

NOTICE TO

CLOCA BOARD OF DIRECTORS

Please find enclosed the **agenda** and supporting documents for the **CLOCA Board of Directors Meeting** on **Tuesday, March 19, 2024, at 5:00 p.m.** This meeting will be a **Hybrid meeting**. Members can join either virtual through TEAMS or attend in-person at the Authority's Administrative Office - 100 Whiting Avenue, Oshawa

The list below outlines upcoming meetings and events for your information.

UPCOMING MEETINGS & EVENTS

DATE	TIME	EVENT	LOCATION
March 8-10/24 March 13-17/24 March 23-24/24 April 6-7/24	9:30 a.m. to Noon or Noon to 2:30 p.m.	Annual Maple Syrup Festival Purchase tickets online: cloca.com/maple-syrup-festival	Purple Woods Conservation Area 38 Coates Road East, Oshawa Note: Festival Closed Easter Weekend
Tuesday, March 19/24	5:00 p.m.	CLOCA Board of Directors Meeting	Hybrid Meeting
Friday, April 5/24	7:00 p.m. to 9:00 p.m.	Lantern Hike	Purple Woods Conservation Area 38 Coates Road East, Oshawa
Tuesday, April 16/24	5:00 p.m.	CLOCA Board of Directors Meeting	Hybrid Meeting
Tuesday, April 16/24	5:00 p.m.	CLOSPA Board of Directors Meeting	Hybrid Meeting Immediately following CLOCA Board of Director's Meeting
Saturday, May 11/24	1:00 p.m. to 3:00 p.m.	Mother's Day Hike and Tea	Russ Powell Nature Centre 7274 Holt Road, Enniskillen
*Tuesday, May 14/24	5:00 p.m.	CLOCA Board of Directors Meeting	Hybrid Meeting
Tuesday, June 18/24	5:00 p.m.	CLOCA Board of Directors Meeting	Hybrid Meeting
Friday, June 21/24	8:30 p.m. to 10:00 p.m.	Summer Solstice/Firefly Hike	Purple Woods Conservation Area 38 Coates Road East, Oshawa
Tuesday, July 16/24	5:00 p.m.	CLOCA Board of Directors Meeting	Hybrid Meeting
Tuesday, September 17/24	5:00 p.m.	CLOCA Board of Directors Meeting	Hybrid Meeting
*Tuesday, October 8/24	5:00 p.m.	CLOCA Board of Directors Meeting	Hybrid Meeting
Tuesday, November 19/24	5:00 p.m.	CLOCA Board of Directors Meeting	Hybrid Meeting
Tuesday, December 17/24	5:00 p.m.	CLOCA Board of Directors Meeting	Hybrid Meeting

***Prior Tuesday meeting due to Monday being a statutory holiday**

LATEST NEWS

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Discover your local Conservation Area.

“Healthy Watersheds for Today and Tomorrow”

CENTRAL LAKE ONTARIO CONSERVATION AUTHORITY

A G E N D A

AUTHORITY MEETING

Tuesday, March 19, 2024 - 5:00 P.M.

HYBRID MEETING LOCATION: VIRTUAL THROUGH TEAMS (ACCESS DETAILS TO BE PROVIDED)
OR 100 WHITING AVENUE, OSHAWA, AUTHORITY'S ADMINISTRATIVE OFFICE, BOARDROOM

CIRCULATION LIST

Authority	Elizabeth Roy, Chair	Authority	C. Darling, Chief Administrative Officer
Members:	Bob Chapman, Vice Chair	Staff:	B. Boardman, Executive/Accounting Administrator
	Marilyn Crawford		R. Catulli, Director, Corporate Services
	Sami Elhajjeh		J. Davidson, Director, Watershed Planning & Natural Heritage
	Bruce Garrod		L. Hastings, Communications Specialist
	Ron Hooper		D. Hope, Conservation Lands & Education Manager
	Rick Kerr		C. Jones, Director, Planning & Regulation
	Chris Leahy		P. Sisson, Director, Engineering, Field Operations & Education
	Tito-Dante Marimpietri		L.Vaja, Executive Assistant/Health & Safety Administrator/ Recording Secretary
	Ian McDougall		R. Wilmot, Information Management & Technology Manager
	Rhonda Mulcahy		
	John Neal		
	David Pickles		
	Maleeha Shahid	Others:	
	Corinna Trill		

AGENDA ITEM:

SUPPORTING DOCUMENTS

1. CHAIR'S WELCOME

We acknowledge that our watershed is located on the Lands of the Great Mississauga Nations who are signatories to the Williams Treaties. These communities include the Mississaugas of Scugog Island, First Nations of Alderville, Beausoleil, Curve Lake, Hiawatha, Chippewas of Georgina Island and Rama. We believe it is important that we learn, and work to reconcile the impact we, and those before us, have had on the original inhabitants. On behalf of CLOCA, we want to thank them for sharing this land and all its resources. At CLOCA, our goal is to respectfully share in the responsibility of the stewardship and protection of these ancestral lands and waters and continue towards truth and reconciliation as we move forward as friends and allies with all First Nations, Inuit, and Metis people.

2. DECLARATIONS of interest by members on any matters herein contained.

3. ADOPTION OF MINUTES of January 16, 2024

pg. 1

4. PRESENTATIONS – None

5. CORRESPONDENCE – None

6. DIRECTOR, PLANNING & REGULATION

(1) Staff Report #5869-24

pg. 8

Re: Permits Issued for Development, Interference with Wetlands, and Alteration to Shorelines and Watercourses – January 1 to February 29, 2024

(2) Staff Report #5870-24

pg. 10

Re: New Conservation Authorities Act Requirements, Regulations and Implementing CLOCA Policy and Procedures for Land Use Planning and Regulation

Cont'd

7. DIRECTOR, WATERSHED PLANNING & NATURAL HERITAGE

- (1) Staff Report #5871-24 pg. 125
Re: Lynde Creek Watershed Stream Habitat Assessment, Enhancement and Restoration Project
- (2) Staff Report #5872-24 pg. 128
Re: Proposed Regulatory changes under the Ontario Endangered Species Act to improve implementation of the species at risk program in Ontario (ERO#019-8016)
- (3) Staff Report #5873-24 pg. 133
Re: Proposed Federal Recovery Strategy and Action Plan for the Redside Dace (*Clinostomus elongatus*) in Canada
- (4) Restoration and Stewardship Program – 2023 In Review (staff presentation)
- (5) Staff Report #5874-24 pg. 137
Re: Restoration and Stewardship Program – 2023 In Review

8. DIRECTOR, ENGINEERING, FIELD OPERATIONS & EDUCATION – None

9. DIRECTOR, CORPORATE SERVICES – None

10. CHIEF ADMINISTRATIVE OFFICER

- (1) Staff Report #5875-24 pg. 142
Re: Delegation of Permit Approvals, Cancellations and Administrative Reviews
- (2) Staff Report #5876-24 pg. 144
Re: Re-appointment of enforcement officers under Part VII (Enforcement and Offences) of the CA Act

11. CONFIDENTIAL MATTERS – None

12. NEW AND UNFINISHED BUSINESS – None

13. ADJOURNMENT

A G E N D A

SUPPORTING DOCUMENTS

MEETING OF: Authority

DATE: Tuesday, March 19, 2024

TIME: 5:00 p.m.

LOCATION: Hybrid – Virtual (TEAMS) or
In-person - 100 Whiting Ave, Oshawa

CENTRAL LAKE ONTARIO CONSERVATION AUTHORITY

MINUTES NO. 1

AUTHORITY ANNUAL MEETING

Tuesday, January 16, 2024 - 5:00 P.M.

HYBRID MEETING LOCATION: VIRTUAL THROUGH TEAMS (ACCES DETAILS PROVIDED)
OR 100 WHITING AVENUE, OSHAWA, AUTHORITY'S ADMINISTRATIVE OFFICE, BOARDROOM

Authority Members: Elizabeth Roy, Chair
Bob Chapman, Vice Chair
Marilyn Crawford
Sami Elhajjeh
Bruce Garrod
Ron Hooper
Rick Kerr
Chris Leahy
Tito-Dante Marimpietri
Ian McDougall
Rhonda Mulcahy
John Neal
David Pickles
Maleeha Shahid

Authority Staff: C. Darling, Chief Administrative Officer
B. Boardman, Executive/Accounting Administrator
R. Catulli, Director, Corporate Services
J. Davidson, Director, Watershed Planning & Natural Heritage
L. Hastings, Communications Specialist
D. Hope, Conservation Lands & Education Manager
C. Jones, Director, Planning & Regulation
P. Sisson, Director, Engineering, Field Operations & Education
L.Vaja, Executive Assistant/Health & Safety Administrator/ Recording Secretary
R. Wilmot, Information Management & Technology Manager

Others: K. Jull, Gardiner Roberts LLP
S. Provenzano, Guest
Ontario Land Owners, Guest

Absent: Corinna Trill

The Chair called the meeting to order at 5:00 p.m.

LAND ACKNOWLEDGEMENT STATEMENT

Chair Roy recited the Land Acknowledgement Statement.

M. Crawford arrived at 5:00 p.m.

D. Pickles joined virtually at 5:01 p.m.

DECLARATIONS of interest by members on any matters herein contained - *None*

ADOPTION OF MINUTES (Agenda pg. 1)

Res. #1 Moved by J. Neal
Seconded by B. Chapman

THAT the Authority minutes of November 21, 2023, be adopted as circulated.
CARRIED

CHAIR'S REMARKS

E. Roy thanked the Board and congratulated Staff on CLOCA's 2023 Highlights and Accomplishments.

R. Kerr arrived at 5:04 p.m.

PRESENTATIONS - None

ELECTION OF OFFICERS

The 2023 elected officers vacated their positions.

C. Darling, Chief Administrative Officer, officiated the 2024 election of Chair.

Res. #2 Moved by R. Kerr
Seconded by C. Leahy

THAT in the event of a vote by ballot, Perry Sisson and Jamie Davidson be designated as scrutineers; and further that all election ballots be destroyed.

CARRIED

Authority Chair

C. Darling made three calls for nominations, noting no seconder was required.

Nominations: B. Chapman nominated Elizabeth Roy

Res. #3 Moved by R. Kerr
 Seconded by S. Elhajjeh

THAT nominations for the position of Authority Chair be closed.
CARRIED

E. Roy “accepts”.

E. Roy was declared Authority Chair for 2024 and conducted the remainder of the meeting.

Authority Vice-Chair

E. Roy made three calls for nominations.

Nominations: R. Mulcahy nominated Bob Chapman

Res. #4 Moved by C. Leahy
 Seconded by S. Elhajjeh

THAT nominations for the position of Authority Vice-Chair be closed.
CARRIED

B. Chapman “accepts”.

B. Chapman was declared Authority Vice Chair for 2024.

SIGNING OFFICERS

Res. #5 Moved by C. Leahy
 Seconded by S. Elhajjeh

THAT the Signing Officers of the Authority be any two of the following: The Chair, Vice-Chair, Chief Administrative Officer/Secretary-Treasurer, and Director of Corporate Services.
CARRIED

SOLICITORS

Central Lake Ontario Conservation Authority utilizes the services of six (6) legal firms:

- Borden Ladner Gervais – property tax and related matters
- Boychyn & Boychyn – real estate and property transactions
- Fogler, Rubinoff – land related matters – planning and regulation matters
- Gardiner, Roberts – land related matters – planning and regulation matters
- Hicks, Morley – employment and labour related matters
- Littler Canada - legal matters for personnel/human resources

Res. #6 Moved by M. Crawford
 Seconded by C. Leahy

THAT the firms Borden Ladner Gervais, Toronto; Boychyn & Boychyn, Oshawa; Fogler Rubinoff, Toronto; Gardiner, Roberts, Toronto; Hicks Morley, Toronto; and Littler Canada be appointed Solicitors for the Authority, as required.
CARRIED

BORROWING BY-LAW

Res. #7 Moved by R. Mulcahy
Seconded by B. Garrod

THAT the Central Lake Ontario Conservation Authority's signing officers are hereby authorized on behalf of the Central Lake Ontario Conservation Authority to borrow from time to time, from the banking institution under agreement with the Central Lake Ontario Conservation Authority, up to \$1,000,000 to meet current expenditures until Provincial grants and/or Regional funding are received, with interest as may be determined by agreement between the bank and the Central Lake Ontario Conservation Authority.
CARRIED

CONSERVATION ONTARIO COUNCIL

Res. #8 Moved by D. Pickles
Seconded by R. Hooper

THAT the Chair be appointed as the Authority's representative on the Conservation Ontario Council. Alternative designates are the Vice-Chair and the Chief Administrative Officer.
CARRIED

ENFORCEMENT OFFICERS

- (i) Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation #42/06

Res. #9 Moved by M. Shahid
Seconded by C. Leahy

THAT L. Bulford, E. Cameron, D. Cheng, C. Jones, S. Nejad, P. Sisson, S. Sivarajah and J. Tisdale be appointed Enforcement Officers under the Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation #42/06.
CARRIED

