



REPORT

DEVELOPMENT SERVICES

TO: Members of Council

FROM: Mat Vaughan, Director of Planning and Development (County of Elgin)

DATE: August 20th, 2026

REPORT: DS-29-26

SUBJECT: INTERIM CONTROL BY-LAW – WASTEWATER SERVICING CAPACITY

RECOMMENDATION:

THAT Report DS-29-26 re Interim Control By-Law – Wastewater Servicing Capacity be received;

AND THAT By-law No. 2026-047, being an Interim Control By-law respecting lands within the Hamlet of Eden, the Village of Straffordville, the Village of Vienna, and the Village of Port Burwell that are serviced, or proposed to be serviced, by the Bayham Wastewater Treatment Plant, be read a first, second, and third time and enacted.

BACKGROUND

The Municipality has been monitoring wastewater treatment plant (WWTP) capacity for several years in response to sustained development pressure across its serviced settlement areas. Since 2022, Council has received a series of reports tracking this issue, including PS-15/22 (September 1, 2022), which directed staff to retain CJDLC Consulting Engineers to update the sanitary sewage capacity study; PS-07/25 (June 19, 2025), which advised that up to 93–94 percent of WWTP capacity could already be approved based on 2024 data; and PS-08/26 (May 7, 2026), which updated this analysis using 2025 flow data and cautioned that an apparent improvement in utilization was likely attributable to a drier year rather than a reliable trend.

At its July 16, 2026 meeting, Council received Report DS-27/26 re Interim Control By-Law - Wastewater Servicing Capacity, which built on this history to recommend that Council direct a formal WWTP Utilization and Optimization Study and that staff bring forward a draft Interim

Control By-Law for Council's consideration. Council received DS-27/26, directed staff to retain CJDLC to undertake the Study, and directed staff to bring forward a draft Interim Control By-Law for consideration at this meeting.

FOR INFORMATION:

Since 2022, the Municipality has tracked a pattern of sustained development pressure across its serviced settlement areas, building against the finite treatment capacity of the Bayham WWTP. As reported to Council in DS-27/26, staff estimated that as of June 30, 2026, the WWTP was operating at approximately 75.49% of rated capacity, with full build-out of active applications and approvals potentially increasing utilization to approximately 94.3% exceeding the 90% MECP threshold identified in the 2022 CJDLC capacity study.

On August 12, 2026, CJDLC Consulting Engineers provided a Technical Memorandum (attached) confirming the current committed capacity of the Port Burwell WWTP using the Ministry of the Environment, Conservation and Parks' (MECP) mandated methodology for calculating committed reserve capacity. CJDLC confirmed that the WWTP is currently at approximately 77.8% committed capacity, rising to approximately 87.4% at full build-out of active applications and approvals, using the MECP-mandated 5-year average flow methodology - figures that refine the estimates reported in DS-27/26, and are based on a unit inventory (223 units) consistent with the range previously reported to Council. CJDLC also noted that 2026 flow data to date is running above the 5-year average used in this calculation; using 2026 flow data instead, current committed capacity would be approximately 85.2%, rising to approximately 96.6% at full build-out of active applications and approvals. Full methodology and findings are set out in the attached Technical Memorandum. The full WWTP Utilization and Optimization Study directed by Council remains underway, with further findings to be reported to Council upon completion.

Staff have reviewed the development application inventory reported in DS-27/26 against the status of active files as of the date of this Report. No applications within the reported inventory have been withdrawn, refused, or removed from the Municipality's tracking since July 16, 2026, and no applications have since been deemed complete, received provisional, draft, or final approval, or been newly submitted that would affect the unit range reported in DS-27/26. The development inventory and associated capacity implications reported in DS-27/26 are therefore considered to remain current for the purposes of this Report.

Given the convergence of active development demand on the Municipality's remaining wastewater capacity, staff recommend that Council enact the attached Interim Control By-Law to pause acceptance of new development applications within the affected settlement areas while the Study is completed.

LEGISLATIVE AUTHORITY

Section 38 of the Planning Act, R.S.O. 1990, c. P.13, as amended, authorizes a municipal council to pass an Interim Control By-Law where Council has directed that a review or study be undertaken of land use planning policies in the municipality or in any defined area or areas thereof, for the purpose of temporarily restricting the use of land, buildings, or structures within the defined area while that review or study is undertaken.

