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## C.B.S. to appeal board decision that put brakes on controversial wharf complex proposal

Board says the town didn't follow its own regulations for approving the plan

[Adam Walsh](#) · CBC News · Posted: Feb 10, 2021 6:00 AM NT | Last Updated: February 10

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A view of the harbour in Long Pond where OCI wants to build a new wharf and cold storage facility. (Adam Walsh/CBC)

The Eastern Newfoundland Regional Appeal Board has put the brakes on a controversial proposal for Long Pond harbour in Conception Bay South, while also calling out the town council for a lack of oversight.

However, the Town of Conception Bay South said Wednesday it is now heading to the courts to overturn that decision.

In its decision, the board ordered the Town of Conception Bay South to reverse the approval-in-principle given last August of the Ocean Choice International plan for a wharf and cold storage facility.

It also ordered the town to go back and review the project to make sure it complies with the town's own municipal plan and development regulations.

While the company says the development would be worth millions of dollars in economic spinoffs, as well as 30 to 40 new jobs, the proposal to fill in part of the harbour in Long Pond has met opposition from some residents.

Some residents are worried about adverse environmental impacts to the area, and have maintained there has been a lack of transparency and communication over how the project received the initial go-ahead from the town.





Geoff Budden is the lawyer for Sunset Key Marina and its owner Jerome Coady. (Adam Walsh/CBC)

Following an appeal by Sunset Key Marina and its owner Jerome Coady — the business is located in Long Pond and would be adjacent to any new development — the board held a hearing on Jan. 27.

A 14-page decision was posted on a [government website last week](#).

The town announced Wednesday it would appeal the board's decision, by taking the issue to court.

"Our preliminary legal opinion is that the Eastern Newfoundland Regional Appeal Board erred in that it did not consider key evidence in its decision. Further, there may also be questions of jurisdiction that need to be addressed," Deputy Mayor Richard Murphy said in a media release.

## Boards finds decision-making 'interesting'

In its written analysis of the situation, the board took the time to point out town decisions that it found to be "interesting."

For instance, the report said the board found it "interesting that the town chose to give an approval in principle for a project of this magnitude, involving the infilling of approximately 1.7 hectares of Long Pond Harbour, prior to completion of the land use assessment report."

- [OCI proposal for Long Pond harbour leaves neighbours cold](#)
- ['Unusable land' at heart of ambitious OCI plan for Long Pond harbour was sold for just \\$1](#)

OCI submitted its land use assessment report in November of last year — almost three months after the project received approval in principle from the town.

The board also said while it was trying to understand how the town came to its decision on approving the project in principle, given that there were no council minutes, no planning and development committee reports, and no supplemental municipal file documents submitted.

The board said it also found it "interesting" that a project of this magnitude "was not referred by town staff with appropriate reports to council for council's information and possible involvement in the decision-making process."

## Where does the town boundary lie?

The regional appeal board also pointed to a significant question of jurisdiction.

It turns out the middle of Long Pond Harbour "is outside the town's current municipal boundary and municipal planning area," said the board in its decision.

In order for the town to be able to zone the area for development, the board said it would have to bring in "a formal amendment process to introduce appropriate municipal plan and zoning designations."

As for the initial zoning decision, the board said it was made by town staff, in particular the development control coordinator.

The board said that decision "should have been the responsibility of council."

## Feeling vindicated

"My client feels vindicated," said Geoff Budden, the lawyer for Sunset Key Marina.

"It had some concerns about the process, more general concerns, of course, but at least it's procedural concerns. It's procedural objections have been upheld. So it feels pretty good about that."

Ted Perrin is an avid commercial and recreational boater from Long Pond. He is also a director with the community group Advocates for the Responsible Development of Long Pond. (Adam Walsh/CBC)

"We're pleased at the decision. We obviously support Sunset Key Marina," said Ted Perrin, a director with the Advocates for the Responsible Development of Long Pond, a group that is unhappy with the location of the proposal.

"It wasn't done right from day one. At the end of the day, that cost everyone money — the developer, the town, the residents," Perrin told CBC News.

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Perrin also said the ordeal points to issues with the town and how it handles these types of developments.

"We've got a bigger problem at the town hall. One that needs to be addressed immediately before any further development takes place," said Perrin.

Richard Murphy is the deputy mayor of Conception Bay South. (Adam Walsh/CBC)

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## Town hopes court will rule in its favour

In a statement, Murphy said the decision by the the Eastern Newfoundland Regional Appeal Board is short-sighted.

"Council's rationale for appealing the decision is based upon the impacts this decision will have on the town's ability to manage development applications in the future," said Murphy.

The statement also said it would be inappropriate to comment any further as the matter will soon be before the courts.

It added the town council will post its application to the courts on its website.

Meanwhile, in a separate statement, OCI President Blaine Sullivan said the company remains committed "to working with municipal, provincial and federal regulatory bodies as well as expert engineers and authorities to ensure we are following all the necessary regulations and processes for our proposed development in Long Pond."

It also said the company is "dedicated to moving the development forward in a positive approach; and we await the next steps from the Town of Conception Bay South as a result of the decision from the Eastern NL Regional Appeal Board."

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