ENFORCEMENT OFFICERS

- (ii) Conservation Areas Regulation #101/90

Res. #10 Moved by B. Chapman
Seconded by C. Leahy

THAT T. Backus, A. Cooper, B. De Waal, D. Hope, J. Maas and M. Murphy be appointed Enforcement Officers under the Conservation Areas Regulation #101/92.
CARRIED

CORRESPONDENCE

- (1) Letter from the Ministry of Natural Resources & Forestry (Agenda pg. 5)
Re: Extension of Minister' Direction for Conservation Authorities Regarding Fee Changes Associated with Planning, Development and Permitting Fees

Res. #11 Moved by R. Kerr
Seconded by C. Leahy

THAT the above correspondence items be received for information.
CARRIED

DIRECTOR, PLANNING & REGULATION

- (1) Staff Report #5861-24 (Agenda pg. 14)
Re: Permits Issued for Development, Interference with Wetlands, and Alteration to Shorelines and Watercourses – November 1 to December 31, 2023

Res. #12 Moved by M. Shahid
Seconded by R. Mulcahy

THAT Staff Report #5861-24 be received for information.
CARRIED

- (2) Staff Report #5863-24 (Agenda pg. 16)
Re: 2023 Timeline Report for Section 28 Applications

Res. #13 Moved by C. Leahy
Seconded by I. McDougall

THAT Staff Report #5863-24 be received for information.
CARRIED

DIRECTOR, WATERSHED PLANNING & NATURAL HERITAGE - None

DIRECTOR, ENGINEERING AND FIELD OPERATIONS - None

DIRECTOR, CORPORATE SERVICES

- (1) Staff Report #5864-24 (Agenda pg. 19)
Re: BDO Canada Audit of Financial Statements for the Year Ended December 31, 2023

Res. #14 Moved by C. Leahy
Seconded by M. Shahid

THAT the letter from Adam Delle Cese, BDO Dunwoody Canada LLP be received; and THAT Adam Delle Cese be advised that the Board of Directors is not aware of any matters related to increased risk, fraud, or errors on behalf of management processes.
CARRIED

- (2) Staff Report #5866-24 (Agenda pg. 57)
Re: 2024 Proposed Fees for Regulation Services and Planning Services

Res. #15 Moved by C. Leahy
Seconded by R. Hooper

THAT the revised Proposed Fees for Services & Programs, as outlined in Attachments 1 be adopted, effective January 1, 2024.
CARRIED

CHIEF ADMINISTRATIVE OFFICER

(1) Staff Report #5862-24 (Agenda pg. 60)
Re: Common Memberships – Different Boards

Res. #16 Moved by C. Leahy
Seconded by M. Shahid

THAT the Chair, Vice Chair, and members of the Central Lake Ontario Conservation Authority for 2024 be the Chair, Vice Chair, and members of the Central Lake Ontario Conservation Fund for 2024 and the Chair, Vice Chair, and members of the Central Lake Ontario Source Protection Authority for 2024.

CARRIED

(2) Staff Report #5865-24 (Agenda pg. 61)
Re: 2023 Annual Report & Strategic Plan Implementation

Res. #17 Moved by I. McDougall
Seconded by M. Crawford

THAT Staff Report #5865-24 be received for information.

CARRIED

CONFIDENTIAL MATTERS

(1) Staff Report #5867-24 (Confidential Agenda pg. 67)
Re: Property Matter

Res. #18 Moved by B. Chapman
Seconded by R. Kerr

CARRIED

(2) Staff Report #5868-24 (Confidential Agenda pg. 70)
Re: Property Matter

Res. #19 Moved by B. Chapman
Seconded by R. Kerr

CARRIED

NEW AND UNFINISHED BUSINESS

R. Hooper noted that Clarington's Jim Richards has been named to the Order of Canada for his environmental work. Richards was named a member of the Order of Canada in recognition of his "long-time ecological stewardship, notably of the Oshawa Second Marsh (Ward 4). CLOCA will be sending a letter of Achievement.

ADJOURNMENT

Res. #20 Moved by C. Leahy
Seconded by M. Shahid

THAT the meeting adjourns.

CARRIED

The meeting adjourned at 5:24 p.m.

2023 Highlights and Accomplishments

Central Lake Ontario Conservation Authority accomplished the following as part of our ongoing commitment to the goals of our Strategic Plan.

Strategic Plan Goal 1: Conserve, restore and enhance natural resources through integrated watershed management.

- We completed a watershed report card that provides a broader comparison of watershed health for stakeholders across Ontario and a snapshot of environmental conditions in our watershed.
- We continued to implement our integrated watershed monitoring program increasing our understanding of impacts from environmental stressors and guiding restoration and management efforts.
- We continue to make considerable progress in environmental restoration and stewardship across our watersheds such as tree planting, invasive species management, forest management planning.
- We launched a new stream restoration project. In 2023, 900 square meters of stream were restored.
- The Oak Ridges Moraine Groundwater Program continued to improve our understanding of the groundwater resources in and around the Oak Ridges Moraine including the development of a new, online, interactive mapping tool.
- In partnership with the Town of Whitby we initiated a Sustainable Neighbourhood Action Plan (SNAP) pilot project.

Strategic Plan Goal 2: Support healthy communities and the protection of people and property from flooding and erosion.

- Issued over 218 permits for various development activities under Ontario Regulation 42/06, reviewed 561-land use planning submissions from municipalities, consultants, and landowners; entered 8,180 documents into our electronic records management system and hosted 163 pre-application consultation meetings with development proponents, all towards the goal of protecting people and property from flooding and erosion.
- Replacement of CLOCA's outdated floodplain information of Lynde Creek with updated mapping using LIDAR* topographic mapping and survey-checked engineering plans for recent roadway crossings of the floodplain.

Strategic Plan Goal 3: Protection, management, and safety of conservation areas.

- CLOCA Conservation Areas met Pan-Canadian Standards for Protected Areas and are now included in the federal Canadian Protected and Conserved Areas Database (CPCAD).
- Post-pandemic saw the return of nature schools operating day camps within CLOCA's Conservation Areas in the summer of 2023.
- Ontario Trillium Foundation recognition event was held after completion of Conservation Area parking lot improvements. The event also recognized the renaming of the education centre at Enniskillen Conservation Area as the Russ Powell Nature Centre.
- Made improvements to the public use infrastructure in our conservation areas with new washroom facilities at Long Sault and Enniskillen Conservation Areas; updated and AODA-compliant kiosk, trail head and trail signs at most of our Conservation Areas.
- 'Recycled' a bridge from Heber Down Conservation Area for use at Enniskillen Conservation Area.
- Carried out work to reinstate a sap pipeline lost during extensive forest damage caused by Derecho windstorm event.
- Acquired an ecologically important 29-acre parcel of land as an additional land holding to the Long Sault Conservation Area.
- Expanded our volunteer Conservation Area Trail Stewards (CATS) program to 76 volunteers, supporting our land management activities.


Strategic Plan Goal 4: Create a more knowledgeable and connected watershed community through engagement and education.

- Hosted an open house event at the Bowmanville/Westside Marshes Conservation Area (BWMCA) to initiate community engagement and raise awareness of our Conservation and Restoration Plan for Bowmanville Marsh.
- After a two-year hiatus due to the pandemic, CLOCA's annual Purple Woods Maple Syrup Festival returned to its original format, welcoming approximately 9,500 people. Staff collected 24,000 litres of sap and made 400 litres of maple syrup.
- Nature Nook outdoor 'play space' was created at Enniskillen Conservation Area equipped with natural play materials.
- The 24th annual Durham Children's Watershed Festival was held in September, with over 2,000 Grade 4 students attending.
- The Water Watch component of the SMART Watersheds program is nearing completion. Signage has been installed at the monitoring locations and backpacks containing equipment, and instructions have been delivered to all participating Oshawa, Whitby and Clarington library locations. Videos on equipment use and safety have been created and are active on CLOCA's website.

Strategic Plan Goal 5: Demonstrate business excellence through effective customer service, engaged employees and innovation.

- Continued implementation of *Conservation Authorities Act* requirements including finalization of an inventory of programs and services and the formulation of memorandum of understanding with our municipal partners for the delivery of services.
- We made amendments to the Corporate Administration and Meeting Procedural bylaw to improve governance.
- We continued to implement administrative improvement measures to ensure effective and efficient operations. New accounting software was introduced, work continued on the migration to a new accounting and a budget format consistent with *Conservation Act* requirements.

DATE: March 19, 2024
FILE: RPRG3974
S.R.: 5869-24
TO: Chair and Members, CLOCA Board of Directors
FROM: Chris Jones, Director, Planning & Regulation
SUBJECT: **Permits Issued for Development, Interference with Wetlands and Alteration to Shorelines and Watercourses – January 1 to February 29, 2024**

APPROVED BY C.A.O. 

Attached are Development, Interference with Wetlands and Alterations to Shorelines and Watercourses applications, pursuant to Ontario Regulation 42/06, as approved by staff and presented for the members' information.

RECOMMENDATION:

THAT Staff Report #5869-24 be received for information.

Attach.

