

MEMOIRE

DRAFT ORDER – SPECIAL INTERVENTION ZONE L'ÎLE-BIZARD-SAINTE-GENEVIÈVE



Division Urbanisme, permis et inspections

406, montée de l'Église
L'Île-Bizard, H9C 1G9

Introduction

The spring floods of 2017 and 2019 caused a lot of damage in many Quebec regions. Under the Loi sur l'aménagement et l'urbanisme the Quebec Government has adopted a draft order on June 17th 2019. This project aims to declare a Special Intervention Zone (ZIS) to better manage floodplains. The adoption process provides for a consultation, which will take place on July 4th, 2019 in different regions.

In 2017 and 2019, several waterfront areas of the borough of L'Île-Bizard—Sainte-Geneviève were flooded, homes were affected, citizens were evacuated and roads were impractical. It is not surprising that various waterfront areas of the borough were included in the area identified by the draft order.

Thus, this memoire is presented as part of the Ministry of Municipal Affairs and Housing's public consultation concerning the Special Intervention Zone (ZIS). The content is based on information gathered from meetings with citizens, reflections from elected officials and the work of the borough's Urban planning, Permits and Inspections Division.

This memoire is divided into three themes which are prioritized according to importance. First of all, the limits of the ZIS are questioned. Secondly, clarifications are requested concerning certain terms that are used in the draft order. The last theme relates to collective and personal means of protection.

1 – Limits of the Special Intervention Zone



The documents accompanying the draft order mentions that the perimeter of the ZIS was established to cover the 0-20 year floodplains and areas that were flooded in 2017 and 2019.¹ However, after analyzing the current boundaries, it seems that these include sectors that do not correspond to these criteria.

With reference to the plan available online, the ZIS includes many properties that were not affected by the 2017 floods. The 2017 flood line produced by the Service incendie de Montréal is the most accurate data for our territory. Although the 2019 flood line is not yet available, it is possible to refer to the CMM aerial photographs taken during this year's flood.

Therefore, we can determine that, with a few exceptions, properties affected by the 2019 floods are essentially the same as in 2017. If we compare the ZIS presented in the plan above with the SIM's 2017 line, over 200 homes are added to the zone, for this sector only. These properties are not located in the 0-20 year zone and were not affected by the floods in 2017 and 2019.

The City of Montreal's Urban Planning Department has produced maps of the various sectors of the city's territory affected by the ZIS.

¹ [Mise en place projetée d'une zone d'intervention spéciale, MAMH \(2019\)](#)

The attached maps compare the ZIS with the different floodplains applicable to the territory. These maps highlight areas where the ZIS and the floodplains do not match.

Since the announcement of the draft order, many concerned citizens have contacted the borough for more information. Some of them are worried about the implications of such regulation, anticipating in particular, the negative impacts on their insurance and property value. The standards prescribed by the project are very restrictive and should only apply to a territory that has been identified by a rigorous study and based on reliable and precise data. We are of the opinion that other data sources could be used to establish a more realistic area, and make sure that only the properties that are really at risk are concerned.

The City of Montreal's Geomatics Department can provide you with the 2017 flood line as well as the weak and strong current floodplains.

2 - Clarifications

The draft order declaring a ZIS contains many aspects that need to be clarified. First off, it would be important to include more detail concerning the process of requests for permits and certificates that were presented before the draft order. Secondly, certain terms and expressions have incomplete or inexistent definitions, these should also be clarified. These precisions are important in order to ensure the applicability of the draft order and reach the objectives. The issues related to permits and certificates requests presented before June 17th 2019, the types of rehabilitation works, major works, and different flood-proofing measures are detailed in the following paragraphs.

Permits and certificates requests

The draft order is vague concerning the 'freezing effect' and the processing of the different requests made before June 17th 2019. The draft order should specify that the requests that were completed and presented before the announcement of the draft order, on June 17th 2019, can be processed and permits can be issued.