An Interim Control By-Law may be in effect for a period of not more than one year from the date of its passing. Section 38(2) of the Planning Act permits Council to extend an Interim Control By-Law for one further period, provided the total period of the original by-law and any extension does

not exceed two years. Should the Study directed by Council require additional time to complete, staff may return to Council with a recommendation to extend the by-law prior to its expiry.

Council's direction to undertake the Study and the enactment of the attached Interim Control By-Law are grounded in the WWTP capacity data and development trends reported to Council in PS-07/25, PS-08/26, and DS-27/26, and confirmed in the CJDL Technical Memorandum dated August 12, 2026, providing the necessary factual basis and rational connection between the Study being undertaken and the interim restriction on development within the affected settlement areas.

PURPOSE OF THE INTERIM CONTROL BY-LAW

The purpose of the Interim Control By-Law is not to permanently prohibit development within the settlement areas serviced by the Bayham Wastewater Treatment Plant. Rather, it provides Council with a temporary planning tool to ensure that new development does not proceed in advance of the completion of the Study directed by Council on July 16, 2026, comprising an assessment of WWTP capacity and optimization opportunities, an examination of the Municipality's planning structure and land use policies informed by that assessment, and corresponding updates to the Official Plan and Zoning By-law as needed.

The By-Law is intended to preserve Council's ability to make informed planning decisions based on the findings of the Study. Development applications already deemed complete prior to the passing of the By-Law are not affected and may continue to proceed through the approval process.

NEXT STEPS

With the enactment of the Interim Control By-Law, the by-law applies to all lands within the settlement areas in the Municipality of Bayham, being the Hamlet of Eden, the Village of Straffordville, the Village of Vienna, and the Village of Port Burwell, that are serviced, or proposed to be serviced, by the municipal sanitary sewage system connected to the Bayham Wastewater Treatment Plant (WWTP), for a period of one (1) year from the date of passing.

For the purposes of the By-Law, "development application" includes the following:

- Official Plan Amendments;
- Zoning By-law Amendments;
- Draft Plans of Subdivision or Condominium;
- Consents resulting in lot creation;
- Site Plan Control Applications;
- Building Permit Applications; and
- Other development proposals that would generate additional wastewater flows.

The following categories of applications are not captured by the By-Law and may continue to be processed during the interim control period:

- Development applications deemed complete by the Municipality prior to the passing of the By-Law, which are already in process at the time of passing;
- Lands that have obtained provisional consent, draft plan approval, or final plan approval from the Approval Authority as of the date of passing of the By-Law;
- Building permit applications for decks, accessory structures, or alterations to buildings or structures legally existing as of the date of passing of the By-Law, as defined within the Municipality of Bayham Zoning By-law No. Z456-2003, provided such construction, alteration, or expansion does not increase the number of bedrooms, dwelling units, or commercial, industrial, or institutional floor area of any structure or property; and
- Building permit applications received by the Municipality on or before the date of passing of the By-Law, or construction, renovation, or alteration that does not require allocation of capacity from the Bayham WWTP;
- Development that does not require or generate additional wastewater flows to the Bayham WWTP.

Following enactment, the Clerk will proceed with the Notice of Passing in accordance with the Planning Act and the regulations thereunder.

Staff will proceed with the Study for the Bayham WWTP and the subject settlement areas, building on the flow data, capacity trends, and development analysis previously reported to Council, comprising: an assessment of current and projected WWTP capacity and opportunities for infrastructure improvements or optimization (the WWTP Utilization and Optimization Study); an evaluation of inflow and infiltration (I&I) reduction opportunities to help manage peak flows to the WWTP; an examination of the Municipality's planning structure, land use mix, and land use planning policies, including the Official Plan and Zoning By-law, informed by that assessment; and corresponding updates to the Official Plan and Zoning By-law as needed for the Settlement Areas.

Should the Study require additional time beyond the one-year term of the Interim Control By-Law, staff will return to Council prior to the By-Law's expiry with a recommendation to extend the By-Law pursuant to Section 38(2) of the Planning Act, for up to a further one (1) year, such that the total period does not exceed two (2) years.

POTENTIAL CAPACITY

The timeline to resolve WWTP servicing capacity depends on what the Study, directed by Council on July 16, 2026, ultimately finds. The Study will establish the current and projected capacity of the Bayham WWTP, identify any constraints or deficiencies, and provide recommendations for managing servicing capacity and planning policy to accommodate future growth.