PERMITS TO BE RATIFIED, FROM 1 JAN 2024 TO 29 FEB 2024

Row	Municipality	Owner Applicant	Street Lot Con	Permit No	Description
1	CLARINGTON	MUNICIPALITY OF CLARINGTON / VIANET INC.	BASELINE ROAD / LOT 29-33 / CON BFC & CONCESSION 01	C24-016-BFGHW	DEVELOPMENT ACTIVITIES ASSOCIATED WITH RE: INSTALLATION OF CONDUITS BY DIRECTIONAL BORE AT VARIOUS LOCATIONS
2	CLARINGTON	DURHAM REGION / VIANET INC.	COURTICE ROAD / LOT 28 & 29 / CON BFC & 01	C24-015-FGH	DEVELOPMENT ACTIVITIES ASSOCIATED WITH RE: INSTALLATION OF CONDUITS BY DIRECTIONAL BORE
3	CLARINGTON	PROPERTY OWNER	645 TOWNLINE ROAD NORTH / LOT 35 / CON 03	C24-005-BW	DEVELOPMENT ACTIVITIES ASSOCIATED WITH THE CONSTRUCTION OF A GARAGE
4	CLARINGTON	MY TRIBUTE (KING) STREET LIMITED	1593 BLOOR STREET / LOT 32 / CON 01	C24-008-GHW	DEVELOPMENT ACTIVITIES ASSOCIATED WITH THE CONSTRUCTION OF A COMPENSATION WETLAND WITHIN THE ROBINSON CREEK VALLEY AT TRIBUTE (KING), FOR THE REMOVAL OF A 0.43HA SINGLE HABITAT WETLAND ON RILEY PARK 1 LANDS (LOCATED NORTH OF BLOOR STREET AND SUBJECT TO A SEPARATE PERMIT APPLICATION)
5	CLARINGTON	ONTARIO POWER GENERATION / ATKINS REALIS	1 HOLT ROAD SOUTH / LOT 19 & 20 / CON BFC	C24-018-GHS	DEVELOPMENT ACTIVITIES ASSOCIATED WITH THE CONSTRUCTION OF THE CONDENSING COOLING WATER OUTFALL SHAFT WITHIN THE DARLINGTON NEW NUCLEAR PROJECT.
6	CLARINGTON	ONTARIO POWER GENERATION / ATKINS REALIS	1 HOLT ROAD SOUTH / LOT 18-24 / CON BFC	C24-020-BW	DEVELOPMENT ACTIVITIES ASSOCIATED WITH THE CONSTRUCTION OF FENCING FOR THE DARLINGTON NEW NUCLEAR PROJECT.
7	CLARINGTON	PROPERTY OWNER	2800 SOLINA ROAD / LOT 25 / CON 02	C24-022-BW	DEVELOPMENT ACTIVITIES ASSOCIATED WITH THE DEVELOPMENT OF A SINGLE STORY ADDITION TO AN EXISTING RESIDENTIAL DWELLING
9	CLARINGTON DARLINGTON	OPG / WSP	1 HOLT ROAD SOUTH / LOT 18-20 / CON BFC	C23-202-WH	REVISED: DEVELOPMENT ACTIVITIES ASSOCIATED WITH RE: CLEARING & GRUBBING OF ADDITIONAL AREAS ON THE 2ND LINE ROAD AND EAST OF MAPLE GROVE ROAD (OPG DNNP SITE).
11	OSHAWA	CITY OF OSHAWA / VIANET INC.	HOWDEN ROAD WEST / LOT / CON	O24-014-BFGHW	DEVELOPMENT ACTIVITIES ASSOCIATED WITH RE: INSTALL OF CONDUITS BY DIRECTIONAL BORE
12	OSHAWA	PROPERTY OWNER	851 OSHAWA BOULEVARD NORTH / LOT 09 / CON 03	O24-013-BFH	DEVELOPMENT ACTIVITIES ASSOCIATED WITH BUILDING A FENCE
13	OSHAWA	PROPERTY OWNER / HOM DRAFTING & DESIGN INC.	447 HARCOURT DRIVE / LOT 04 / CON 01	O24-004-BH	DEVELOPMENT ACTIVITIES ASSOCIATED WITH THE CONSTRUCTION OF A BASEMENT APARTMENT
14	OSHAWA	DURHAM ONENET INC.	THORTON ROAD NORTH & TAUNTON ROAD WEST / LOT 16 / CON 04	O24-011-BGFW	DEVELOPMENT ACTIVITIES ASSOCIATED WITH RE: INSTALLATION OF A DUCT
15	OSHAWA	PROPERTY OWNER / BRICKHAUS RESIDENTIAL DESIGN	2660 RITSON ROAD NORTH / LOT 09 / CON 05	O23-037-GBH	DEVELOPMENT ACTIVITIES ASSOCIATED WITH CONSTRUCTION OF NEW 2-STORY SINGLE FAMILY DWELLING, PATIO, DECK, AND NEW SEPTIC SYSTEM.
16	OSHAWA	CITY OF OSHAWA / LANDSCAPE PLANNING LIMITED	420 CONANT STREET / LOT 07 / CON BFC	O24-003-GB	DEVELOPMENT ACTIVITIES ASSOCIATED WITH MUNICIPAL PARK IMPROVEMENTS INCLUDING THE REPLACEMENT OF EXISTING PARKING LOT AND PLAYGROUND, MINOR GRADING, NEW TRAILS AND THE CREATION OF AN OUTFALL.
17	OSHAWA	THE CITY OF OSHAWA / STANTEC CONSULTING INC.	254 CENTRE STREET SOUTH / LOT 11 / CON 01	O24-025-GBFH	DEVELOPMENT ACTIVITIES ASSOCIATED WITH THE CONSTRUCTION OF A NEW OUTDOOR SWIMMING POOL FACILITY, SPLASH PAD, PLAYGROUND, SUPPORTING PARKING FACILITIES AND ASSOCIATED SITE SERVICING.
18	OSHAWA	CITY OF OSHAWA / SCHOLLEN AND COMPANY	HARMONY CREEK PEDESTRIAN BRIDGE / LOT 02 / CON 04	O24-021-GFW	DEVELOPMENT ACTIVITIES ASSOCIATED WITH INVESTIGATION OF BOREHOLES
19	OSHAWA	PROPERTY OWNER	662 RAGLAN ROAD WEST / LOT 17 / CON 09	O24-006-GRHW	DEVELOPMENT ACTIVITIES ASSOCIATED WITH RE: CONSTRUCTION OF A SECOND STOREY ADDITION AND A NEW SEPTIC SYSTEM.
20	WHITBY	1900 BOUNDARY ROAD GP INC. / CARTTERA MANAGEMENT INC.	1900 BOUNDARY ROAD / LOT 18 / CON BFC	W24-019-GBHW	DEVELOPMENT ACTIVITIES ASSOCIATED WITH DEMOLITION OF THE EXISTING INDUSTRIAL BUILDING & CONSTRUCTION OF A NEW INDUSTRIAL BUILDING INCLUDING REGRADING THE ENTIRE SITE, INSTALLATION OF NEW STORMWATER MANAGEMENT AND AN EDGE MANAGEMENT PLANTING PLAN
21	WHITBY	PROPERTY OWNER	244 WELLINGTON STREET / LOT 30 / CON 02	W24-023-FR	DEVELOPMENT ACTIVITIES ASSOCIATED WITH CONSTRUCTING ACCESSORY BUILDING ABOVE EXISTING GARAGE
22	WHITBY	ENBRIDGE GAS INC.	CARNWITH DRIVE WEST / LOT 24 / CON 06	W24-026-BFGHW	DEVELOPMENT ACTIVITIES ASSOCIATED WITH GAS MAIN AND ABANDONMENT FOR EXISTING GAS MAIN
23	WHITBY	MTO / VIANET INC.	BALDWIN STREET - GARDEN TO COLUMBUS ROAD WEST / LOT / CON	W24-007-BFGW	DEVELOPMENT ACTIVITIES ASSOCIATED WITH RE: INSTALL OF CONDUITS BY DIRECTIONAL BORE
24	WHITBY	GHD	COLUMBUS ROAD WEST / LOT 31 / CON 06	W24-009-BFGHSW	DEVELOPMENT ACTIVITIES ASSOCIATED WITH WHITE'S BRIDGE REPLACEMENT
25	WHITBY	MTO / VIANET INC.	HWY 7 CP TRACKS TO TOWNLINE ROAD EAST / LOT 20 / CON 09	W24-017-BG	DEVELOPMENT ACTIVITIES ASSOCIATED WITH CONDUITS BY DIRECTIONAL BORE
26	WHITBY	TOWN OF WHITBY / TELECON DESIGN INC.	JEFFREY STREET / LOT 30 & 31 / CON 01	W24-001-BFGHW	DEVELOPMENT ACTIVITIES ASSOCIATED WITH CONDUIT AND EQUIPMENT
27	WHITBY	TOWN OF WHITBY / TELECON DESIGN INC.	HALLS ROAD SOUTH / LOT 34 & 35 / CON BFC	W24-002-BFGHW	DEVELOPMENT ACTIVITIES ASSOCIATED WITH CONDUIT AND EQUIPMENT
28	WHITBY	ENBRIDGE GAS INC.	4295 COUNTRY LANE / LOT 30 / CON 04	W24-012-BG	DEVELOPMENT ACTIVITIES ASSOCIATED WITH GAS SERVICE
29	WHITBY	ENBRIDGE GAS INC.	4293 COUNTRY LANE / LOT 30 / CON 04	W24-010-BG	DEVELOPMENT ACTIVITIES ASSOCIATED WITH GAS SERVICE

REPORT

CENTRAL LAKE ONTARIO CONSERVATION AUTHORITY

DATE: March 19, 2024


FILE: ACAD7

S.R.: 5870-24

TO: Chair and Members, CLOCA Board of Directors

FROM: Chris Jones, Director, Planning and Regulation

SUBJECT: **New Conservation Authorities Act Requirements, Regulations and Implementing CLOCA Policy and Procedures for Land Use Planning and Regulation**

APPROVED BY C.A.O. 

Purpose:

The purpose of this report is to introduce and summarize: new provisions under the *Conservation Authorities Act*; a new province-wide development regulation; and, recommend updated and revised implementing CLOCA policy through an updated *Policy and Procedural Document for Land Use Planning and Regulation*—all of which are set to take effect on April 1, 2024.

Background:

On February 16th, 2024, the Ministry of Natural Resources and Forestry issued a “Decision Notice” on the *Environmental Registry of Ontario* of the government’s decision to move ahead with regulatory changes under the *Conservation Authorities Act*. Changes to the existing development regulations had been the subject of a previous consultation in the fall of 2022 and earlier (Registry Notice 019-2927, see Staff Report 5802-22 considered at the November 22, 2022, Board of Directors meeting). The full Decision Notice is included as **Attachment 1** to this Report.

Also on February 16th, 2024, a new regulation, *Ontario Regulation 41/24, Prohibited Activities, Exemptions and Permits*, was filed by the government and the announcement of the proclamation date of several previously enacted provisions of the *Conservation Authorities Act* into full force and effect took place. Both the new *Conservation Authorities Act* provisions and associated *Ontario Regulation 41/24* and are to come into force and effect on April 1, 2024.

The *Conservation Authorities Act* provisions coming into force on April 1, 2024 are sections 28, 28.1 to 28.5 within *Part VI, Regulation of Areas Over Which Authorities Have Jurisdiction* and sections 30.1 to 30.7 within *Part VII, Enforcement and Offences*. **Attachment 2** to this Report contains an excerpt of the *Conservation Authorities Act* with the text of each of these sections. **Attachment 3** to this Report contains the new *Ontario Regulation 41/24*. A second regulation amending the mandatory programs and services regulation, *Ontario Regulation 42/24, Mandatory Programs and Services*, has also been filed, which requires CLOCA to publish an annual report, similar to what is current practice, outlining statistics on permits. **Attachment 4** to this Report contains the text of *Ontario Regulation 42/24*.

This raft of new legislation and regulation related to the *Conservation Authorities Act* is unprecedented since the original passage of the Act in 1946 and follows a series of 4 Bills introduced in the Legislative Assembly of Ontario over the past 7 years that have amended the *Conservation Authorities Act* and changed the regulation-making powers of the provincial government, amongst other things, in relation to conservation authorities:

- Bill 139, *Building Better Communities and Conserving Watersheds Act, 2017*, received Royal Assent on December 12, 2017;
- Bill 108, *More Homes, More Choice Act, 2019*, received Royal Assent on June 6, 2019;
- Bill 229, *Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020*, received Royal Assent on December 8, 2020; and finally,
- Bill 23, *More Homes Built Faster Act, 2022*, received Royal Assent on November 28, 2022.

The proclamation of the various provisions contained in Parts VI and VII of the Act and regulations listed above appear to represent a stabilization and implementation of the provincial government's approach to the natural hazard planning and regulation functions of province's conservation authorities for the time being and should allow for local implementation under the new statutory framework commencing on April 1st of this year.

A significant element of implementation of these new provincial directions is an updated set of Board of Directors-adopted policies and procedures for CLOCA, especially since decision-making and appeal processes related to the regulation of development and protection of wetlands, watercourses and valleylands commence on April 1st. Staff prepared an update to the *CLOCA Policy and Procedural Document for Land Use Planning and Regulation* (PPD) incorporating the new legislative and regulatory requirements. The draft document was shared with local development industry representatives on February 29th for their review and comments. A public posting of the document for review and comments took place on March 1st, with a commenting deadline of March 18th to accommodate the date of the March 19th Board of Directors meeting.

Attachment 5 to this Report contains the consultation draft PPD. A finalized PPD for adoption, showing any changes made since March 1st, to reflect the outcome of the consultation will be available for Board Members on March 19th.

Analysis:

- **New Part VI of the *Conservation Authorities Act***

The new part 6 of the Act covers the revised regulatory powers conservation authorities will have in their watersheds related to watercourses, wetlands, and development activities. Of key importance, this includes setting out what activities are subject to a prohibition in law. Pursuant to the new section 28, the following prohibition is established:

"... no person shall carry on the following activities, or permit another person to carry on the following... activities to:

1. *... straighten, change, divert or interfere in any way with the existing channel of a ... watercourse or to change or interfere in any way with a wetland.*
2. *Development activities that are within... hazardous lands, wetlands, ...stream valleys...areas adjacent to the shoreline of [Lake Ontario] ... affected by flooding, erosion or dynamic beach hazards... other areas [around wetlands]."* (emphasis added)

Section 28.1 provides for the issuance of permits despite the prohibitions in section 28 subject to the following legislated tests for approval:

"[CLOCA] may issue a permit to a person to engage in an activity specified in the permit that would otherwise be prohibited by section 28, if, in the opinion of [CLOCA], (a) the activity is not likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock; (b) the activity is not likely to create conditions or circumstances that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property..." (emphasis added)

These legislative tests should represent a significant improvement in the ability of CLOCA to effectively regulate risks to people and property associated with natural hazards and are very welcome by staff.

Further provisions within section 28.1 provide for the conducting of hearings by a CLOCA Hearing Board or delegated Hearing Officer in the event of the refusal of a permit, further appeals to either the Minister or the Ontario Land Tribunal, and the ability to appeal directly to the Ontario Land Tribunal (i.e. without a Hearing at CLOCA) if no decision is made on a complete permit application within 120 days (4 months) after an application is deemed complete. *These changes to appeal processes and rights will necessitate that a high level of CLOCA technical staff capacity be maintained at all times, which is a management challenge and will be a permanent and significant ongoing expense.*

Subsequent sections provide for the issuance of permits directly by the Minister (s. 28.1.1) and the ability of the province to require the issuance of a permit in the context of a Minister's Zoning Order under the *Planning Act* (s. 28.1.2). The final sections of Part 6 of the Act provide for details around permits including the period of permit validity (s. 28.2), cancellations of permits and associated hearing and appeal processes (s. 28.3), delegation of decision-making power from the Board to "any other person or body" (s. 28.4) and the regulation-making power of the provincial Cabinet (s. 28.5).

- **New Part VII of the *Conservation Authorities Act***

The new part 7 of the Act covers the enforcement and offences powers conservation authorities will have starting on April 1. Specific provisions include the appointment of officers, entry without and with warrants (a very rarely used practice), searches, a new power to issue a "stop orders" in certain instances, offences, a 2-year limitation period for filing charges, and the power of the Court to issue rehabilitation orders.

Two key changes in this part are: (1) stop orders where an officer may "make an order requiring a person to stop engaging in or not to engage in an activity" under certain circumstances related to the prohibitions in section 28 or the permit conditions on a permit issued under section 28.1; and, (2) improved penalty provisions whereby a person is now liable upon conviction to (a) in the case of an individual, (i) to a fine of not more than \$50,000 or to a term of imprisonment of not more than three months, or to both, and (ii) to an additional fine of not more than \$10,000 for each day or part of a day on which the offence occurs or continues; and (b) in the case of a corporation, (i) to a fine of not more than \$1,000,000, and (ii) to an additional fine of not more than \$200,000 for each day or part of a day on which the offence occurs or continues.

- **New Regulation: *Ontario Regulation 41/24***

The new *Ontario Regulation 41/24* replaces CLOCA's individual conservation authority regulation, *Ontario Regulation 42/06, Central Lake Ontario Conservation Authority: Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses*, which has been in place since February 17, 2006. Instead of 36 individual conservation authority regulations made under the Act, all 36 conservation authorities will utilize *Ontario Regulation 41/24* for regulation under Part 6 of the Act. Further, *Ontario Regulation 42/06* is to be revoked.