Reconstruction and repair works

The definition of the term "reconstruction work" in paragraph 1. a) of the draft order only concerns repair work for buildings that are subject to an assessment of damage, and such damage exceeds 50% of the new cost. Paragraph 1(b) of the draft order defines 'repair work' as all restauration work that is not reconstruction work.

However, according to these definitions, restauration work on a structure would therefore fall within the category of 'repair work', and therefore, would be

authorized by paragraph 3. If this is actually the case, it would be important to specify it clearly. If this is not the case it would be necessary to amend these definitions to include the notion of *ouvrages*.

Major works

The draft order includes a development and urban planning regulation that references the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains (PPRLPI) in order to allow different interventions in the identified zones:

Excerpt from the draft order:

(2) in littoral zones, all structures, undertakings and works, including filling, excluding the interventions described in Subsection 3.3 of the Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains, are prohibited;

(3) within the perimeter of the special planning zone, excluding the littoral zone, all structures, undertakings and works, including the reconstruction of undertakings or structures affected by flooding, are prohibited, except

(a) interventions described in Subsection 4.2.1 of the Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains; and (b) restoration work, without expansion, on an existing structure that is ancillary to a principal building;

(4) structures and undertakings that are not prohibited under paragraph 2 or 3 must be flood-proofed in accordance with Schedule 1 to the Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains; the carrying out of major work on a structure or undertaking must result in the flood-proofing of all the structure or undertaking and, where the work is carried out on a residential building, the flood-proofing must also comply with the standards set out in Schedule 3;

Excerpt from the PPRLPI :

4.2.1. a) works to maintain land in good condition, to maintain, repair, modernize or demolish existing structures and undertakings, provided the flood-prone area of the land does not increase as a result of the works; however, when work is carried out to modernize or reconstruct infrastructures associated with a public thoroughfare, the flood-prone area of the undertaking may be increased by 25% for public safety reasons or to bring the infrastructure into conformity with applicable standards; in all cases, major work on a structure or undertaking should entail flood-proofing the entire structure or undertaking;

This draft order allows the various interventions provided for in articles 3.3 and 4.2.1 of the PPRLPI within the perimeter of the ZIS. More specifically, article 4.2.1 a) authorizes certain types of work “provided the flood-prone area of the land does not increase as a result of the works”, while specifying that “in all cases, major work on a structure or undertaking should entail flood-proofing the entire structure or undertaking.” Thus, the PPRLPI requires the flood-proofing of structures and undertakings in the case of major works, and yet the term is not defined.

The interpretation guide of the PPRLPI allows for a better understanding the idea behind article 4.2.1 a).

Excerpt from the interpretation guide of the PPRLPI:

« Cette disposition de la Politique rappelle un principe du droit municipal à l'effet que l'on peut entretenir des constructions ou des ouvrages existants même si ceux-ci sont dérogatoires à la réglementation. Ce principe s'étend aux réparations, aux modernisations et aux démolitions.

Au sens de cet article, l'agrandissement d'une construction ou d'un ouvrage existant qui n'augmente pas la superficie de la propriété exposée aux inondations, c'est-à-dire qui est situé au-dessus de la cote de récurrence de 100 ans, est considérée comme étant une modernisation. Ainsi, l'ajout d'un étage ou d'une section en porte-à-faux est permis. Toutefois, il est important de se référer à la réglementation municipale, car celle-ci pourrait considérer ces travaux comme un agrandissement et l'interdire ou en prescrire des modalités. »

The guide makes a clear distinction between what constitutes an expansion and modernization based on whether the area affected by floods is increased or not (under the 100 year recurrence). However, although the guide helps to distinguish authorized and unauthorized work, it does not specify what is meant by major works, which requires flood-proofing.

