

# Municipality of Lakeshore – Report to Council

## Growth and Sustainability

### Planning Services



**To:** Mayor and Members of Council

**From:** Daniel Mercer, urbaniste, RPP, MCIP, Division Leader - Community Planning

**Date:** October 2, 2024

**Subject:** Tilbury Battery Storage Update – 0 Creekside Road, 0 Essex Kent Road, and 2825 Essex Kent Road

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### Recommendation

Direct the Clerk to read By-law 99-2024 during the “Consideration of By-laws” to authorize the Mayor and Clerk to execute a Community Benefit Agreement with Tilbury Battery Storage Inc., which is a subsidiary of Boralex Inc. created in partnership with Walpole Island First Nation, as presented at the October 22, 2024 Council meeting.

### Strategic Objectives

This does not relate to a Strategic Objective however it is a core service of the Municipality.

Entering into a Community Benefit Agreement will provide annual revenue to the Municipality for the duration of the Battery Storage Project.

### Background

The Municipality of Lakeshore is currently reviewing a series of applications submitted under the *Planning Act* from Tilbury Battery Storage Inc. that are intended to facilitate the use of the subject lands as a battery energy storage system (BESS). The received applications, corresponding file numbers, and application type are as follows:

Application	Description	Status
ZBA-02-2024	To amend the Municipality of Lakeshore Zoning By-law to permit use of the subject site as a “Utility Yard.”	In force and effect as of February 27, 2024.
SPC-07-2024	An application for Site Plan Control for the proposed BESS.	At the time of writing this report, the application is nearing complete awaiting

		a 3 <sup>rd</sup> submission from the applicant for review.
B-04-2024	A Consent application to permit registration of a lease agreement of greater than 21 years for the property identified as 0 Creekside Road.	Approved with conditions on September 18, 2024.
B-06-2024	A Consent application to permit registration of a lease agreement of greater than 21 years for the property identified as 2825 Essex Kent Road.	Approved with conditions on September 18, 2024
B-07-2024	A Consent application to permit registration of a lease agreement of greater than 21 years for the property identified as 0 Essex Kent Road.	Approved with conditions on September 18, 2024

Administration initially began working with the applicant in September 2023 when the proposed BESS was reviewed through a Pre-Consultation application. Following this meeting, the applicant prepared an application for a Zoning By-law Amendment (ZBA-02-2024). The amendment was adopted on February 27, 2024 following a public meeting on the same date. In April 2024, a Site Plan Control application (SPC-07-2024) was submitted by the applicant. On September 12, 2023, Council adopted a municipal support resolution regarding Tilbury Battery Storage Inc.'s proposed project.

At the February 27, 2024 Council Meeting, the following resolution was adopted by Council:

**Resolution #83-02-2024**

Direct Administration to bring a report for information relating to the site plan conditions for the Tilbury Battery Storage project.

**Carried Unanimously**

This report is intended, in part, to address this resolution.

At the February 27, 2024 public meeting concerning the Zoning Bylaw amendment, multiple members of the public made delegations with questions and concerns related to the proposed project. In response, Council provided direction to Administration and requested that an information report be prepared identifying how the following items would be addressed through the planning approval process:

**1) Stormwater Management and Drainage**

The site location was identified as having drainage implications for the lands to the east as the area is flat, shallow and susceptible to flooding over large distances. Furthermore, the February 2024 Site Plan Control application proposed site access to enter the property from the north, off Creekside Road. This access would have required a new road be constructed through the subject lands to the project site located at the south of the property, potentially further aggravating storm water management control. In response to these concerns, several actions were taken. The applicant proposed to move the access to the site from Creekside Road to Essex Kent Road, a County Road. The Lower Thames Valley Conservation Area was consulted. The Site Plan Control application was amended

to add appropriate storm water management mitigation measures. Fill Permits were required to regulate construction activities.

## 2) Landscaping and Visual Screening

Concerns were raised as to the views of the BESS from public access areas. No landscape plan had been provided by the applicant before the February 2024 public meeting. It should be noted that landscaping plans and details are not typically required prior to approval of a Zoning By-law Amendment application as they are reviewed during the site plan control process. To ensure that the proposed BESS is adequately screened and visually-buffered from adjacent lands and roads, the applicant subsequently proposed a combination of shrubs and trees to be planted around the perimeter of the site. The landscape plan is provided in Appendix A.