Ontario Regulation 41/24 contains 12 substantive sections and three technical schedules. **Section 1** further defines "development activity," "hazard land," "watercourse," and "wetland." These definitions except for watercourse, are carried forward from the previous regulation. The definition of "watercourse" has been reduced in scope from the previous: "An identifiable depression in the ground in which a flow of water regularly or continuously occurs" to "A defined channel, having a bed and banks or sides, in which a flow of water regularly or continuously occurs." The area to be regulated around wetlands has been changed to 30 metres in all cases (previously, 120 m applied to provincially significant wetlands and certain larger wetlands).

It is anticipated that the change in language from "an identifiable depression in the ground" to "a defined channel..." will reduce the application of the regulation in headwater watercourse areas and will necessitate a new technical exercise to update corresponding regulated area mapping, which will be a new expense to CLOCA. In addition, there may be additional complexity and staff work involved in determining the upper extents of certain watercourses for regulatory purposes as opposed to land use planning purposes, as a watercourse has a different, more expansive—and more hydrologically and ecologically relevant—meaning under the Provincial Policy Statement, 2020.

Section 2 of the Regulation provides additional technical definition language to define the regulated areas around, and within, valleylands, Lake Ontario, and wetlands, beyond what is defined in section 28 of the Act.

Section 3 of the Regulation defined the applicable regulatory flood event standards and for CLOCA, points to Table 7 within Schedule 1 of the Regulation.

CLOCA staff have identified a technical issue with the way the province has defined our regulatory flood event standards. Staff are concerned that the Schedule, as written, will result in fewer watersheds subject to the 100 year flood event as opposed to the Hurricane Hazel flood event, which is not the current application and practice under the existing regulation. Staff have suggested to ministry staff that the relevant section be revised to correct the technical issue. The ministry has acknowledged receipt of the CLOCA staff communication to the ministry and is hoped that a clarifying amendment to Ontario Regulation 41/24 will be made soon.

Section 4 sets out various obligations on CLOCA regarding mapping of areas that are subject to the Regulation: maps shall be developed (under the new regulatory requirements), the maps are to be publicly available and at least once annually review maps to determine if updates are required, make updates and make them available. In cases where significant changes are made, the maps may need to be updated in advance of an annual update. Finally, there is to be public notice of any update at least 30 days before a Board meeting where the changes are presented.

The new legislated mapping requirements in the Regulation follow existing best practice. This year, it is anticipated that a significant mapping update will be required to reflect the change in watercourse definition and the change to a uniform 30 m area around wetlands amongst other changes to bring the mapping to an updated condition, such as reflecting recent development activity across the watershed. There will be additional expense in this fiscal year on mapping work due to the new requirements of the Regulation.

Section 5 of Ontario Regulation 41/24 prescribes exceptions to the regulation of development activities for a list of specific types of development activities under certain conditions. These activities include certain types of docks, fencing, agricultural erosion control structures, non-habitable accessory structures, decks, or patios.

The exemptions are a new feature in the regulation. It is not known how many proposals for development, that would otherwise be subject to regulatory control under the former regulation will be exempted under Ontario Regulation 42/24. There is a potential for negative budget impact associated with the additional administrative burden of parsing through which small-scale type works are regulated and which are not, making determinations, communicating the determinations and educating landowners of the nuances that have been introduced. Finally, there is a potential for lost permit revenue associated with what could be the cumulative effect of this type of permit exception from what would otherwise be subject to a permit (and associated fees).

Section 6 of Ontario Regulation 41/24 sets out the concept of pre-submission consultation and directs that if an applicant requests a pre-submission consultation, CLOCA is required to engage in the pre-submission consultation. *The pre-consultation process is a current practice of CLOCA and requests for dialogue are not refused meaning that this provision enshrines in law what are current standards.*

Section 7 of the Regulation defines the various documents that are to form a “complete application” under the Act.

Pursuant to **section 8**, an applicant may request a review by the Authority if: (a) the applicant has not received notice from the authority within 21 days regarding the completeness of an application, (b) the applicant disagrees with the authority’s determination that the application for a permit is incomplete; or (c) the applicant is of the view that a request by the authority for other information, studies or plans is not reasonable.

This is a new administrative process associated with the now-legislated concept of “complete application” and is similar to the burden placed on municipal staff under the Planning Act. These changes to appeal processes and rights will necessitate that a high level of CLOCA technical staff capacity be maintained at all times, which is a management challenge and will be a permanent significant ongoing expense.

Section 9 sets out limitations on what conditions may be applied to permits. This new limitation restricts conditions to tests set out in the regulation related to the new legislated tests referred to above with respect to permit approval.

Section 10 does not apply to the CLOCA watershed.

Section 11 sets out rules around the maximum period of validity of permits, which are substantially the same as the previous maximum of 60 months.

Section 12 establishes a new legislated requirement for the preparation of “policy and procedure documents” for permits. The requirements of this section have been incorporated into the revised *CLOCA Policy and Procedural Document for Land Use Planning and Regulation* (PPD), which is discussed in further detail in the next section.

- **Updated and Revised *Policy and Procedural Document for Land Use Planning and Regulation* (PPD)**

As noted above, section 12 of *Ontario Regulation 41/24* contains a legislated obligation for CLOCA to have an approved policy and procedure document, as follows:

“[CLOCA] shall develop policy and procedure documents with respect to permit applications that, at a minimum, include the following:

- 1. Additional details regarding the pre-submission consultation process... as well as additional details related to complete permit application requirements.*
- 2. Procedures respecting the process for a review...*
- 3. Standard timelines for the authority to make a decision on permit applications following a notification that an application is complete...*
- 4. Any other policies and procedures...for the purpose of administering the issuance of permits...*
- 5. A process for the periodic review and updating of the... policy and procedure documents, including procedures for consulting with stakeholders and the public during the review and update process...”*

The *Policy and Procedure Document for Land Use Planning and Regulation* (PPD) contains several *general* and *specific* policies intended to provide guidance to CLOCA’s flooding and erosion natural hazard land use planning responsibilities under the *Planning Act* and the corresponding administration and the implementation of *Ontario Regulation 41/24* under the *Conservation Authorities Act*. The PPD was first adopted by the CLOCA Board of Directors in 2013 with the policies taking effect on April 17th of that year (Staff Report 5134-13).

General policies set out the purposes of effective natural hazard management, including that in all cases, new development must have safe access in the event of an emergency and there be no adverse off-site impacts. Land use planning policy directions set out a “Planning First Approach” whereby provincial and municipal policies lead the approach to land use planning, which is intended to streamline, clarify, and avoid redundancy from any CLOCA policy.

Specific policies are framed around specific natural hazards grouped in specific landscape areas where hazards are present. This includes: the Lake Ontario shoreline, river and stream valleys, watercourses and wetlands and areas with unstable soil or bedrock. Finally, a detailed set of procedural details and requirements related to *Ontario Regulation 41/24* are set out in a procedural chapter.

The PPD has been updated and revised to reflect changes the changes to the *Conservation Authorities Act* and the new *Ontario Regulation 41/24* discussed above. Further changes have been made to reflect updates to provincial and municipal land use policy as well as CLOCA policy initiatives, such as *Watershed Action Plans*, subsequent to the original approval of the document a decade ago.

In summary, the following updates and revisions have been made to the PPD to ensure the document is up to date and ready for the new provincial legislation effective April 1, 2024:

- Updated background contextual information around CLOCA's roles and responsibilities (Chapter 1);
- Revised general policy directions focused on safety and effective implementation (Chapter 2);
- Refreshed land use policies, which streamline, integrate, and align CLOCA with provincial and municipal land use policy directions (Chapter 3);
- Amended specific policies for shoreline, river, stream, watercourse, wetland, and hazardous lands to incorporate new legislative tests and ensure safety requirements are clear and directive (Chapters 4-7);
- Added provincially legislated procedural policies related to mapping, permit processing, reviews, appeals, fees, cancellations, and future policy updates related to regulation activities under *Ontario Regulation 41/24* (Chapter 8); and,
- Updated definitions and hearing procedures (Appendix A and B).

To conform with the legislation and regulation and to ensure CLOCA is in a position to apply the improved safety tests and protect its corporate interests in appeal processes, the new updated and revised policies are intended to take effect on April 1, 2024, for all unapproved applications and new applications on or after that date.

Conclusion

The coming into force on April 1, 2024, of Parts VI and VII of the *Conservation Authorities Act* and a new province-wide development regulation through *Ontario Regulation 41/24* represents the most change that has ever taken place to the land use planning and regulation functions of conservation authorities. It is hoped that we will now move to a phase of local implementation and stability under the new statutory framework with no further changes to the Act, regulations, or policy, in the near to medium term.

RECOMMENDATION:

THAT the updated and revised Policy and Procedural Document for Land Use Planning and Regulation (PPD) dated March 19, 2024, be approved and adopted for implementation on the provincially set date of April 1, 2024;
THAT Staff Report #5870-24 be circulated to Watershed Municipalities; and,
THAT Staff Report #5870-24 be circulated to Members of Provincial Parliament, Members of Parliament, Conservation Ontario and adjacent Conservation Authorities for their information.

Attachment 1 – Environmental Registry of Ontario Posting

Attachment 2 – Excerpts of Portions of the Conservation Authorities Act to Come into Force and Effect on April 1, 2024

Attachment 3 – Ontario Regulation 41/24

Attachment 4 – Ontario Regulation 42/24

Attachment 5 – March 1, 2024 Consultation Draft PPD

Proposed updates to the regulation of development for the protection of people and property from natural hazards in Ontario

ERO number

019-2927

Notice type

Regulation

Act

Conservation Authorities Act, R.S.O. 1990

Posted by

Ministry of Natural Resources and Forestry

Notice stage

Decision

Decision posted

February 16, 2024

Comment period

October 25, 2022 - December 30, 2022 (66 days) Closed

Last updated

February 16, 2024

This consultation was open from:

October 25, 2022

to December 30, 2022

Decision summary

A decision was made to move ahead with regulatory changes under the *Conservation Authorities Act* to make associated regulatory changes to support streamlined, timely and consistent conservation authority permitting decisions and ensure permit decisions are focused on natural hazard considerations.

On this page

1. [Decision details](#)
2. [Comments received](#)
3. [Effects of consultation](#)
4. [Supporting materials](#)
5. [Connect with us](#)
6. [Original proposal](#)

Attachment No. 1: Environment Registry of Ontario Posting

Decision details

The *Conservation Authorities Act* has been updated to outline where certain development activities are prohibited directly in the legislation instead of individual conservation authority regulations and to include new regulation making authority with respect to the updated permitting framework. The approved changes that come into effect on April 1, 2024, will revoke the existing 36 conservation authority-specific regulations and the regulation governing their contents and replace them with one new minister's regulation governing prohibited activities, exemptions and permits under the *Conservation Authorities Act*. This minister's regulation applies to all conservation authorities resulting in a clear and streamlined permitting process that protects people and property from natural hazards across Ontario. The Mandatory Programs and Services regulation under the *Conservation Authorities Act* was also amended to include new CA reporting requirements on CA permitting activities. Specific changes are further explained below.

1. Prescribing Areas Where Development is Prohibited by Updating Definitions

The new minister's regulation provides technical details of where certain development activities are prohibited (e.g., the *Conservation Authorities Act* includes prohibitions against carrying on development activities within rivers and stream valleys, the limits of which are determined in accordance with the regulations). Some definitions and technical descriptions are updated while some regulated areas are maintained as previously described, including river and stream valley limits and areas that are adjacent or close to the shoreline of the Great Lakes-St. Lawrence River System or to inland lakes.

Updates include:

- Definition of "watercourse" from any identifiable depression to a defined channel with a bed and banks/sides;
- "Other areas" in which the prohibitions on development activities apply have been changed to within 30 metres of all wetlands. Previously, Provincially Significant Wetlands in some conservation authorities and wetlands greater than 2 hectares in size required a 120 metre regulated area around the wetland.

The new permitting framework keeps the existing *Conservation Authorities Act* definitions for "wetland", "hazardous land", and "development activity" (formerly referred to as "development").

2. Exempting Low-Risk Activities from Conservation Authority Approval

Some low-risk development activities are exempted from the prohibitions (under certain conditions, such as occurring outside of wetlands and watercourses, or following certain best practices for municipal drain maintenance) and no longer require a conservation authority permit, including:

- A seasonal or floating dock 10 square metres in size or less;
- A rail, chain-link or panelled fence with a minimum of 75 millimetres of width between panels;
- Agricultural in-field erosion control structures;
- A non-habitable accessory building or structure 15 square metres in size or less;

Attachment No. 1: Environment Registry of Ontario Posting

- An unenclosed detached deck or patio that is 15 square metres in size or less;
- Installation, maintenance, or repair of tile drains;
- Installation, maintenance, or repair of a pond for watering livestock;
- Maintenance or repair of a driveway or private lane;
- Maintenance or repair of municipal drains; and
- Reconstruction of a garage that does not exceed the same footprint, with no basement or habitable space and that does not allow for change in potential use of the building or structure to habitable space.