In addition to making certain parts of the PPRLPI applicable by reference, the draft order uses this expression by specifying in paragraph 4 that “the carrying out of major work on a structure or undertaking must result in the flood-proofing of all the structure or undertaking and, where the work is carried out on a residential building, the flood-

proofing must also comply with the standards set out in Schedule 3.” The draft order does not include further precisions allowing us to determine whether or not it is major works on a construction or structure.

Both in the PPRLPI and in the draft order, no principle or detail can be used to establish the criteria to determine if works are considered major or not. However, this element is very important for the application of the prescribed standards. Different ways could be used to assess this issue, such as the value of the work, the proportion of the building that is affected, increasing the floor area, increasing the living space volume or area. For example, the zoning by-law (CA28 0023) of the borough of L’Île-Bizard-Sainte-Geneviève does not use this expression, but rather specifies: "dans le cas d’une augmentation de plus de 50 % de la superficie ou du volume d’origine de la construction ou de l’ouvrage ou de la reconstruction des fondations d’un bâtiment principal". According to us, it would be necessary to better express the intention behind using this expression. The following examples demonstrate our questions:

Work on a residential property

In the event that an owner wishes to expand his property to a higher level, these works are considered as modernization of an existing construction under the PPRLPI. Thus, this type of work could be authorized, as it does not result in an increase in the area exposed to floods. However, does the addition of a second floor to a building constitute major work? Is there a distinction to be made between a 10% or 50% addition to the original surface area? Is the flood-proofing of the whole building required?

Case of a public road

According to the PPRLPI interpretation guide, the reconstruction of a street is not considered modernization work, but rather a new construction; this could be authorized by derogation.²

Paragraph 4 of the draft order states that ‘constructions and works that are not prohibited under paragraphs 2 and 3 must be immune.’ Thus, the reconstruction of a public road would not be authorized by one of these two paragraphs but rather by the following excerpt:

² Guide d’interprétation de la PPRLPI (2015, p.63)

Draft order excerpt:

That it also be understood that municipal standards allowing for an intervention described in Subsection 4.2.2 of the Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains are compatible with the controls provided for in this Order if the intervention has been exempted under the provisions of the Act respecting land use planning and development;

Therefore, a reconstruction of a public road could be authorized by derogation pursuant to articles 4.2.2 a) or 4.2.2 b) of the PPRLPI depending on the situation.³ However, article 4.2.2.2 a) refers to plans for enlargement, expansion, bypass exits and entrances and realignment. Reconstruction is not specifically mentioned.

In addition, these are probably major works, so the structure will have to be flood-proofed. However, it is not easy to determine which flood-proofing measures should be applied. On the one hand, the draft order refers to the measures in annex 1 of the PPRLPI. However, these measures are difficult to transpose to this type of structure. To determine the applicable measures should the term 'ground floor' correspond to the street threshold? Flood-proofing of certain streets on our territory included in the ZIS could involve a one-metre increase in the threshold compared to the current situation. On the other hand, the proposed criteria for the analysis of derogations found in annex 2 of the PPRLPI refers to 'appropriate flood-proofing measures'. Are these different from the measures listed in annex 1 of the PPRLPI?

The flood-proofing of a street according to the criteria found in annex 1 of the PPRLPI could result in unfortunate situations, especially considering that backfilling is not permitted for private driveways. As mentioned previously, the level of the street would increase significantly and the driveways to the properties could not be elevated.

Moreover, the planned derogation process requires an amendment to the Development and planning scheme. This is a long and complicated process. It would be appropriate to provide accommodation for public infrastructure cases.

Habitable room

According to the draft order, 'no habitable room, such as a bedroom or a living room, must be built in a basement' in order for the building to be considered flood-proof.

³ Guide d'interprétation de la PPRLPI (2015, p.63)

It would be preferable to define the term 'habitable room' more precisely. Does this mean that game rooms, offices, bathrooms, garages, dining rooms and kitchen are prohibited in the basement?