Should the Study confirm that expansion of the WWTP beyond its rated capacity of 1,060 m³/d is required, any such expansion would need to proceed under a Schedule C Municipal Class Environmental Assessment (a provincially mandated environmental review process for municipal infrastructure projects). CJDLC has advised this process typically takes 1.0 to 1.5 years to complete, followed by detailed design, MECP approval, and construction. Until the Study is complete, the available capacity of the WWTP and the volume of development that can be accommodated cannot be confirmed.

Alternatively, should the Study identify opportunities to increase WWTP capacity through operational or physical upgrades, this could offer a faster path forward. In that scenario, staff will return to Council with recommendations on how to proceed, including any associated capital investment requirements.

SERVICING ALLOCATION POLICY

Once the WWTP Utilization and Optimization Study is complete and the available capacity of the WWTP has been confirmed, the Municipality will be in a position to consider how that capacity should be allocated among competing development interests. Staff intend to bring forward a Servicing Capacity Allocation Policy for Council's consideration as part of, or following, completion of the Study.

CONCLUSION

The Municipality of Bayham's Wastewater Treatment Plant is approaching a critical servicing threshold. Consistent with the CJDL Technical Memorandum dated August 12, 2026, current committed capacity at the Port Burwell WWTP is approximately 77.8% using the MECP-mandated 5-year average flow methodology, with full build-out of active applications and approvals potentially increasing utilization to approximately 87.4% of rated capacity. Using 2026 flow data, which CJDL noted is running above the 5-year average, current committed capacity would be approximately 85.2%, rising to approximately 96.6% at full build-out. Active development applications already before the Municipality are expected to bring the WWTP toward the 90% MECP utilization threshold identified in the 2022 CJDL capacity study, at which discussions regarding future expansion would be warranted. A substantial volume of additional development interest beyond these active applications further underscores the need for the Municipality to take immediate, proactive steps to manage wastewater servicing capacity.

The enactment of the Interim Control By-Law pursuant to Section 38 of the Planning Act provides the Municipality with the necessary tool to pause the acceptance of new development applications within the affected settlement areas while the wastewater servicing capacity Study is undertaken. This approach protects the integrity of the municipal wastewater system, ensures that development does not proceed in advance of confirmed servicing capacity, and allows Council to make informed, evidence-based decisions about the long-term management of growth in Bayham's settlement areas.

Attachments:

1. CJDL WWTP Capacity Technical Memo
2. Interim Control By-law

Appendix:

1. Development Permitted to Proceed
2. Severances Permitted to Proceed

Respectfully Submitted by:

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Written by:

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Reviewed by:

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Appendix:

1. Development Permitted to Proceed

Settlement Area	Project
Eden	Eden East Subdivision (34T-BY2201)
Eden	Eden West Subdivision (4T-BA2502)
Eden	11470 Plank Rd (OPA-03/26) (ZBA-07/26)
Port Burwell	Beach House Lane Townhouses (SPA-02-26)
Port Burwell	Otter Creek (34T-89008)
Vienna	Countryside Communities Subdivision (34T-BA2501)
Vienna	1 Pine St (34T-BA2503)
Vienna	Vienna Ridge (North St) Subdivision (34T-BA2201)
Straffordville	Sandytown Subdivision (34T-BY2101)

Note: This table reflects development applications permitted to proceed. Development that does not require or generate additional wastewater flows to the Bayham WWTP is also permitted to proceed under the By-Law and may not be listed in this table.

2. Severances Permitted to Proceed

Settlement Area	Project
Vienna	22 Ann St (E33/34-26)
Vienna	6845 Plank Rd (E37/39-26)
Vienna	55424 Vienna Line (E35-26)
Vienna	15 Oak St (E58/59-26)
Vienna	20 Elm St (E3-26)
Port Burwell	55 Wellington St (E94/95/96-24)
Vienna	Chapel St (E46/47/48/49-23)
Straffordville	56649 Heritage Line (E21-26)

Note: This table reflects severances permitted to proceed on the basis of provisional, draft, or final approval as of the date of passing of the By-Law. Severances that do not require or generate additional wastewater flows to the Bayham WWTP are also permitted to proceed under the By-Law and may not be listed in this table.