3. Limiting the Conditions a Conservation Authority May Attach to a Permit

In cases where an activity would otherwise be prohibited by the *Conservation Authorities Act*, a conservation authority may issue a permit, and may choose to attach conditions to that permit. The approved regulation limits the conditions conservation authorities may place on permits to only those that would assist in mitigating any effects on the control natural hazards or any public safety risks due to natural hazards, along with conditions to support the administration or implementation of the permit (such as conditions related to reporting or compliance).

The Lake Simcoe Region Conservation Authority has the additional regulatory responsibility to apply applicable policies (e.g., to protect the health of Lake Simcoe by regulating development around shorelines and wetlands in the Lake Simcoe watershed) under the Lake Simcoe Protection Plan in its permit decisions. The new conservation authority permitting framework supports Lake Simcoe Region Conservation Authority's (LSRCA) role in implementing the Lake Simcoe Protection Plan under the *Lake Simcoe Protection Act, 2008* by requiring permit decisions by the Lake Simcoe Region Conservation Authority to conform with or have regard to relevant policies in the Lake Simcoe Protection Plan and enabling the LSRCA to attach conditions to a permit related to applicable policies.

4. Streamline and Clarify Rules for Development

To ensure that conservation authority permits are administered in a transparent and consistent manner, new rules are set out for issuing permits including requiring that conservation authorities to:

- Create publicly available maps depicting areas where a permit is required and to update their mapping annually or if new information or analysis becomes available that would result in significant changes to the regulated area;
- Engage in pre-submission consultation at the request of an applicant;
- Develop, make publicly available and consult on permitting policy and procedures documents with respect to permit applications and reviews;
- Notify an applicant within 21-days of receiving an application and payment of the permit fee whether or not the application is complete;
- Accept requests for review if an applicant has not received notice of whether or not an application is complete within the 21-day timeframe, or if they disagree with the authority's decision on a complete application, and complete a review to confirm whether the application is complete or if more information is needed; and,

Attachment No. 1: Environment Registry of Ontario Posting

- Not request additional new studies or technical information after an application is confirmed as complete;
- Issue an annual report on permitting statistics, including reporting on the authority's level of compliance with the new requirements in the minister's regulation.

The new Minister's regulation also includes increased flexibility to issue a permit up to its maximum length of validity of 60-months, providing additional time to complete activities.

Comments received

Through the registry **297**

By email **26**

By mail **1**

Effects of consultation

The Ministry of Natural Resources and Forestry received a total of 324 responses during the proposal period, with many providing specific comments on one or more aspects of the proposed legislative and regulatory changes. Feedback was collected from members of the public, stakeholders across a variety of sectors and from Indigenous communities and organizations.

Feedback about the proposals was mixed. There was support that the province was moving forward with the proposal to update regulations under the *Conservation Authorities Act*, and that there were benefits to be gained from streamlining the approvals process. Additionally, there was support for consolidating the 36 existing regulations into a new single regulation, provided that variability in local conditions is accounted for.

Feedback on the proposed service delivery standards and complete application requirements was supportive as stakeholders indicated these proposals would increase public transparency while improving clarity and speed in the permitting process. General concern was expressed about proposed changes to regulated areas (updated "watercourse" definition, 30m buffer around all wetlands).

There were concerns expressed that collective changes in this proposal and others could have the unintended consequence of slowing the approvals process. General concern was also expressed that cumulative impacts from changes made in this proposal, particularly those regarding regulated areas, and other proposed and/or previous changes could have negative impacts for an array of stakeholder interests. Proponents across all sectors stressed the need for further consultation, and recommended reconvening a conservation authorities working group to advise on and implement legislative and regulatory changes.

Some comments received focused on aspects outside the scope of this proposal. These comments expressed general opposition to development in the Greenbelt as well as concerns regarding scoping the roles of conservation authorities in reviewing and commenting on development

Attachment No. 1: Environment Registry of Ontario Posting

applications, and the removal of the tests for “pollution” and “conservation of land” from the *Conservation Authorities Act*

All comments received were considered in the finalization of these changes.

Supporting materials

Related links

- [Conservation Authorities Act](#)
- [Ontario Regulation 41/24: Prohibited Activities, Exemptions and Permits](#)

Original proposal

ERO number

019-2927

Notice type

Regulation

Act

Conservation Authorities Act, R.S.O. 1990

Posted by

Ministry of Natural Resources and Forestry

Proposal posted

October 25, 2022

Comment period

October 25, 2022 - December 30, 2022 (66 days)

Proposal details

Everyone in Ontario should be able to find a home that is right for them. But too many people are struggling with the rising cost of living and with finding housing that meets their family's needs.

Ontario's housing supply crisis is a problem which has been decades in the making. It will take both short-term strategies and long-term commitment from all levels of government, the private sector, and not-for-profits to drive change. Each entity will have to do their part to be part of the solution to this crisis.

Ontario needs more housing, and we need it now. That's why the Ontario government is taking bold and transformative action to get 1.5 million homes built over the next 10 years.

To support More Homes Built Faster: Ontario's Housing Supply Action Plan 2022-23, the government introduced the *More Homes Built Faster Act, 2022*, which, if passed, would ensure that cities, towns, and rural communities grow with a mix of ownership and rental housing types that meet the needs of all Ontarians.

Attachment No. 1: Environment Registry of Ontario Posting

These changes are providing a solid foundation to address Ontario's housing supply crisis over the long term and will be supplemented by continued action in the future.

Proposal background

As part of the Housing Supply Action Plan, the government is proposing to streamline approvals under the *Conservation Authorities Act* to focus on natural hazards and to help meet Ontario's housing supply needs. These changes would improve clarity and consistency in decision making to support faster, more predictable and less costly approvals.

Proposed Regulation

The ministry is proposing a regulation governing the activities that require permits under the Act. The proposed regulation would focus permitting decisions on matters related to the control of flooding and other natural hazards and the protection of people and property. This regulation would allow the updates made to the *Conservation Authorities Act* in recent years to come into effect.

There are currently 36 individual regulations under the *Conservation Authorities Act*, one for each conservation authority in the province, that set out the activities and associated requirements for permits (or permissions). These regulations are proposed to be revoked through proposed legislative amendments to the *Conservation Authorities Act*. The ministry is proposing to make a single provincial regulation to ensure clear and consistent requirements across all conservation authorities while still addressing local differences.

The proposed regulation would streamline rules for development and is a first step towards increased coordination between conservation authority permitting and municipal planning approvals.

This proposal is part of the government's commitment under the Housing Supply Action Plan to support 1.5 million homes over the next 10 years to address Ontario's housing supply needs.

Focusing approvals under the *Conservation Authorities Act* on protecting people and property against the risk of natural hazards will also deliver on the commitments and objectives outlined in *Protecting People and Property: Ontario's Flooding Strategy*.

Note: The Ministry is also considering this proposal in the context of the [Lake Simcoe Protection Plan](#). To help implement the Plan, the *Lake Simcoe Protection Act* requires permit decisions by the Lake Simcoe Region Conservation Authority to conform with certain identified Plan policies. Elements of this regulatory proposal may apply differently to the Lake Simcoe Region Conservation Authority to continue to advance the objectives of that Plan, which may include adjustments to areas where permits are required or to the criteria considered in a permit decision.

Consultation Guide

A consultation guide is provided that includes additional descriptions for the following proposed changes:

Attachment No. 1: Environment Registry of Ontario Posting

- defining wetlands and hazardous lands and development activity as per the existing definitions in the *Conservation Authorities Act*
- updating the definition of “watercourse” from an identifiable depression to a defined channel having a bed, and banks or sides
- maintaining the existing river and stream valleys limits and areas that are adjacent or close to the shoreline of the Great Lakes-St. Lawrence River System or to inland lakes that may be affected by flooding, erosion or dynamic beach hazards, as well as the flood standards for the determination of hazardous lands associated with flooding
- updating the “other areas” in which the prohibitions on development apply to within 30 metres of all wetlands
- streamlining approvals for low-risk activities, which may include exempting some activities from requiring a permit if certain requirements or conditions are met (i.e., requiring that an activity be registered with an authority before it can proceed)
- requiring conservation authorities to request any information or studies needed prior to the confirmation of a complete application
- limiting the site-specific conditions a conservation authority may attach to a permit to matters dealing with natural hazards and public safety
- providing increased flexibility for an authority to issue a permit up to its maximum length of validity, and issue extensions as necessary

The consultation guide also includes proposed service delivery standards as requirements for the administration of permits by conservation authorities, including requiring a conservation authority to:

- develop, consult on, make publicly available, and periodically review internal policies that guide permitting decisions
- establish, monitor, and report on service delivery standards including requirements and timelines for determination of complete applications
- provide maps depicting the areas where permitting requirements apply and notify the public and consult on any significant changes
- outline a process for pre-consultation on a permit to ensure clear understanding of requirements for a complete application

The consultation guide also includes information on a tool proposed to be included in the *Conservation Authorities Act* through Bill 23 - *More Homes Built Faster Act, 2022* that would provide the ability to exempt development authorized under the *Planning Act* from requiring a permit under the *Conservation Authorities Act*. The Ministry has not proposed a regulation utilizing this exemption tool as part of this regulatory proposal but is requesting initial feedback on how it may be used in the future to streamline development approvals while still ensuring the protection of people and property from natural hazards.

Regulatory Impact Statement

The anticipated regulatory impacts of the proposal are neutral to positive. The proposed changes are intended to:

Attachment No. 1: Environment Registry of Ontario Posting

- provide greater certainty and clarity on regulatory requirements for development while ensuring the protection of people and property
- reduce regulatory and financial burdens
- streamline approvals by making processes more efficient and predictable

We expect that there will be some minor administrative costs for conservation authorities and municipalities based on the time needed for staff in the short-term to learn about and understand the proposed legislative and regulatory changes.

Through this posting, we welcome comments on anticipated benefits or costs to better help the Ministry understand the real costs or cost savings associated with these proposed changes.

Other Information

The government is currently pursuing legislative and associated regulatory changes designed to streamline conservation authority processes, provide clarity and certainty for development, and further focus conservation authorities on their mandate to protect people and property from the impacts of natural hazards. These changes can be read by viewing posting: [Legislative and regulatory proposals affecting conservation authorities to support the Housing Supply Action Plan 3.0.](#)

Attachment No. 2: Excerpts of Portions of the Conservation Authorities Act to Come into Force and Effect on April 1, 2024

Conservation Authorities Act

R.S.O. 1990, CHAPTER C.27

CONTENTS

	<u>PART VI</u>
	REGULATION OF AREAS OVER WHICH AUTHORITIES HAVE JURISDICTION
28.	Prohibited activities re watercourses, wetlands, etc.
28.1	Permits
28.1.1	Permits issued by Minister
28.1.2	Mandatory permits, zoning orders
28.2	Period of validity
28.3	Cancellation of permits
28.4	Delegation of power
28.5	Regulations: activities affecting natural resources
	<u>PART VII</u>
	ENFORCEMENT AND OFFENCES
30.1	Appointment of officers
30.2	Entry without warrant
30.3	Searches
30.4	Stop order
30.5	Offences
30.6	Limitation period
30.7	Rehabilitation orders

Note: On April 1, 2024, the day named by proclamation of the Lieutenant Governor, section 28 of the Act is repealed and the following substituted: (See: 2017, c. 23, Sched. 4, s. 25)

**PART VI
REGULATION OF AREAS OVER WHICH AUTHORITIES HAVE JURISDICTION**

Prohibited activities re watercourses, wetlands, etc.

28 (1) Subject to subsections (2), (3) and (4) and section 28.1, no person shall carry on the following activities, or permit another person to carry on the following activities, in the area of jurisdiction of an authority:

Note: On April 1, 2024, the day named by proclamation of the Lieutenant Governor, subsection 28 (1) of the Act is amended by striking out “Subject to subsections (2), (3) and (4) and section 28.1” at the beginning. (See: 2022, c. 21, Sched. 2, s. 7 (1))

1. Activities to straighten, change, divert or interfere in any way with the existing channel of a river, creek, stream or watercourse or to change or interfere in any way with a wetland.
2. Development activities in areas that are within the authority’s area of jurisdiction and are,
 - i. hazardous lands,
 - ii. wetlands,
 - iii. river or stream valleys the limits of which shall be determined in accordance with the regulations,
 - iv. areas that are adjacent or close to the shoreline of the Great Lakes-St. Lawrence River System or to an inland lake and that may be affected by flooding, erosion or dynamic beach hazards, such areas to be further determined or specified in accordance with the regulations, or

Attachment No. 2: Excerpts of Portions of the Conservation Authorities Act to Come into Force and Effect on April 1, 2024

- v. other areas in which development should be prohibited or regulated, as may be determined by the regulations. 2017, c. 23, Sched. 4, s. 25.

Exception, aggregates

(2) The prohibitions in subsection (1) do not apply to an activity approved under the *Aggregate Resources Act* after December 18, 1998, the date the *Red Tape Reduction Act, 1998* received Royal Assent. 2017, c. 23, Sched. 4, s. 25.