Moreover, it seems unusual to prohibit the construction of an habitable room in the basement of an existing residential building when it must be flood-proofed (major works) when it is not the case for minor works which, for example, could be the installation of habitable rooms in the basement. Article 4.2.1 (a) of the PPRLPI makes it possible to modernize existing buildings as long as the area exposed to floods does not increase. For example, a basement could be completely refurbished with rooms, and it could contain important components of the mechanical system without having to be flood-proofed.

3- Protective structures

Collective

New flood protection structures would provide protection for sectors that are already built and existing public or municipal infrastructure. Although these works may be exempted under article 4.2.2.2 g) of the PPRLPI, the process is long and complicated. It would be appreciated that the government address this question and facilitates this type of projects.

Personal

According to the draft order, there is no provision allowing the construction of protective structures on private properties, such as walls, dykes or backfilling.

As mentioned previously, it is not allowed to elevate the driveways on private properties as it is considered backfilling. This type of work is aimed at increasing the security of the citizens. In case of a flood they might be isolated with no way to leave their homes safely. Many citizens have asked us to elevate their driveway to protect themselves from floods. We ask that the draft order allow this intervention.

In addition, although flood-proofing measures are required for major works of a structure or a construction, it is not specified whether it is possible to carry them out individually, without these be considered major works. For example, annex 1 of the

PPRLPI states that 'the filling of land should be restricted to protecting the area immediately around the structure or undertaking concerned and should not extend to the entire landsite'. Thus, is it possible to backfill around the foundations of a building without it being flood-proofed?

Also, citizens proposed that protective walls be built around homes to protect them from flooding. We ask that the draft order authorizes protective structures outside residences such as low walls.

Allowing such measures such as backfilling and walls would increase the safety of citizens and belongings. It will be necessary to include standards that allow and control these types of works on private property.

Conclusion

This memoire allowed the borough to voice its concerns regarding the draft order. Although it is essential to improve the management of floodplains, many aspects of the draft order will have to be amended to ensure its applicability and the achievement of its objectives.

It has been established that the limit of the zone includes many sectors that do not correspond to the government's criteria, either being in the 0-20 flood zone and have been affected by the 2017 and/or 2019 floods.

If the limits are not modified, many home owners will be affected for no good reason.

