

MEMORANDUM

Privileged & Confidential – Legal Advice

Date: March 24, 2026
To: Norbert Carpenter, Deputy Minister, Land and Environment
From: Murray L. Murphy
Re: Department of Land and Environment - Summerside Golf Club
File: SM56942-1

Norbert,

Following our meeting a couple of weeks ago, this memorandum outlines my advice in relation to the Environment Department's involvement with the Summerside Golf Club redevelopment project.

Summary of Events

I met with Norbert Carpenter, Deputy Minister, Land and Environment and Jonah Clements, Deputy Minister, Justice and Public Safety on 13 March 2026 and learned the following.

The former Summerside Golf Club property is owned by PEI Ocean View Resort. The owner is redeveloping the golf course. As a consequence, the developer has, for a number of years, been engaged with your department in order to obtain necessary environmental and other approvals to proceed with its work.

PEI Ocean View Resort is owned by a fellow by the name of Shizhong Liu. In discussions with your department, the developer has been represented by either Cory Black or Graham Cooke. Both of these fellows appear to be independent contractors hired by the developer. Mr. Cooke is a well-known and respected golf course designer and developer. By all accounts, the developer's representatives have dealt with the department in a professional manner.

A couple of years ago, the developer presented plans to revitalize the golf course. At the time, it was determined that a full environmental assessment was not required because the golf course was already approved on the existing footprint. Individual permits, however, would be required for aspects of the development work. In particular, some of the work contemplated intrusions into wetlands, for which approval would be required.

The department has a policy (Wetland Conservation Policy for Prince Edward Island) that addresses approvals for work on wetlands. In summary, permissions for proposed work are determined on the following escalating scale.

1. If possible, a developer is to avoid intrusion into wetlands.
2. If not possible, a developer is directed to minimize impact on wetlands.
3. If not possible, intrusion into wetlands is permissible, provided the developer pays wetland compensation to a fund that is established and overseen by the department. The amount of compensation payable is within the Minister's discretion, although there is generally a per acre formula upon which wetland compensation is based.

In 2024, the developer applied for a permit. Per the above policy, it was not possible to avoid or minimize wetland intrusion. On 31 October 2024, the department approved the plan and issued a permit, subject to payment of compensation. The permit contains the following condition:

a payment of \$406,500 has been received for the compensation of 27.1 Acres of wetland impacted to complete this project.

Per the wetland compensation formula, the compensation payable could have been assessed at as much as \$1,000,000, but the amount was fixed as indicated per discretion in accordance with the policy.

Sometime in autumn 2025, the Deputy received a call from the Minister, who advised that he had met with the developers who had asked for some "tweaks" to their existing approved plans. The Minister described the tweaks as "no big deal" and he advised that he had given verbal approval to the developer.

The Deputy asked for some detail about the tweaks and was advised that, per the developer's initial plans, some wetlands for which approval had been granted (about 4-5 acres) had not been disturbed, but it was necessary to disturb other wetlands (about 6-7 different acres) that had not been covered by the approval. Essentially, the developer wanted to trade approval for the old acreage for the new acreage. The Minister advised that it would not be necessary for the developer to pay additional compensation.

In February 2026, the department received an anonymous tip to say that the developer was working in an area that they were not approved for. This type of tip is not uncommon, and in fact the department has a tip line. Nor were department representatives surprised about this particular tip, because it was common knowledge that the developer does not have a good relationship with some community members.

The next day, department representatives sent out inspectors who confirmed that the developer was working in an area that they did not have approval for. Department representatives spoke to the developer's people at the site. The developer's representatives indicated that this was all a mix up, the Minister had given permission for the work, and they had paid compensation.

Department officials advised the Deputy that the developer was working on an additional 12-13 acres outside the approved area, not an additional 6-7 acres. Those officials asked the Deputy exactly what changes were made to the approval. The Deputy talked to the Minister and asked

what verbal approvals were granted. The Minister advised that the developer's request was not a big deal and involved a small area outside that previously approved, removal of some trees, etc.

Department officials sent five questions in writing to the developer, including: what permissions were granted and whether or not they paid compensation. The developer answered all questions. In particular, the developer provided the department with a copy of proof of an electronic funds transfer to a non-government organization, the Comité Diversité et Équité. The EFT is dated 28 January 2026 and shows a transfer from PEI Ocean View Resort to the Comité in the amount of \$100,000.