Same, prescribed activities

(3) The prohibitions in subsection (1) do not apply to an activity or a type of activity that is prescribed by regulation and is carried out in accordance with the regulations. 2017, c. 23, Sched. 4, s. 25.

Same, prescribed areas

(4) The prohibitions in subsection (1) do not apply to any activity described in that subsection if it is carried out,

- (a) in an area that is within an authority's area of jurisdiction and specified in the regulations; and
- (b) in accordance with any conditions specified in the regulations. 2017, c. 23, Sched. 4, s. 25.

Note: On April 1, 2024, the day named by proclamation of the Lieutenant Governor, section 28 of the Act is amended by adding the following subsections: (See: 2022, c. 21, Sched. 2, s. 7 (2))

Same, *Planning Act*

(4.1) Subject to subsection (4.2), the prohibitions in subsection (1) do not apply to an activity within a municipality prescribed by the regulations if,

- (a) the activity is part of development authorized under the *Planning Act*; and
- (b) such conditions and restrictions as may be prescribed for obtaining the exception and on carrying out the activity are satisfied. 2022, c. 21, Sched. 2, s. 7 (2).

Same

(4.2) If a regulation prescribes activities, areas of municipalities or types of authorizations under the *Planning Act* for the purposes of this subsection, or prescribes any other conditions or restrictions relating to an exception under subsection (4.1), the exception applies only in respect of such activities, areas and authorizations and subject to such conditions and restrictions. 2022, c. 21, Sched. 2, s. 7 (2).

Definitions

(5) In this section,

“development activity” means a development activity as defined by regulation; (“activité d’aménagement”)

“hazardous land” means hazardous land as defined by regulation; (“terrain dangereux”)

“watercourse” means a watercourse as defined by regulation; (“cours d’eau”)

“wetland” means a wetland as defined by regulation. (“terre marécageuse”) 2017, c. 23, Sched. 4, s. 25.

Section Amendments with date in force (d/m/y)

1998, c. 15, Sched. E, s. 3 (1, 2, 7, 8) - 01/04/1999; 1998, c. 18, Sched. I, s. 12 - 18/12/1998

2009, c. 12, Sched. L, s. 2 - 14/05/2009

2010, c. 16, Sched. 10, s. 1 (2, 3) - 25/10/2010

2017, c. 23, Sched. 4, s. 25 – 01/04/2024

2018, c. 16, s. 3 (1) - 01/01/2019

2021, c. 4, Sched. 6, s. 39 (11) - 01/06/2021

2022, c. 21, Sched. 2, s. 7 (1, 2) – 01/04/2024

Note: On April 1, 2024, the day named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section: (See: 2017, c. 23, Sched. 4, s. 25)

Attachment No. 2: Excerpts of Portions of the Conservation Authorities Act to Come into Force and Effect on April 1, 2024

Permits

28.1 (1) An authority may issue a permit to a person to engage in an activity specified in the permit that would otherwise be prohibited by section 28, if, in the opinion of the authority,

- (a) the activity is not likely to affect the control of flooding, erosion, dynamic beaches or pollution or the conservation of land;

Note: On April 1, 2024, the day section 25 of Schedule 4 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force, clause 28.1 (1) (a) of the Act is repealed and the following substituted: (See: 2022, c. 21, Sched. 2, s. 9 (1))

- (a) the activity is not likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock;
- (b) the activity is not likely to create conditions or circumstances that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property; and
- (c) any other requirements that may be prescribed by the regulations are met. 2017, c. 23, Sched. 4, s. 25.

Application for permit

(2) A person who wishes to engage in an activity that is prohibited under section 28 in an area situated in the jurisdiction of an authority may apply to the authority for a permit under this section. 2017, c. 23, Sched. 4, s. 25.

Same

(3) An application for a permit shall be made in accordance with the regulations and include such information as is required by regulation. 2017, c. 23, Sched. 4, s. 25.

Conditions

(4) Subject to subsection (5), an authority may issue a permit with or without conditions. 2017, c. 23, Sched. 4, s. 25.

Hearing

(5) An authority shall not refuse an application for a permit or attach conditions to a permit unless the applicant for the permit has been given an opportunity to be heard by the authority. 2017, c. 23, Sched. 4, s. 25.

Renewable energy projects

(6) In the case of an application for a permit to engage in development related to a renewable energy project as defined in subsection 2 (1) of the *Electricity Act, 1998*,

- (a) the authority shall not refuse the permit unless it is of the opinion that it is necessary to do so to control pollution, flooding, erosion or dynamic beaches; and

Note: On April 1, 2024, the day section 25 of Schedule 4 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force, clause 28.1 (6) (a) of the Act is repealed and the following substituted: (See: 2022, c. 21, Sched. 2, s. 9 (2))

- (a) the authority shall not refuse the permit unless it is of the opinion that it is necessary to do so to control flooding, erosion, dynamic beaches or unstable soil or bedrock; and
- (b) despite subsection (4), the authority shall not impose conditions on the permit unless the conditions relate to controlling pollution, flooding, erosion or dynamic beaches. 2017, c. 23, Sched. 4, s. 25; 2018, c. 16, s. 3 (2).

Note: On April 1, 2024, the day section 25 of Schedule 4 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force, clause 28.1 (6) (b) of the Act is repealed and the following substituted: (See: 2022, c. 21, Sched. 2, s. 9 (2))

- (b) despite subsection (4), the authority shall not attach conditions to the permit unless the conditions relate to controlling flooding, erosion, dynamic beaches or unstable soil or bedrock.

Reasons for decision

(7) If the authority, after holding a hearing, refuses a permit or issues the permit subject to conditions, the authority shall give the applicant written reasons for the decision. 2017, c. 23, Sched. 4, s. 25.

Appeal

(8) An applicant who has been refused a permit or who objects to conditions imposed on a permit may, within 30 days of receiving the reasons under subsection (7), appeal to the Minister who may,

- (a) refuse the permit; or
- (b) order the authority to issue the permit, with or without conditions. 2017, c. 23, Sched. 4, s. 25.

Attachment No. 2: Excerpts of Portions of the Conservation Authorities Act to Come into Force and Effect on April 1, 2024

Note: On April 1, 2024, the day named by proclamation of the Lieutenant Governor, subsection 28.1 (8) of the Act is repealed and the following substituted: (See: 2020, c. 36, Sched. 6, s. 16 (2))

Request for Minister's review

(8) Subject to the regulations, where the authority refuses a permit or imposes any conditions on a permit to which the applicant objects, the applicant may, within 15 days of receiving reasons for the authority's decision, submit a request to the Minister for the Minister to review the authority's decision. 2020, c. 36, Sched. 6, s. 16 (2).

Definition

(9) In this section,

“pollution” means pollution as defined by regulation. 2017, c. 23, Sched. 4, s. 25.

Note: On April 1, 2024, the day named by proclamation of the Lieutenant Governor, subsection 28.1 (9) of the Act is repealed and the following substituted: (See: 2020, c. 36, Sched. 6, s. 16 (2))

Reply by Minister

(9) Within 30 days after receiving a request under subsection (8), the Minister shall reply to the request and indicate in writing to the applicant and the authority whether or not the Minister intends to conduct a review of the authority's decision. Failure on the part of the Minister to reply to a request within the 30 day period is deemed to be an indication that the Minister does not intend to review the authority's decision. 2020, c. 36, Sched. 6, s. 16 (2).

Same

(10) If a reply given under subsection (9) indicates that the Minister intends to conduct a review, the Minister may in the reply require the applicant and the authority to provide the Minister with such information as the Minister considers necessary to conduct the review. 2020, c. 36, Sched. 6, s. 16 (2).

Information

(11) The applicant and the authority shall submit to the Minister such information as was specified in the reply given under subsection (9) within the time period specified in the reply. 2020, c. 36, Sched. 6, s. 16 (2).

Publication of notice of review

(12) The Minister shall publish on the Environmental Registry notice of the Minister's intention to review a decision made by an authority and shall do so within 30 days of giving a reply to that effect under subsection (9). 2020, c. 36, Sched. 6, s. 16 (2).

No hearing required

(13) The Minister is not required to hold a hearing while conducting a review of an authority's decision. 2020, c. 36, Sched. 6, s. 16 (2).

Conferring with persons, etc.

(14) Before making a decision with respect to a review, the Minister may confer with any person or body that the Minister considers may have an interest in the review. 2020, c. 36, Sched. 6, s. 16 (2).

Minister's decision

(15) After conducting a review of an authority's decision, the Minister may confirm or vary the authority's decision or make any decision that the Minister considers appropriate, including issuing the permit subject to conditions. 2020, c. 36, Sched. 6, s. 16 (2).

Same

(16) The Minister shall base any decision under subsection (15) on the criteria set out in clauses (1) (a), (b) and (c). 2020, c. 36, Sched. 6, s. 16 (2).

Reasons

(17) If, upon conducting a review of an authority's decision, the Minister decides to refuse to issue a permit or to issue a permit subject to conditions, the Minister shall give the applicant and the authority written reasons for the decision. 2020, c. 36, Sched. 6, s. 16 (2).

Attachment No. 2: Excerpts of Portions of the Conservation Authorities Act to Come into Force and Effect on April 1, 2024

Copy to authority

(18) If the Minister issues a permit under subsection (15), the Minister shall give a copy of the permit to the authority within five days after the permit is issued. 2020, c. 36, Sched. 6, s. 16 (2).

Decision final

(19) A decision made by the Minister under subsection (15) is final. 2020, c. 36, Sched. 6, s. 16 (2).

Appeal to Tribunal

(20) Within 90 days after receiving the reasons for the authority's decision under subsection (7), the applicant may appeal the authority's decision to the Local Planning Appeal Tribunal, subject to subsection (21). 2020, c. 36, Sched. 6, s. 16 (2).

Exception

(21) An applicant who submitted a request under subsection (8) for the Minister to conduct a review of an authority's decision shall not appeal the decision to the Local Planning Appeal Tribunal under subsection (20) unless,

- (a) the Minister's reply under subsection (9) indicated that the Minister refused to conduct the review; or
- (b) 30 days have elapsed following the day the applicant submitted the request for a Minister's review and the Minister has not made a reply under subsection (9). 2020, c. 36, Sched. 6, s. 16 (2).

Appeal, no decision by authority

(22) If an application for a permit is made to the authority and the application complies with subsection (3), and if the authority fails to give the applicant notice of a decision with respect to the application within 120 days after the application is made, the applicant may appeal the application directly to the Local Planning Appeal Tribunal. 2020, c. 36, Sched. 6, s. 16 (2).

Note: On April 1, 2024, the day section 25 of Schedule 4 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force, subsection 28.1 (22) of the Act is amended by striking out "120" and substituting "90". (See: 2022, c. 21, Sched. 2, s. 9 (3))

Appeal, no decision by Minister

(23) If the Minister indicates in a reply given under subsection (9) that the Minister intends to review an authority's decision and the Minister fails to make a decision within 90 days of giving the reply, the applicant may, within the next 30 days, appeal the authority's decision directly to the Local Planning Appeal Tribunal. 2020, c. 36, Sched. 6, s. 16 (2).

Notice of Appeal

(24) A notice of an appeal under subsection (20), (22) or (23) shall be sent to the Local Planning Appeal Tribunal and to the authority by registered mail. 2020, c. 36, Sched. 6, s. 16 (2).

Hearing by Tribunal

(25) The Local Planning Appeal Tribunal shall fix a date for a hearing of an appeal under subsection (20), (22) or (23), give notice to all interested parties and give all necessary direction for the hearing. 2020, c. 36, Sched. 6, s. 16 (2).

Powers of the Tribunal

(26) The Local Planning Appeal Tribunal has authority to take evidence, to refuse the permit or to order the authority to issue the permit, with or without conditions. 2020, c. 36, Sched. 6, s. 16 (2).

Note: On April 1, 2024, the day subsection 16 (2) of Schedule 6 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020* comes into force, section 28.1 of the Act is amended by striking out "Local Planning Appeal Tribunal" wherever it appears and substituting in each case "Ontario Land Tribunal". (See: 2021, c. 4, Sched. 6, s. 39 (13))

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 25 – 01/04/2024

2018, c. 16, s. 3 (2) - 01/01/2019

2020, c. 36, Sched. 6, s. 16 (1) - no effect - see 2022, c. 21, Sched. 2, s. 15 - 28/11/2022; 2020, c. 36, Sched. 6, s. 16 (2) – 01/04/2024

2021, c. 4, Sched. 6, s. 39 (13) – 01/04/2024

2022, c. 21, Sched. 2, s. 9 (1-3) – 01/04/2024

Note: On April 1, 2024, the day named by proclamation of the Lieutenant Governor, the Act is amended by adding the following sections: (See: 2020, c. 36, Sched. 6, s. 17)

Attachment No. 2: Excerpts of Portions of the Conservation Authorities Act to Come into Force and Effect on April 1, 2024

Permits issued by Minister

Minister's order

28.1.1 (1) Despite subsection 28.1 (1) and subject to the regulations, the Minister may, by order,

- (a) direct an authority not to issue a permit to a person who wishes to engage in a specified activity that, without the permit, would be prohibited under section 28 in the area of jurisdiction of the authority; or
- (b) direct the authorities that are specified in the order not to issue permits to persons who may wish to engage in a type or class of activity described in the order that, without the permit, would be prohibited under section 28 and to continue to refrain from doing so for such period as may be specified in the order. 2020, c. 36, Sched. 6, s. 17.