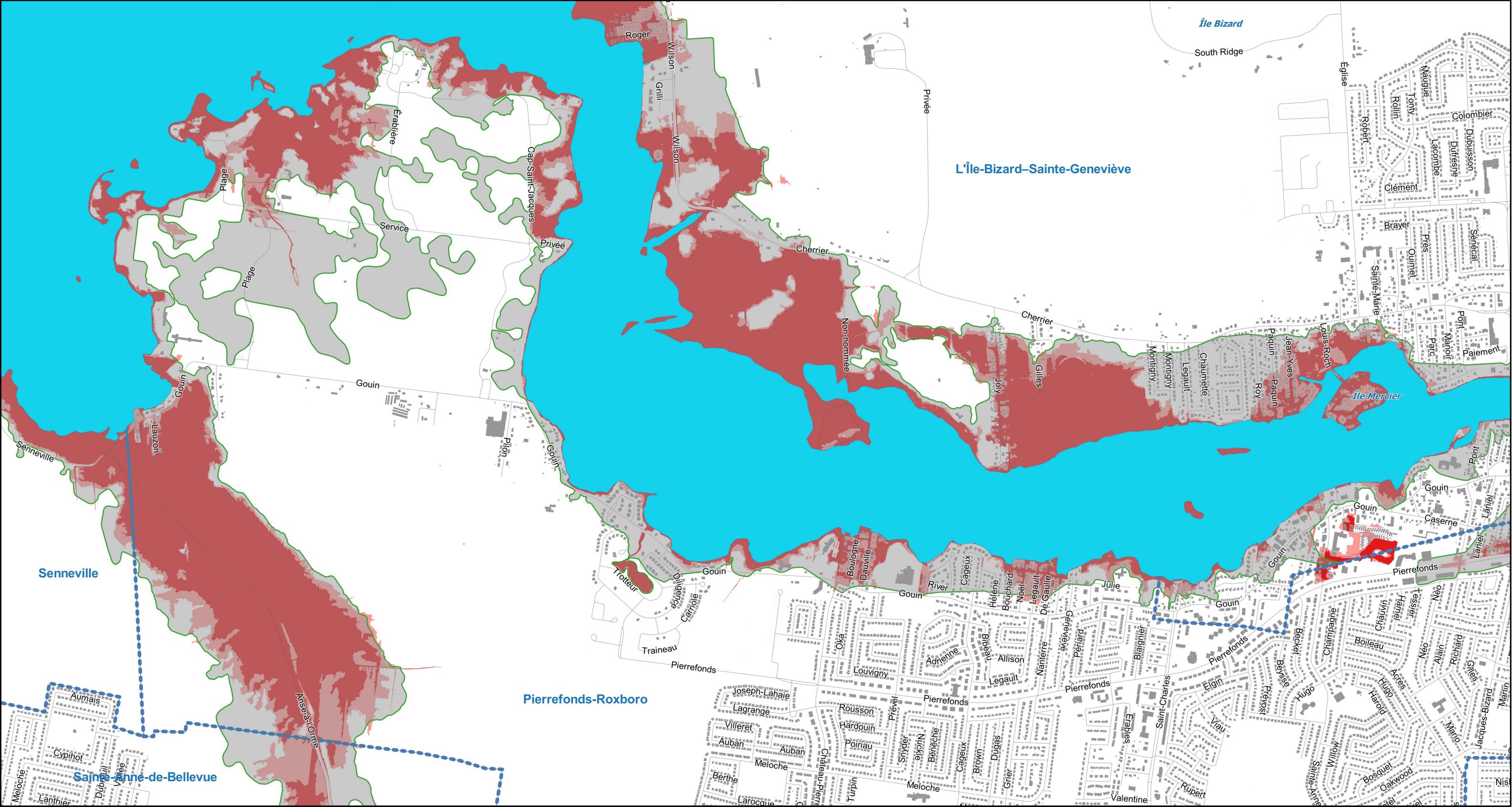
Subsequently, various clarifications were requested, both for the processing of permits and certificates requests filed before June 17, 2019 and for certain terms used in the draft order. The decree should provide for the integration of the notion of work into the definitions of types of work and flood-proofing measures. It should also include the definition of major works in order to establish whether a construction or a structure must be flood-proofed, as well as the definition of 'habitable room' beyond the two examples mentioned in the draft order. Without these precisions, it will be difficult to enforce some of the prescribed measures.

Moreover, the borough highlighted its interest for various protection measures. For the protection of sectors that are already built, the construction of municipal protective

structures should be facilitated. In order to protect individuals and their belongings, it would be necessary to authorize individual protection measures as well.

In light of the questions and arguments put forward in this memoire, it appears justified to believe that the draft order in its current form will have to be modified. Parallel to the work on the draft order, work will also have to be done on the PPRLPI, because many of the points mentioned also apply.

Secteur 1 - Pierrefonds-Roxboro/L'Île-Bizard–Sainte-Geneviève (ouest) - Zones inondables en vigueur et ZIS du MELCC (Juin 2019)



Sources :
Base de données de la zone d'intervention spéciale (ZIS) du ministère de l'Environnement et de la Lutte contre les changements climatiques (MELCC) - 19 juin 2019.
Zones inondables issues des cotes du CEHQ 2006 et transposées sur la rive par la Ville de Montréal, (découpage de la Division de la géomatique et polygonisation par la Division de la planification urbaine) pour la rivière des Prairies (2019).
Zones inondables issues des cotes du CEHQ 2006 et transposées sur la rive par la CMM (2008).

Cartographie : Ville de Montréal, SUM-DU, Division de la planification urbaine - Juin 2019.