The Deputy observed that best practice is for the Minister to always have staff accompany him or her in meetings with interested parties, particularly in circumstances where the interested party is seeking some sort of regulatory approval.

With Deputy Clements' assistance, inquiries were made about the Comité. A search of corporate registries did not reveal any information about the Comité, suggesting it is not incorporated. The Comité rang a bell with the Deputy. He recalled that the Comité applied for project funding from the department in 2025. The Comité's representative is identified in the application documents as Elise Milligan. Originally they were allocated \$15,000. This was eventually increased to about \$24,000. At the time, the Minister advised that this was a local group working on environment / education issues and he wanted to provide them with some funding. The application included sufficient details to qualify for funding. In particular, the application indicated that it intended to arrange for local youth to do local cleanup, collect returnable containers, and arrange for recycling. The application ended up being approved on the basis that the Comité would hire the kids to recycle containers.

The Comité's address on its department application is 48 Mill Road, Wellington. The address houses offices for various organizations, including the Acadian Affairs office. Upon reviewing external signage for the building on Google Maps, it does not appear that the Comité's name is listed on the tenant list.

The Deputy contacted the Director of Acadian Affairs. The Director was familiar with the Comité. The Deputy learned that Acadian Affairs had given some funding to the group. The Director indicated that he had been asked by the Minister to try to find some funding for the group, and that the group is a non-profit organization with bylaws.

By this time, ministerial assignments had been changed. There is a new Minister of Land and Environment. She was briefed on the situation. Because no formal amendments had been made to the existing approvals, the department issued a stop work order. This annoyed the developer. That said, and as previously indicated, the developer has been professional to deal with throughout, and has been working through the matter with department officials.

Gilles Arsenault

I interviewed the Minister.

For the most part, the Minister's account is consistent with what I heard from the Deputies.

Before Mr. Arsenault was the Minister, arrangements with the developer for the work, and wetland approvals, were addressed with his predecessor, Minister Myers. Mr. Arsenault had met with the developer's representatives, Graham Cooke and Cory Black during his time as Economic Development Minister. Fast forward to when he was Environment Minister, the developer asked

to meet with him. The Minister was also contacted by local MLA Tyler DesRoches who asked the Minister to meet with the developers.

In October 2025, the Minister met with Mr. Cooke and Mr. Black at the Microtel in Summerside. The developers explained that they had approval to work on about 25 acres of land and had paid a wetland compensation fee. They had not disturbed about 4-5 acres of wetland within the approved area and did not need to. They needed, however, to work on an additional 6-7 acres of wetland that lie outside the approved area. The Minister indicated to them that that should not be a problem. The Minister says he went to the Deputy and advised him, and told the Deputy this was not a big issue. The Minister indicated to the Deputy that he had given his commitment. Through additional conversations, the Minister learned that the departmental officials were giving pushback and felt that this could not be done.

Mr. Cooke called the Minister in early November to check to see if they were good to go on their plan. The Minister said he had full intentions of granting their request but needed to involve department staff.

Mr. Cooke called again in late November or early December to indicate that they wanted to do some tree cutting during the winter if possible. The Minister says that he told Mr. Cooke that he should connect with department staff on this. Mr. Cooke added that the project was going well, and that the developers were happy with the amount of work being done on the course.

Mr. Cooke advised the Minister that Mr. Liu wanted to contribute to a community cause. The Minister suggested the local watershed group. Mr. Cooke indicated that they preferred a group that provided support to education. The Minister suggested the Comité, a community organization that he was familiar with.

The Minister spoke to members of the Comité in early December about the possibility of overseeing the contribution and the idea of projects. Comité members thought it would be great opportunity for a community project. They wanted to purchase six storage sheds for equipment and environmental supplies, move them, and retain a consultant to create extracurricular materials and activities for students.

The Minister also explained that the Comité is made up mainly of retired teachers, all of whom are now advancing in age.

Mr. Cooke called the Minister again in mid-January. They discussed both the golf course project and the proposed donation to the Comité.

The cheque was deposited on 27 January 2026, according to the Minister, but the EFT indicates that it was made the following day, 28 January 2026.