## 3) Creekside Road

Residents identified the current condition of Creekside Road as being poor. Concern was raised that increased traffic, including during construction, would worsen the road condition. In response, the applicant proposed to move the access road from entering the project site from the north at Creekside Road to the east from Essex Kent Road. To do so, the applicant negotiated additional long-term leases with two neighbouring landowners with frontage on Essex Kent Road. As these leases are greater than 21 years, consent applications to the Committee of Adjustment were required, as per the *Planning Act*. Three applications for consent – two leases for the access road and one lease for the project site – were approved by the Committee of Adjustment on September 19, 2024. The leases have not been provided to the Municipality due to privacy issues. However, due to the location of the project site and access road, all landowners will be entering into the site plan agreement.

## 4) Community Benefit Agreement

At the February 27, 2024, public meeting support was expressed for a Community Benefit Agreement. This follows the support resolution adopted by Council on February 2, 2023, for the Long-Term Reliability Project, Southwest Energy Storage Project, that includes the Tilbury BESS. That resolution stated that “Each successful proponent receiving a contract from Independent Electricity System Operator (IESO) is expected to enter into a Community Benefits Agreement with the Municipality”. In May 2023, Tilbury Battery Storage Inc. was awarded a contract as part of the RFP for storage capacity by IESO. As such an agreement may only be authorized by the Mayor and Clerk under direction of Council, Administration has negotiated a draft agreement which is presented at today’s Council meeting under Consideration of By-laws. The Agreement reached includes contributions from the applicant for \$76,000 per year, to be adjusted annually starting in 2025 in accordance with the Consumer Price Index (CPI), as published by Statistics Canada to account for the change in consumer prices for the previous year, with a maximum adjustment of 2% to coincide with the annual payment increases the applicant will receive from IESO (which is capped at 20% of CPI).

## 5) Restoration Plan

The project site is located on prime agricultural land with a project life expected to be more than twenty years, with options for renewal. As such, site decommissioning and restoration practices were discussed to return to an agricultural use. The applicant was asked to prepare a plan detailing the decommissioning process once the BESS ceases operation. The Restoration Plan, attached as Appendix B, describes the activities planned during the decommissioning phase and the recommended mitigation measures to address anticipated potential negative environmental effects associated with the development of the project. Administration acknowledges that best practices and technologies may evolve during the life of the BESS and that the Restoration Plan may subsequently need to be amended. As requested by Council, the Restoration Plan will be attached to the site plan agreement as a Schedule.

### **Comments**

Council requested a report for information relating to the site plan conditions for the Tilbury Battery Storage project. It is the opinion of Administration that the concerns raised during the February 27, 2024 public meeting have been addressed by the applicant through amendments to the proposed Site Plan Control application.

In addition, Administration has negotiated a Community Benefit Agreement with the applicant. It is recommended that a By-law be passed for the Mayor and Clerk to enter into such agreement, as per the Recommendation Section.

Administration will continue to work with the applicant to ensure the Site Plan Control application meets the Municipality's requirements and addresses areas of concern as discussed above.

### **Financial Impacts**

Entering into a Community Benefit Agreement will result in an annual payment to Lakeshore of \$76,000. This amount will be adjusted annually based on the Consumer Price Index, with a maximum adjustment of 2% as per the terms of the agreement.

### **Attachments**

Appendix A – Landscape Plan (Draft dated May 30, 2024)  
Appendix B – Restoration Plan (Draft dated July 23, 2024)

## Report Approval Details

Document Title:	Tilbury Battery Storage Update – 0 Creekside Road, 0 Essex Kent Road, and 2825 Essex Kent Road.docx
Attachments:	
Final Approval Date:	Oct 11, 2024

This report and all of its attachments were approved and signed as outlined below:

Prepared by Daniel Mercer

Submitted by Ryan Donally and Tammie Ryall

Approved by the Corporate Leadership Team