0

0.4

0.8 km

Légende

Zone d'intervention spéciale (ZIS)

Zones de grand courant (CEHQ-2006)

Zones de faible courant (CEHQ-2006)

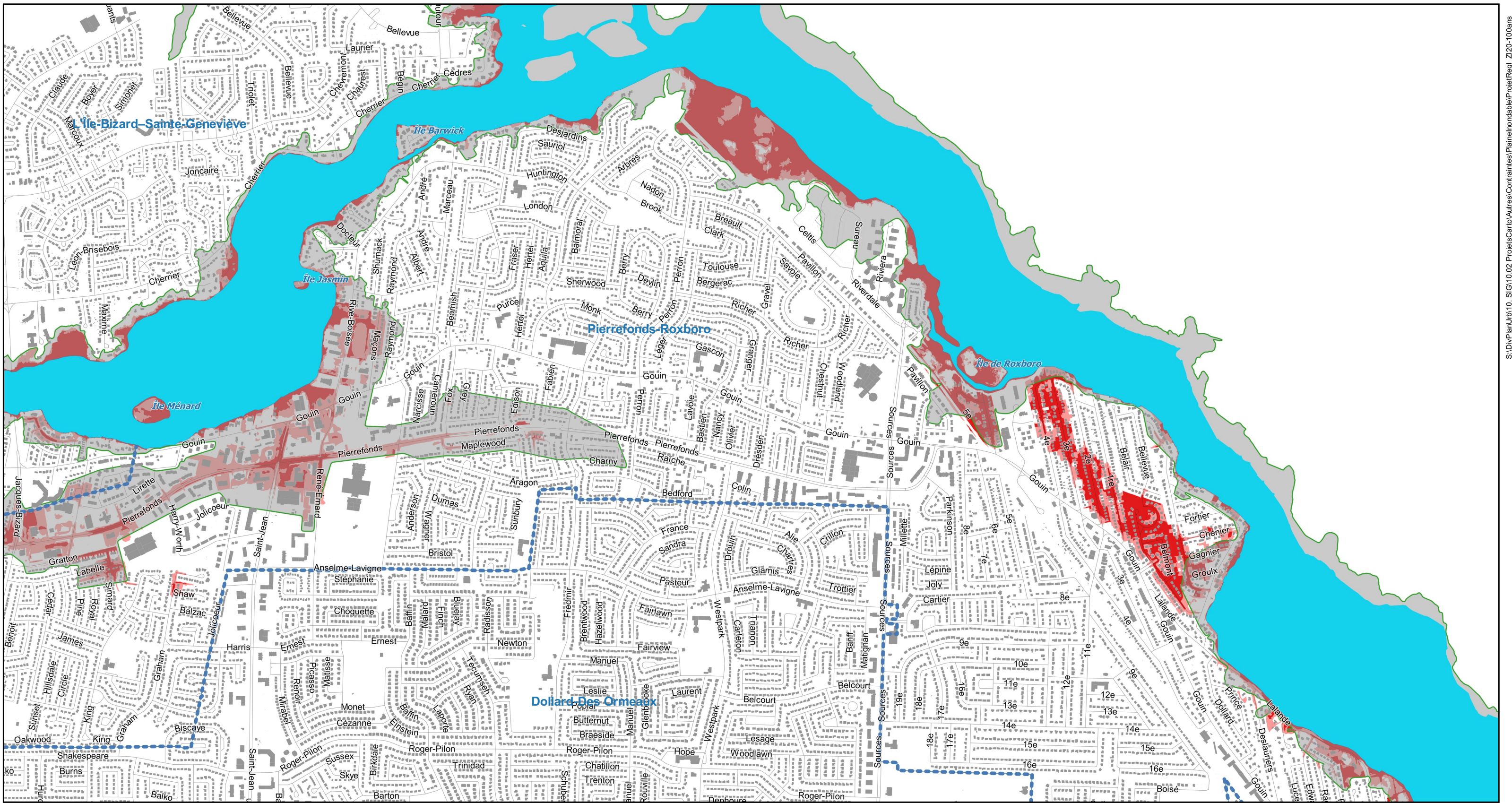
Bâtiments

Cours d'eau

Limites administratives

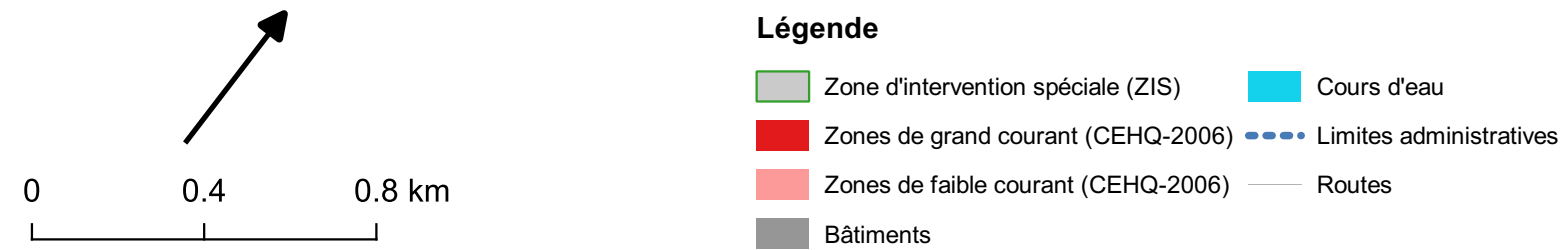
Routes

Secteur 2 - Pierrefonds-Roxboro/L'Île-Bizard–Sainte-Geneviève (est) - Zones inondables en vigueur et ZIS du MELCC (Juin 2019)