On 27 February 2026, Mr. Black texted the Minister about the fact that the developers had received a stop work order. At this point, Mr. Arsenault was no longer Minister of Environment. Mr. Black mentioned that they hoped that the stop work order was just a bump in the road. Mr. Black did not ask the Minister to do anything specifically about the issue.

Nonetheless, the Minister called the Deputy and made inquires. He indicates that the Deputy said that the department needed to figure some stuff out to make sure that the developer was not working on more land than had been agreed in the wetland approval, and they needed to check

wetland conditions. He said the department needed to do its due diligence. The Minister responded to Mr. Black the same day and told him to stay tuned.

Mr. Cooke called the Minister in early March to let him know that Mr. Black had met with Environment department staff and they had a good meeting. They probably would not need to disturb any more wetlands than about 2-3 additional acres. He said they had a good meeting and everything looked positive.

The Minister spoke to Elise Milligan on behalf of the Comité. She confirmed that they accepted the contribution in good faith to do a community project. They still had the funds, and if returning the funds was necessary, they would do so. The intention of the group was to submit a full report to the donor after the project was completed, including a summary, receipts and an evaluation.

The Minister advised that he had already indicated to the developer that they had permission to do the work without any further compensation before the issue of a contribution ever came up.

The Minister provided me with names of people who are part of the Comité. Those include Monique Arsenault and Claudette McQuaid. He provided information about some projects that they had done at local schools. This included retaining, supporting, and paying artists to provide works during the Francophone summit. They had done a map project. They had done newcomer working groups. In the past, they accepted donations but don't do full time dedicated fundraising. They generally met and operated at Evangeline school, but also have held meetings at the Access PEI boardroom.

I asked the Minister why a formal amendment was not made to the previous approval. The Minister says he discussed it with the Deputy and told the Deputy to operationalize it. There wasn't any discussion about doing any additional paperwork, and the Minister did not follow up.

Elise Milligan

I spoke with Elise Milligan.

Ms. Milligan explained the history of the Comité.

It was originally formed when Leonce Bernard was the MLA for the area. He set up an economic development committee to provide support for local schools. Originally the committee was known as Friends of Education. It eventually evolved to become the Evangeline Community Centre. The organization provided a means for local people to give donations and volunteer work in support of local schools.

When Robert Ghiz was Premier, the committee's work was revived. Through government support, the committee worked on the project referred to by Mr. Arsenault. An organization called ACTI organized meetings on PEI. The committee coordinated a program to commission and paid artists to provide artwork for the meetings.

Soon after that, the committee organized a project to support immigrant families. It was at this time that the committee was rebranded as the Comité Diversité et Équité. It solicited donations, and provided clothing, footwear, eyeglasses, and school supplies to immigrant families and their children. It went on to offer a school lunch program at Evangeline, and also organized a winter coat campaign for students in need.

The Comité's work has always been project-based. In other words, it has been active when funding was available to organize projects, and inactive when no funding was available.

In late 2025, Minister Arsenault contacted Ms. Milligan. He advised that he was in contact with a person who wanted to make a community donation. He asked Ms. Milligan if the Comité was active, could receive a donation, and oversee a community project. She responded positively.

The project under discussion was to support the local watershed group. The Comité proposed to move six buildings onto local school grounds, acquire tools and equipment to support watershed projects, store that equipment in the buildings, and coordinate volunteer watershed projects in local schools for children in grades 9 to 12. For example the children would plant trees, clear streams etc. There were no plans to pay any wages to the student volunteers. Comité members had initial conversation with consultants about developing the project.

All discussions about this project were with Mr. Arsenault. She had no contact with the developer, and does not believe other Comité members did either. Although there was no formal requirement, they intended to report back to the developer.

Ms. Milligan indicated that the following people were active Comité members. Francine Arsenault is a former school board trustee. Monique Arsenault is a former teacher's assistant and research person. Claudette McQuaid, who was mentioned by Minister Arsenault, was not involved in discussions about this particular project but has been involved with other Comité projects over the years.

The Comité has historically met at Evangeline school, or later in the Access PEI boardroom.

Ms. Milligan gave Minister Arsenault a void cheque to be used to facilitate the funds transfer for the donation.

Graham Cooke

I spoke to Graham Cooke, a consultant for the developer, Island Ocean View Resort.