Minister's power

(2) If an order is made under subsection (1), the Minister has the power to issue a permit to engage in any activity described in the order that would otherwise be prohibited under section 28 if, in the Minister's opinion, the criteria described in clauses 28.1 (1) (a), (b) and (c) are satisfied. 2020, c. 36, Sched. 6, s. 17.

Same

(3) An order made under clause (1) (a) may be made either before or after an application for a permit has been submitted to the relevant authority. 2020, c. 36, Sched. 6, s. 17.

Same

(4) An order made under clause (1) (b) may provide that it applies to activities even if applications for permits have been submitted to the relevant authorities and decisions with respect to the applications are currently pending. 2020, c. 36, Sched. 6, s. 17.

Notice of order

(5) Notice of an order made under subsection (1) shall be,

- (a) given to every authority that is directed by the order not to issue one or more permits;
- (b) given to any person who submitted an application for the permits in question before the order was made where the application is still pending; and
- (c) posted on the Environmental Registry within 30 days of being made. 2020, c. 36, Sched. 6, s. 17.

Information forwarded to Minister

(6) If an application for a permit to engage in an activity is submitted to an authority under section 28.1 before the day an order is made under this section directing the authority to not issue such a permit,

- (a) the authority shall forward to the Minister all documents and information relating to the application that were submitted by the applicant and shall do so within the time period set out in the order, if any; and
- (b) the applicant shall forward to the Minister such further information as the Minister may specify in the order and shall do so within the time period set out in the order, if any. 2020, c. 36, Sched. 6, s. 17.

Application to Minister

(7) If an order is made under this section that prevents an authority from issuing a permit to engage in an activity in circumstances where an application for such a permit has not yet been submitted to the authority but may be submitted in the future,

- (a) any person who wishes to engage in the activity shall submit to the Minister,
 - (i) an application for a permit to do so that includes such information as may be specified in the regulation,
 - (ii) a fee in the same amount as the fee that the person would have paid to the authority had the application been submitted to the authority, and
 - (iii) any information that the Minister believes is necessary to make a determination with respect to the issuance of the permit and that may be specified in the order; and
- (b) if the authority receives an application for such a permit after the day the order is made, the authority shall direct the applicant to submit the application in accordance with clause (a). 2020, c. 36, Sched. 6, s. 17.

Attachment No. 2: Excerpts of Portions of the Conservation Authorities Act to Come into Force and Effect on April 1, 2024

Conferring with persons, etc.

(8) Before making a decision with respect to an application for a permit, the Minister may confer with any person or body that the Minister considers may have an interest in the application. 2020, c. 36, Sched. 6, s. 17.

Conditions

(9) The Minister may issue a permit subject to such conditions as the Minister determines are appropriate. 2020, c. 36, Sched. 6, s. 17.

Reasons

(10) If the Minister refuses a permit or issues a permit subject to conditions, the Minister shall give the applicant written reasons for the decision and shall provide a copy of the reasons to the relevant authority. 2020, c. 36, Sched. 6, s. 17.

Copy to authority

(11) If the Minister issues a permit under this section, the Minister shall give a copy of the permit to the authority that has jurisdiction over the watershed for which the permit is valid within five days after the permit is issued. 2020, c. 36, Sched. 6, s. 17.

Decision final

(12) A decision made by the Minister with respect to an application for a permit is final. 2020, c. 36, Sched. 6, s. 17.

Appeal

(13) If an application for a permit is made or forwarded to the Minister under this section and the application complies with the requirements of subsection 28.1 (3) or clause (7) (a) of this section, as the case may be, and if the Minister fails to give the applicant notice of a decision with respect to the application within 90 days after the application is made, the applicant may appeal the application directly to the Local Planning Appeal Tribunal. 2020, c. 36, Sched. 6, s. 17.

Same

(14) Subsections 28.1 (24), (25) and (26) apply with necessary modifications to an appeal to the Local Planning Appeal Tribunal made under subsection (13). 2020, c. 36, Sched. 6, s. 17.

Note: On April 1, 2024, the day section 17 Schedule 6 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures)*, 2020 comes into force, section 28.1.1 of the Act is amended by striking out “Local Planning Appeal Tribunal” wherever it appears and substituting in each case “Ontario Land Tribunal”. (See: 2021, c. 4, Sched. 6, s. 39 (14))

Section Amendments with date in force (d/m/y)

2020, c. 36, Sched. 6, s. 17 – 01/04/2024

2021, c. 4, Sched. 6, s. 39 (14) – 01/04/2024

Mandatory permits, zoning orders

28.1.2 (1) This section applies to any application submitted to an authority under section 28.1 for a permit to carry out a development project in the authority’s area of jurisdiction if,

- (a) a zoning order has been made by the Minister of Municipal Affairs and Housing under section 47 of the *Planning Act* authorizing the development project under that Act;

Note: On April 1, 2024, the day section 17 of Schedule 6 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures)*, 2020 comes into force, clause 28.1.2 (1) (a) of the Act is revoked and the following substituted: (See: 2022, c. 21, Sched. 2, s. 10 (1))

- (a) an order has been made by the Minister of Municipal Affairs and Housing under section 34.1 or 47 of the *Planning Act* authorizing the development project under that Act;
- (b) the lands in the authority’s area of jurisdiction on which the development project is to be carried out are not located in the Greenbelt Area designated under section 2 of the *Greenbelt Act, 2005*; and
- (c) such other requirements as may be prescribed are satisfied. 2020, c. 36, Sched. 6, s. 17.

Definition

(2) In this section,

Attachment No. 2: Excerpts of Portions of the Conservation Authorities Act to Come into Force and Effect on April 1, 2024

“development project” means a development project that includes any development activity as defined in subsection 28 (5) and any other act or activity that, without a permit issued under this section or section 28.1, would be prohibited under section 28. 2020, c. 36, Sched. 6, s. 17.

Note: On April 1, 2024, the day section 17 of Schedule 6 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures)*, 2020 comes into force, the definition of “development project” in subsection 28.1.2 (2) of the Act is repealed and the following substituted: (See: 2022, c. 21, Sched. 2, s. 10 (2))

“development project” means development activity as defined in subsection 28 (5) or any other act or activity that, without a permit issued under this section or section 28.1, would be prohibited under section 28.

Permit to be issued

(3) Subject to the regulations, an authority that receives an application for a permit to carry out a development project in the authority’s area of jurisdiction shall issue the permit if all of the requirements in clauses (1) (a), (b) and (c) are satisfied. 2020, c. 36, Sched. 6, s. 17.

Same

(4) For greater certainty, an authority shall not refuse to issue a permit to carry out a development project under subsection (3) despite,

- (a) the prohibitions in subsection 28 (1) and the fact that the development project may not meet the criteria for issuing a permit under subsection 28.1 (1); and
- (b) anything in subsection 3 (5) of the *Planning Act*. 2020, c. 36, Sched. 6, s. 17.

Conditions prescribed by regulations

(5) A permission granted under this section is subject to such conditions as may be prescribed. 2020, c. 36, Sched. 6, s. 17.

Note: On April 1, 2024, the day section 17 of Schedule 6 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures)*, 2020 comes into force, subsection 28.1.2 (5) of the Act is amended by striking out “permission” and substituting “permit”. (See: 2022, c. 21, Sched. 2, s. 10 (3))

Conditions specified by authority

(6) Subject to subsection (7), an authority may attach conditions to the permit, including conditions to mitigate,

- (a) any effects the development project is likely to have on the control of flooding, erosion, dynamic beaches or pollution or the conservation of land;

Note: On April 1, 2024, the day section 17 of Schedule 6 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures)*, 2020 comes into force, clause 28.1.2 (6) (a) of the Act is repealed and the following substituted: (See: 2022, c. 21, Sched. 2, s. 10 (4))

- (a) any effects the development project is likely to have on the control of flooding, erosion, dynamic beaches or unstable soil or bedrock;
- (b) any conditions or circumstances created by the development project that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property; or
- (c) any other matters that may be prescribed by regulation. 2020, c. 36, Sched. 6, s. 17.

Hearing

(7) An authority shall not attach conditions to a permit unless the applicant for the permit has been given an opportunity to be heard by the authority. 2020, c. 36, Sched. 6, s. 17.

Reasons for conditions

(8) If, after holding a hearing, an authority issues a permit subject to conditions, the authority shall give the permit holder written reasons for deciding to attach the conditions. 2020, c. 36, Sched. 6, s. 17.

Request for Minister’s review

(9) A permit holder who objects to the conditions proposed in the reasons given under subsection (8) may, within 15 days of the reasons being given, submit a request to the Minister for the Minister to review the proposed conditions, subject to the regulations. 2020, c. 36, Sched. 6, s. 17.

Note: On April 1, 2024, the day section 17 of Schedule 6 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures)*, 2020 comes into force, subsection 28.1.2 (9) of the Act is repealed and the following substituted: (See: 2022, c. 21, Sched. 2, s. 10 (5))

Attachment No. 2: Excerpts of Portions of the Conservation Authorities Act to Come into Force and Effect on April 1, 2024

Request for Minister's review

(9) A permit holder who objects to any conditions attached to the permit by an authority may, within 15 days of the reasons being given under subsection (8), submit a request to the Minister for the Minister to review the conditions, subject to the regulations. 2022, c. 21, Sched. 2, s. 10 (5).

Minister's review

(10) Subsections 28.1 (9) to (14) apply with necessary modifications to a Minister's review conducted pursuant to a request made under subsection (9). 2020, c. 36, Sched. 6, s. 17.

Minister's decision

(11) After conducting a review of an authority's decision, the Minister may confirm or vary the conditions that the authority proposes to attach to a permit, including removing conditions or requiring that such additional conditions be attached to the permit as the Minister considers appropriate. 2020, c. 36, Sched. 6, s. 17.

Note: On April 1, 2024, the day section 17 of Schedule 6 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures)*, 2020 comes into force, subsection 28.1.2 (11) of the Act is amended by striking out "conditions that the authority proposes to attach to a permit" and substituting "conditions attached by the authority to a permit". (See: 2022, c. 21, Sched. 2, s. 10 (6))

Same

(12) In making a decision under subsection (11), the Minister shall consider,

- (a) effects the development project is likely to have on the control of flooding, erosion, dynamic beaches or pollution or the conservation of land;

Note: On April 1, 2024, the day section 17 of Schedule 6 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures)*, 2020 comes into force, clause 28.1.2 (12) (a) of the Act is repealed and the following substituted: (See: 2022, c. 21, Sched. 2, s. 10 (7))

- (a) effects the development project is likely to have on the control of flooding, erosion, dynamic beaches or unstable soil or bedrock;
- (b) conditions or circumstances created by the development project that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property; or
- (c) any other matters as may be prescribed by the regulations. 2020, c. 36, Sched. 6, s. 17.

Decision final

(13) A decision made by the Minister under subsection (11) is final. 2020, c. 36, Sched. 6, s. 17.

Appeal

(14) A permit holder who objects to the conditions proposed by an authority in the reasons given under subsection (8) may, within 90 days of the reasons being issued, appeal to the Local Planning Appeal Tribunal to review the conditions if,

Note: On April 1, 2024, the day section 17 of Schedule 6 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures)*, 2020 comes into force, subsection 28.1.2 (14) of the Act is amended by striking out the portion before clause (a) and substituting the following: (See: 2022, c. 21, Sched. 2, s. 10 (8))

Appeal

(14) A permit holder who objects to any conditions attached to the permit by an authority may, within 90 days of the reasons being given under subsection (8), appeal to the Local Planning Appeal Tribunal to review the conditions if,

- (a) the permit holder has not submitted a request under subsection (9) to the Minister to review the conditions; or
- (b) the permit holder has submitted a request to the Minister to review the conditions under subsection (9) and,
 - (i) 30 days have elapsed following the day the permit holder submitted the request and the Minister did not make a reply in accordance with subsection 28.1 (9), or
 - (ii) the Minister made a reply in accordance with subsection 28.1 (9) indicating that the Minister refused to conduct the review. 2020, c. 36, Sched. 6, s. 17.

Same

(15) If the Minister indicates in a reply given in accordance with subsection 28.1 (9) that the Minister intends to review an authority's decision and the Minister fails to make a decision within 90 days of giving the reply, the permit holder may,

Attachment No. 2: Excerpts of Portions of the Conservation Authorities Act to Come into Force and Effect on April 1, 2024

within the next 30 days, appeal the conditions proposed by the authority directly to the Local Planning Appeal Tribunal. 2020, c. 36, Sched. 6, s. 17.

Note: On April 1, 2024, the day section 17 of Schedule 6 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures)*, 2020 comes into force, subsection 28.1.2 (15) of the Act is amended by striking out “proposed” and substituting “attached”. (See: 2022, c. 21, Sched. 2, s. 10 (9))

Same

(16) Subsections 28.1 (24), (25) and (26) apply with necessary modifications to an appeal made under subsection (14) or (15). 2020, c. 36, Sched. 6, s. 17.