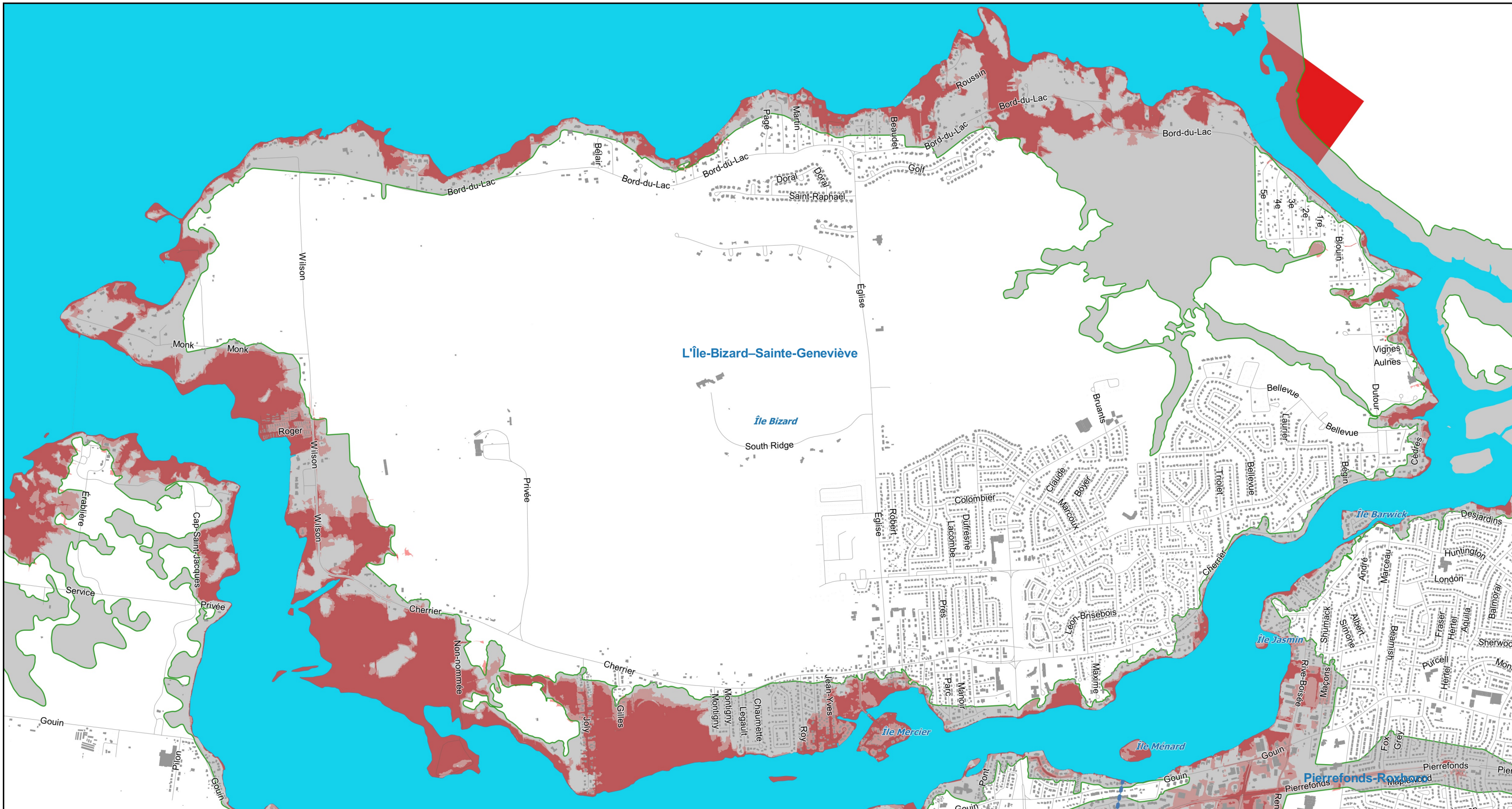


Sources :
Base de données de la zone d'intervention spéciale (ZIS) du ministère de l'Environnement et de la Lutte contre les changements climatiques (MELCC) - 19 juin 2019.
Zones inondables issues des cotes du CEHQ 2006 et transposées sur la rive par la Ville de Montréal, (découpage de la Division de la géomatique et polygonisation par la Division de la planification urbaine) pour la rivière des Prairies (2019).
Zones inondables issues des cotes du CEHQ 2006 et transposées sur la rive par la CMM (2008).

Cartographie : Ville de Montréal, SUM-DU, Division de la planification urbaine - Juin 2019.

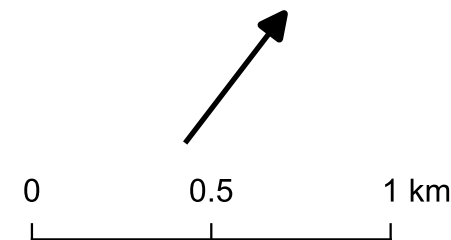


Secteur 3 - L'Île-Bizard–Sainte-Geneviève (nord) - Zones inondables en vigueur et ZIS du MELCC (Juin 2019)










Sources :
Base de données de la zone d'intervention spéciale (ZIS) du ministère de l'Environnement et de la Lutte contre les changements climatiques (MELCC) - 19 juin 2019.
Zones inondables issues des cotes du CEHQ 2006 et transposées sur la rive par la Ville de Montréal, (découpage de la Division de la géomatique et polygonisation par la Division de la planification urbaine) pour la rivière des Prairies (2019).
Zones inondables issues des cotes du CEHQ 2006 et transposées sur la rive par la CMM (2008).

Cartographie : Ville de Montréal, SUM-DU, Division de la planification urbaine - Juin 2019.



Légende

-  Zone d'intervention spéciale (ZIS)
  Cours d'eau
-  Zones de grand courant (CEHQ-2006)
  Limites administratives
-  Zones de faible courant (CEHQ-2006)
  Routes
-  Bâtiments