Mr. Cooke says that the client wanted a couple of additional zones at the golf club cleared and additional work performed. The developer identified two locations, to be used for the following:

- A putting green and short game practice area for members and
- A short game / gathering area specifically intended for junior golfers.

In order to develop these locations, additional lands had to be cleared and developed.

The developer reasoned that, because they had not utilized all of the areas that they had been previously approved to clear, and that they had paid for the development of a dedicated amount of wetland, they had some room to work within existing approvals. The proposed plan, however, would have put the developer over the number of acres that they had been approved to work on.

The developer arranged a meeting with Minister Arsenault to discuss it. As indicated, they met at the Microtel Hotel in Summerside in October 2025.

The client was willing to pay. They needed permission for 2-3 additional acres of wetland, and some additional lands (not wetland) that had to be cleared. The Minister suggested that the

proposal should be possible. Mr. Cooke told the Minister that the client was willing to pay, and that the client suggested that he was willing to make a contribution to a worthy community group. The developer wanted everything to be above board. Minister Arsenault suggested the Comité.

Mr. Cooke and his colleague were dealing with the Minister. They were not dealing with the department. They did not want to start over in the application process with the department, however they were certainly willing to continue to work with the department throughout the development process.

Mr. Cooke believed that Minister Arsenault was dealing with department officials, and in particular Greg Wilson and Shawn Hill, about the necessary approvals.

Minister Arsenault provided instructions on where to send the donation.

The developer started work right away, and soon after, received a visit from the department and a stop work order was issued.

He was not overly concerned. They were clearing wood and brush, and the work was not time sensitive. They were not concerned about the timing.

Mr. Cooke said that the developer know that the department is sensitive to this type of work and that the goals of the department can sometimes be contrary to projects like the one. For these reasons, again, he was not overly concerned or surprised about the visit from the department or the stop work order. He recognized that there were changes to the work and changes to the amount of acreage involved. That said, the developer felt that they had paid adequate compensation. Wetland compensation charges are much higher on PEI then in other provinces

When the stop work order was issued, the developer didn't argue. Mr. Cooke figured that this was all going to work itself out, and that he would work it out through discussions with Mr. Hill and Mr. Wilson. He realized that there were sensitivities to the work. He met with Mr. Hill and Mr. Wilson on site. The department asked for some changes to their proposed work, for example, the department suggested keeping a hedge line that the developer planned to remove. Mr. Cooke expressed that the developer is willing to make some changes in order to satisfy the department and allow the work to proceed. Presently they are waiting to hear back from the department on next steps.

Legislation and Policy

The *Environmental Protection Act* provides broad powers and discretion to the Minister, including authority to do the following:

- take such action as he considers necessary in order to manage, protect or enhance the environment or manage, protect or enhance environmental health, including:
 - coordinate the work and efforts of public departments, boards, commissions, agencies and interest groups in the province respecting management of the environment;
 - exercise exclusive control over the quality, use, protection or alteration of watercourses, beaches, sand dunes and wetlands within the jurisdiction of the province;

- enter into agreements.¹

According to the regulations, the Minister may grant a Watercourse or Wetland Activity Permit or a Buffer Zone. The Minister may include such terms and conditions in a permit as the Minister considers necessary or advisable for the protection or benefit of the environment. The Minister may amend a permit or vary the terms or conditions thereof, where the Minister considers it necessary or advisable for the protection or benefit of the environment.²

As discussed, the department has adopted a Wetland Conservation Policy for Prince Edward Island. It prescribes that where developments are proposed on or adjacent to a wetland the following process of wetland mitigation will be observed:

1. Avoidance
2. Minimization
3. Compensation

The Policy provides detailed guidance on each step of the wetland mitigation process. Relevant excerpts of the compensation process include the following (emphasis is mine).

Compensation refers to a variety of alternatives that attempt to “make up for” the unavoidable loss of or damage to wetland functions and values, usually by improving wetlands off-site from the development. Preferred methods include restoration and enhancement of wetlands.

...there may be situations in which a combination of securement and other compensatory measures may be appropriate

Large developers may prefer to pay for functional losses with a cash settlement or technological “quick fix.” For example, it may be easier to pay for a fish hatchery rather than prevent or minimize damage to a spawning habitat. It is often in the company’s best interest to find a quick solution, write off costs, and proceed with the project. However, environmental impacts are seldom resolved by this approach.

