the due process. Modern OWES broadly defers to trained evaluators operating under best professional judgment, whether completing a comprehensive OWES evaluation or delineating a small section of unevaluated wetland; to this end, Azimuth has provided our OWES-based wetland delineation using our best professional judgment, in keeping with the OWES standard.

Given that external validation is not a prerequisite to the OWES process, a trained/certified wetland evaluator is wholly justified in implementing their professional judgment to delineate a wetland boundary in accordance with OWES protocol. While a second certified OWES evaluator may disagree with a given wetland line, this represents a difference of professional opinion, not a universally “correct” answer. The authority of an external reviewer (such as a Conservation Authority, consultant, *etc.*) to adjudicate a wetland line in this regard does not derive from the OWES process itself, but from a given Peer Reviewer’s alternative professional opinion and their ability to forestall the municipal permitting process under municipal authority. For that reason, a reasonable and typical approach by a peer reviewer for sites with known wetland complications would be to require a combined wetland delineation exercise *as part of the Terms of Reference*, since it is not an assumed requirement.



Azimuth finds it atypical and unreasonable for a municipal Peer Reviewer to expand the Terms of Reference after completion of the EIS for features *clearly present and known* from the beginning of the study. In WSP's March 30, 2022 Terms of Reference letter, WSP confirms knowledge of the importance of wetlands on-site, specifically emphasizing unevaluated wetlands as a key driver for the EIS. Between the clear aerial imagery, clear mapping of unevaluated wetlands available from MNRF, and the verbal acknowledgement of this in the Terms of Reference letter, the requirement for a joint site visit (if needed) should have been evident at the time of establishment of the Terms of Reference. In Azimuth's experience, even in jurisdictions with Conservation Authorities, wetland staking for evident wetland areas are clearly established at the time of the Terms of Reference to allow for sufficient planning. The addition of this item to the end of the EIS process is problematic and unduly burdensome on a proponent adhering to the process in good faith.

#### Wetland Delineation Conclusions

The wetland boundaries established in completing the EIS were delineated by experienced and qualified professionals during an appropriate season (summer) based on the "50% rule" of the OWES as per the terms of reference established for the EIS with the Town/WSP (Appendix B of the EIS) and hence the conclusion is based on professionally and properly delineated wetland limits. All natural heritage features summarized (in any EIS) are determined, mapped, and assessed for impacts using the best judgment of professional ecologists to characterize those natural heritage features. As such, it is appropriate for Azimuth to draw conclusions on impacts based on a wetland line produced based on best professional judgment of a trained/certified wetland evaluator, as this is the standard set by OWES and the typical standard for natural heritage feature delineation. While it remains true that WSP does not have to accept the wetland line, this is a difference of professional opinion rather than missing criteria for the impact assessment.

At this late point in the process, we find it atypical and unreasonable for WSP to have known the importance of wetlands on-site from the beginning, but to have:

- 1) Not requested a joint wetland staking at the initial Terms of Reference phase, when this could have been scheduled during field work two years ago;
- 2) Not collected any internal data to support further evidence-based discussion of the wetland boundary;
- 3) Defer review and project timelines for 6 months as a result of the above; and,
- 4) Incur significant cost to the proponent as a result of the above, both in municipal fees and consulting expenses.





Given the above, it is Azimuth's opinion that it would be pragmatic, fair, and in keeping with typical EIS standards to accept the wetland boundary at this late stage in the process. It is our opinion that impacts should be evaluated based on the boundary as it is mapped in Azimuth's EIS.

#### Impacts to Wetland

In Section 7.1 of the EIS Azimuth provides an assessment of the potential for impact on wetland hydrology (as per assessment by Mike Jones, Senior Hydrogeologist/P. Geo. – professional qualified to address hydrogeology). This section concludes that “the scale of proposed development is minor relative to the area of land on the retained lot and adjacent lands available for infiltration, and hence the proposed development does not impact water balance”. For these reasons Azimuth's conclusions with respect to direct and indirect impacts to wetlands were appropriately made and hence the report's conclusions are valid.