Compensation requirements should be determined on a case-by-case basis.

The preferred method of compensation for wetland functions is restoration or enhancement of other degraded wetland habitats, and then creation of replacement wetlands.

Functional losses should be restored in the following order of priority:

- a. on-site,

¹ *Environmental Protection Act*, RSPEI 1988, c. E-9, ss. 3.(1), clauses (b), (e), and (f).

² *Environmental Protection Act* regulations, s. 6..

b. as close to the site as possible,

c. *in the same ecosystem.*

Compensation for impacts on the social and cultural values of wetlands may include, but should not be restricted to, financial compensation to be used for activities appropriate to the site. These may include building public access facilities and interpretive centres, developing public education materials, or conducting research.

Proponents should demonstrate the efficiency and effectiveness of compensation measures in terms of replacing wetland functions.

Discussion

I offer the following analysis, recommendations and advice.

The issues for the department are:

1. What did the Minister approve?

All information on this point is consistent. The developer asked for permission to work on an additional 6-7 acres of wetland that lie outside the approved area. The Minister gave verbal approval for this work.

The developer had not disturbed about 4-5 acres of wetland that they had received approval for. The developer wanted to trade those original 4-5 acres for the new 6-7 acres. Department officials observed the developer working in an area that comprised about 12-13 acres, not 6-7 acres. Department officials can confirm exactly how many additional acres the developer needs approval for.

2. Was the donation to the Comité offered in consideration for the approval?

The Minister indicates that he gave a commitment to the developer that they could proceed with the work without any additional approvals or compensation, and that this commitment was given well before the idea of a community donation was raised. He was adamant that he did not request a donation, and that the donation was not made in exchange for approval.

It was Mr. Cooke's understanding that approval would be granted in exchange for the donation. Work could not commence until the donation was made.

Regardless whose version is more accurate, the timing of the donation suggests that it was linked to the approval.

3. Is the Comité a legitimate community organization?

It appears the answer is yes. While the Comité is not incorporated, it has members. They hold meetings. It maintains a bank account. It has been in existence, in various iterations, for a long time. It has organized several community projects in the past. It has been approved previously by Government and Acadian Affairs. In the present circumstances, it appears that the Comité has a legitimate community project in relation to watershed work that the donated funds are to be directed to, and the Comité has given a commitment to report on its activities.

4. What, if anything, should be done to address the situation?

The Wetland Conservation Policy was not followed.

Despite the fact that the developer had previously received approval in exchange for wetlands compensation, their late 2025 request probably required a fresh application, which would have been subject to assessment by the committee under the Wetland Conservation Policy. That assessment would have considered the three-step mitigation process: avoidance, minimization, compensation.

An agreement to exchange original acreage for new acreage was an option. However, department officials would have had to first evaluate the new acreage to determine if it was suitable for development before the compensation option was considered.

As mentioned, the Minister's discretion is broad, as are the options available to the committee (and ultimately the department) under the Wetland Conservation Policy.

The Minister may coordinate work among the department and interest groups, enter agreements (for example, with the Comité), include terms and conditions in a permit, and may amend a permit or vary its terms or conditions.

The Wetland Conservation Policy contemplates an arrangement involving community based groups. The preferred method of compensation is restoration or enhancement of wetland habitats in close proximity to the affected site. Compensation may include building public access facilities and interpretive centres, developing public education materials, or conducting research.

Financial support of a bona fide non-profit group to conduct watershed work in the area falls within the scope of the compensation principles in the policy. The policy requires that work to be monitored and reported on.

Regardless, the department's established process ought to have been followed, and now in retrospect, should be followed. In my opinion, the department ought to require the developer to follow the process. This likely involves an application to amend the existing permit, obtaining necessary approval, and referral to committee per the Wetland Conservation Policy. Whatever the committee determines is appropriate compensation, the Minister retains discretion.

Because best practice calls for an amendment application and compliance with due process, consideration ought to be given to requiring the Comité to return the donation. The department will determine appropriate compensation pursuant to the policy. If the donation is to be returned, I recommend that the former Minister should make those arrangements.

MLM/dr