Azimuth further notes that the locations proposed for lot severance and development are fully outside of the delineated wetlands, and occur in the external, disturbed areas of forest adjacent the wetland polygons and near the existing road edge. The wetland elements adjacent Lots Part 2 and Part 3 are early-successional, with significant components of Green Ash and Trembling Aspen, indicative of a history of anthropogenic influence (potentially associated with historical works adjacent Sandy Bay Road). These vegetation types are not rare or unique to this part of the study area, and these successional community types are not anticipated to be highly sensitive to disturbance. Lot Part 1 is proposed adjacent a wetland polygon dominated by Silver Maple swamp; while this is a later-successional vegetation type, the proposed severance is only adjacent to the very tip of this polygon and the vast majority of this vegetation type extends deep into the interior of the subject lands and onto adjacent lands. All of these wetland vegetation types are unified into a larger wetland block, the majority of which is embedded deep within the part of the study area where development will be avoided. Considering that no development will occur within wetlands, considering that development is only proposed in proximity to a very small fraction of the contiguous wetland block, considering the disturbance history of the forest areas within the proposed lot severances, and considering that the water balance of these wetlands is not anticipated to be impacted, there is no expectation that the proposed development will result in negative impacts to the form or function of wetlands on or adjacent to the property, provided that Recommendations in EIS report Section 8.0 are adhered to.



**WSP Comment:**

**Significant Wildlife Habitat**

13. WSP agrees with the assessment that there will be no impact to the function of the SWH types identified in the EIS (Woodland Area-sensitive Breeding Bird Habitat, Bat Maternity Colonies, and Special Concern and Rare Wildlife Species – Eastern Wood-pewee) based on the proposed lot severance and pending resolution of Comments #3 and #7.

*Azimuth Response:*

Noted

**WSP Comment:**

**Significant Woodland**

14. WSP generally agrees with the assessment that the removal of a maximum of 0.7 ha (i.e., ~2% of the Significant Woodland), assuming full clearing of the sites, is unlikely to impact the function of the Significant Woodland.

*Azimuth Response:*

Noted and speaks to the necessity of evaluating impacts of tree clearing/extent of vegetation removal associated with future development (see reply to WSP Comment #10).

**WSP Comment:**

**Habitat of Endangered and Threatened Species**

15. Please refer to Comments #2 and #9. Any updates to the candidate or confirmed SAR habitat identified on-site and within the Study Area should be considered in the impact assessment and mitigation sections (e.g., SAR snakes).

*Azimuth Response:*

Addressed – please see responses to WSP Comments #2, and #9.





### WSP Comment:

16. WSP agrees with the assessment related to Black Ash (*Fraxinus nigra*) that any proposed removal of these species after January 25, 2024 (as per O. Reg 23/22 to the ESA) will require ESA considerations. Section 7.5 outlines a date of "February 25, 2024"; however, the rest of the report refers to the correct date in January.

### *Azimuth Response:*

The province released information recently indicating probable direction to be taken with respect to enacting protections to Black Ash under Ontario's ESA, summarized as follows:

Black Ash was listed as endangered in Ontario in January 2022 but the province, through O. Reg. 23/22 enacted a temporary suspension of protections under Ontario's *Endangered Species Act*, 2007 (ESA) until January 26, 2024. Therefore, the species is not currently protected under the ESA (nor is it assessed as provincially rare – S Rank 4). We understand that the province may extend the suspension of protections for another year to "no later than January 2025 so that the proposed regulatory approach can be implemented" (Environmental Registry of Ontario [ERO] number 019-7378 [Comment period September 18, 2023 - November 2, 2023], <https://ero.ontario.ca/notice/019-7378>). The proposed regulatory approach outlined in the ERO posting - Protecting Black Ash and its habitat under the Endangered Species Act, 2007,) states: "Ontario is proposing to limit the application of the 'species protection' prohibitions in subsection 9(1) of the ESA to healthy Black Ash, those that appear appear (sic) to have survived exposure to EAB, located in areas of the province that have experienced significant EAB-caused mortality of ash trees. A healthy Black Ash tree is one that appears to have survived exposure to EAB, remains in a healthy condition ('lingering ash'), and has a trunk diameter at breast height (DBH) of at least 8 cm (sic). Ontario is proposing to apply 'habitat protection' prohibitions in subsection 10 (1) of the ESA to a radial distance of 30 metres around each Black Ash tree protected under subsection 9 (1)" (*i.e.*, 30m from a healthy Black Ash with DBH  $\geq$  8cm). Note: EAB = Emerald Ash Borer.

### *Summary*

At present Black Ash receives no protection under the ESA, protections may be extended to January 2025 and protections would likely only apply to healthy Black Ash larger than 8cm DBH. The size class distribution and health status of Black Ash on the subject lands has not been established pending issue of regulations and guidance documents by the province and approval of the property severance by the Town.



**WSP Comment:**

**Mitigation Recommendations**

17. WSP recommends separating the recommendations into two parts: 1) recommendations to be completed prior to the lot severance and 2) mitigation recommendations for future development.

*Azimuth Response:*

None of the recommendations are to be completed prior to the lot severance. Therefore, all six recommendations are recommendations for future/post severance development activities. No need to disaggregate recommendations.

**WSP Comment:**

18. WSP agrees with the recommendation to minimize the extent of tree clearing, where possible, to maintain the woodland functions (e.g., SWH, SAR bat habitat, etc.). To facilitate this recommendation, WSP recommends that a tree inventory and tree protection plan be prepared during the site plan application process prior to any tree clearing. Furthermore, WSP recommends consideration of TPOP Policy 3.10.2 related to tree replacement to mitigate loss of trees as a result of the proposed development, in consultation with the Town of Penetanguishene.

*Azimuth Response:*

Noted.

**WSP Comment:**

19. WSP recommends that the Clean Equipment Protocol for Industry (Halloran et al., 2013) be implemented during construction and tree clearing to mitigate the spread of invasive species to the site. Furthermore, an Invasive Species Management Plan should be completed and approved by the Town at the time of the proposed development.

*Azimuth Response:*

Noted.





#### **WSP Comment:**

##### **4) Conclusions and Summary**

Based on the above comments provided through this Peer Review, it is WSP's opinion that additional information is required to assess the project's feasibility and compliance with municipal, provincial, and federal legislation and policy. In particular, confirmation of the wetland limits, an updated SAR screening and more clarity in the impact assessment section are required. The final conclusions should speak only to the proposed severance rather than the proposed development, as development details are unknown. Pending the resolution of the above comments, it is WSP's opinion that it is likely that the proposed severance will be in compliance with applicable legislation based on the assessment in the EIS.

#### *Azimuth Response:*

We recommend that the Town/WSP rely on the PJR by MHBC as the authoritative source with respect to planning conformity.

An updated/expanded SAR screening is provided in responses to WSP Comments #2 and #3 above. Results indicate that the subject lands do not provide habitat for the additional endangered and threatened species considered consistent with field observations indicating none present. Results also indicate that the subject lands do not provide habitat for the SC and provincially rare (S1-3) species identified locally in background data consistent with field observations indicating none present.

The wetland boundary was delineated at an appropriate time of year (summer) by qualified professionals based on the 50% rule of the OWES consistent with the requirements of the terms of reference for the EIS established with the Town/WSP.

As per response to WSP Comment #10, the approach to impact assessment speaking to likely extent of lot clearing to facilitate future residential development is appropriate as the proposed development is lot severance to construct privately serviced single-detached dwellings in the future. In our opinion these two factors - lot creation and construction - cannot be logically decoupled. The severance of a lot with a Rural Area designation conveys or implies certain development rights relating to the creation of a single detached dwelling; thus a lot cannot be severed without consideration of for how a single detached dwelling (and associated infrastructure) may be accommodated. We also note that both lot creation and construction are defined as development under the PPS.



Yours truly,  
AZIMUTH ENVIRONMENTAL CONSULTING, INC.

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Attach:

cc: Patrick Townes, MHBC