Agreement

(17) An authority that issues a permit to carry out a development project under this section shall enter into an agreement with respect to the development project with the permit holder and the authority and the permit holder may add a municipality or such other person or entity as they consider appropriate as parties to the agreement. 2020, c. 36, Sched. 6, s. 17.

Content of agreement

(18) An agreement under subsection (17) shall set out actions or requirements that the permit holder must complete or satisfy in order to compensate for ecological impacts and any other impacts that may result from the development project. 2020, c. 36, Sched. 6, s. 17.

Limitation on development

(19) No person shall begin a development project until an agreement required under subsection (17) has been entered into. 2020, c. 36, Sched. 6, s. 17.

Note: On April 1, 2024, the day section 17 of Schedule 6 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures)*, 2020 comes into force, section 28.1.2 of the Act is amended by adding the following subsection: (See: 2022, c. 21, Sched. 2, s. 10 (10))

Same

(19.1) If a regulation made under subsection 40 (4) provides that a development project may begin prior to entering into an agreement under subsection (17), but an agreement is not entered into by the date identified in the regulation, no person shall carry out the development project until such time the agreement is entered into. 2022, c. 21, Sched. 2, s. 10 (10).

Conflict

(20) If the conditions in a permit issued under this section conflict with the terms of a zoning order made under section 47 of the *Planning Act*, the terms of the zoning order shall prevail. 2020, c. 36, Sched. 6, s. 17.

Note: On April 1, 2024, the day section 17 of Schedule 6 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures)*, 2020 comes into force, subsection 28.1.2 (20) of the Act is repealed and the following substituted: (See: 2022, c. 21, Sched. 2, s. 10 (11))

Conflict

(20) If the conditions attached to a permit issued under this section conflict with the terms of an order made under section 34.1 or 47 of the *Planning Act*, the terms of the order shall prevail. 2022, c. 21, Sched. 2, s. 10 (11).

Note: On April 1, 2024, the day section 17 of Schedule 6 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures)*, 2020 comes into force, section 28.1.2 of the Act is amended by striking out “Local Planning Appeal Tribunal” wherever it appears and substituting in each case “Ontario Land Tribunal”. (See: 2021, c. 4, Sched. 6, s. 39 (14))

Section Amendments with date in force (d/m/y)

2020, c. 36, Sched. 6, s. 17 – 01/04/2024

2021, c. 4, Sched. 6, s. 39 (14) – 01/04/2024

2022, c. 21, Sched. 2, s. 10 (1-11) – 01/04/2024

Note: On April 1, 2024, the day named by proclamation of the Lieutenant Governor, the Act is amended by adding the following sections: (See: 2017, c. 23, Sched. 4, s. 25)

Period of validity

28.2 A permit shall be valid for a period to be determined in accordance with the regulations. 2017, c. 23, Sched. 4, s. 25.

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 25 – 01/04/2024

Attachment No. 2: Excerpts of Portions of the Conservation Authorities Act to Come into Force and Effect on April 1, 2024

Cancellation of permits

28.3 (1) An authority may cancel a permit issued under section 28.1 if it is of the opinion that the conditions of the permit have not been met or that the circumstances that are prescribed by regulation exist. 2017, c. 23, Sched. 4, s. 25.

Note: On April 1, 2024, the day named by proclamation of the Lieutenant Governor, subsection 28.3 (1) of the Act is amended by striking out “section 28.1” and substituting “section 28.1 or 28.1.1”. (See: 2020, c. 36, Sched. 6, s. 18 (1))

Notice

(2) Before cancelling a permit, an authority shall give a notice of intent to cancel to the permit holder indicating that the permit will be cancelled on a date specified in the notice unless the holder requests a hearing under subsection (3). 2017, c. 23, Sched. 4, s. 25.

Request for hearing

(3) Within 15 days of receiving a notice of intent to cancel a permit from the authority, the permit holder may submit a written request for a hearing to the authority. 2017, c. 23, Sched. 4, s. 25.

Hearing

(4) The authority shall set a date for the hearing and hold the hearing within a reasonable time after receiving a request for a hearing. 2017, c. 23, Sched. 4, s. 25.

Power

(5) After a hearing, the authority may confirm, rescind or vary the decision to cancel a permit. 2017, c. 23, Sched. 4, s. 25.

Note: On April 1, 2024, the day named by proclamation of the Lieutenant Governor, section 28.3 of the Act is amended by adding the following subsections: (See: 2020, c. 36, Sched. 6, s. 18 (2))

Appeal

(6) If the authority confirms the cancellation of a permit or makes another order under subsection (5) to which the permit holder objects, the permit holder may, within 90 days of receiving notice of the authority’s decision, appeal the decision to the Local Planning Appeal Tribunal. 2020, c. 36, Sched. 6, s. 18 (2).

Same

(7) A notice of an appeal under subsection (6) shall be sent to the Local Planning Appeal Tribunal and to the authority by registered mail. 2020, c. 36, Sched. 6, s. 18 (2).

Hearing

(8) The Local Planning Appeal Tribunal shall fix a date for a hearing of an appeal under subsection (6), give notice to all interested parties and give all necessary direction for the hearing. 2020, c. 36, Sched. 6, s. 18 (2).

Powers of the Tribunal

(9) The Local Planning Appeal Tribunal has authority to take evidence, to confirm, rescind or vary the decision to cancel the permit, with or without conditions. 2020, c. 36, Sched. 6, s. 18 (2).

Note: On April 1, 2024, the day subsection 18 (2) of Schedule 6 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures)*, 2020 comes into force, section 28.3 of the Act is amended by striking out “Local Planning Appeal Tribunal” wherever it appears and substituting in each case “Ontario Land Tribunal”. (See: 2021, c. 4, Sched. 6, s. 39 (15))

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 25 – 01/04/2024

2020, c. 36, Sched. 6, s. 18 (1, 2) – 01/04/2024

2021, c. 4, Sched. 6, s. 39 (15) – 01/04/2024

Delegation of power

28.4 An authority may delegate any of its powers relating to the issuance or cancellation of permits under this Act or the regulations, or to the holding of hearings in relation to the permits, to the authority’s executive committee or to any other person or body, subject to any limitations or requirements that may be prescribed by regulation. 2017, c. 23, Sched. 4, s. 25.

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 25 – 01/04/2024

Attachment No. 2: Excerpts of Portions of the Conservation Authorities Act to Come into Force and Effect on April 1, 2024

Note: On April 1, 2024, the day named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section: (See: 2017, c. 23, Sched. 4, s. 26)

Regulations: activities affecting natural resources

28.5 (1) The Lieutenant Governor in Council may make regulations with respect to activities that may impact the conservation, restoration, development or management of natural resources and that may be carried out in the areas of jurisdiction of authorities, including regulations,

- (a) identifying activities that have or may have an impact on the conservation, restoration, development or management of natural resources for the purposes of the regulation;
- (b) regulating those activities;
- (c) prohibiting those activities or requiring that a person obtain a permit from the relevant authority to engage in the activities in the authority's area of jurisdiction. 2017, c. 23, Sched. 4, s. 26.

Same

(2) A regulation under clause (1) (c) that requires that a person obtain a permit from the relevant authority to engage in an activity described in subsection (1) may,

- (a) provide for applications to be made to an authority for the permit and specify the manner, content and form of the application;
- (b) provide for the issuance, expiration, renewal and cancellation of a permit;
- (c) require hearings in relation to any matter referred to in clauses (a) and (b) and specify the person before whom, or the body before which, the matter shall be heard, provide for notices and other procedural matters relating to the hearing and provide for an appeal from any decision. 2017, c. 23, Sched. 4, s. 26.

Same

(3) A regulation made under this section may be limited in its application to one or more authorities or activities. 2017, c. 23, Sched. 4, s. 26.

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 26 – 01/04/2024

Note: On April 1, 2024, the day named by proclamation of the Lieutenant Governor, section 30.1 of the Act is repealed and the following substituted: (See: 2017, c. 23, Sched. 4, s. 29)

PART VII ENFORCEMENT AND OFFENCES

Appointment of officers

30.1 An authority may appoint officers for the purposes of ensuring compliance with this Act and the regulations. 2017, c. 23, Sched. 4, s. 29.

Section Amendments with date in force (d/m/y)

1998, c. 18, Sched. I, s. 14 - 18/12/1998

2017, c. 23, Sched. 4, s. 29 – 01/04/2024

Entry without warrant

30.2 (1) An officer appointed by an authority under section 30.1 may, subject to subsections (2) and (3), enter any land situated in the authority's area of jurisdiction for the purposes of determining compliance with subsection 28 (1), a regulation made under subsection 28 (3) or section 28.5 or with the conditions of a permit issued under section 28.1 or under a regulation made under clause 28.5 (1) (c). 2017, c. 23, Sched. 4, s. 29.

Note: On April 1, 2024, the day named by proclamation of the Lieutenant Governor, subsection 30.2 (1) of the Act is repealed and the following substituted: (See: 2020, c. 36, Sched. 6, s. 19 (1))

Entry without warrant, permit application

(1) An officer appointed by an authority under section 30.1 may enter any land situated in the authority's area of jurisdiction, without a warrant and without the consent of the owner or occupier, if,

Attachment No. 2: Excerpts of Portions of the Conservation Authorities Act to Come into Force and Effect on April 1, 2024

- (a) an application has been submitted under section 28.1 or 28.1.1 for a permit to engage in an activity with respect to the land;
- (b) the entry is for the purpose of determining whether to issue a permit; and
- (c) the officer has given reasonable notice of the entry to the owner or occupier of the property. 2020, c. 36, Sched. 6, s. 19 (1).

Entry without warrant, compliance

(1.1) An officer appointed by an authority under section 30.1 may enter any land situated in the authority's area of jurisdiction, without a warrant and without the consent of the owner or occupier, if,

- (a) the entry is for the purpose of ensuring compliance with subsection 28 (1) or 28.1.2 (19), a regulation made under section 28.5 or with the conditions of a permit issued under section 28.1, 28.1.1 or 28.1.2 or issued under a regulation made under clause 28.5 (1) (c);

Note: On April 1, 2024, the day subsection 19 (1) of Schedule 6 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures)*, 2020 comes into force, clause 30.2 (1.1) (a) of the Act is repealed and the following substituted: (See: 2022, c. 21, Sched. 2, s. 11 (1))

- (a) the entry is for the purpose of ensuring compliance with subsection 28 (1), 28.1.2 (19) or 28.1.2 (19.1), with a regulation made under section 28.5 or with the conditions of a permit issued under section 28.1, 28.1.1 or 28.1.2 or issued under a regulation made under clause 28.5 (1) (c);
- (b) the officer has reasonable grounds to believe that a contravention of a provision of the Act or a regulation referred to in clause (a) or of a condition of a permit referred to in clause (a) is causing or is likely to cause significant damage and,
 - (i) the damage affects or is likely to affect the control of flooding, erosion, dynamic beaches or pollution or the conservation of land, or

Note: On April 1, 2024, the day subsection 19 (1) of Schedule 6 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures)*, 2020 comes into force, subclause 30.2 (1.1) (b) (i) of the Act is repealed and the following substituted: (See: 2022, c. 21, Sched. 2, s. 11 (2))

- (i) the damage affects or is likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock, or
- (ii) in the event of a natural hazard, the damage will or is likely to create conditions or circumstances that might jeopardize the health and safety of persons or result in damage or destruction of property; and
- (c) the officer has reasonable grounds to believe that the entry is required to prevent or reduce the effects or risks described in clause (b). 2020, c. 36, Sched. 6, s. 19 (1).

No entry to buildings

(2) The power to enter land under subsection (1) does not authorize the entry into a dwelling or other building situated on the land. 2017, c. 23, Sched. 4, s. 29.

Note: On April 1, 2024, the day named by proclamation of the Lieutenant Governor, subsection 30.2 (2) of the Act is amended by striking out "subsection (1)" and substituting "subsection (1) or (1.1)". (See: 2020, c. 36, Sched. 6, s. 19 (2))

Time of entry

(3) The power to enter land under subsection (1) may be exercised at any reasonable time. 2017, c. 23, Sched. 4, s. 29.

Note: On April 1, 2024, the day named by proclamation of the Lieutenant Governor, subsection 30.2 (3) of the Act is amended by striking out "subsection (1)" and substituting "subsection (1) or (1.1)". (See: 2020, c. 36, Sched. 6, s. 19 (2))

Power upon entry

(4) An officer who enters land under subsection (1) may do any of the following things:

1. Inspect any thing that is relevant to the inspection.
2. Conduct any tests, take any measurements, take any specimens or samples, set up any equipment and make any photographic or other records that may be relevant to the inspection.
3. Ask any questions that are relevant to the inspection to the occupant of the land. 2017, c. 23, Sched. 4, s. 29.

Note: On April 1, 2024, the day named by proclamation of the Lieutenant Governor, subsection 30.2 (4) of the Act is amended by striking out "subsection (1)" and substituting "subsection (1) or (1.1)". (See: 2020, c. 36, Sched. 6, s. 19 (2))

Attachment No. 2: Excerpts of Portions of the Conservation Authorities Act to Come into Force and Effect on April 1, 2024

No use of force

(5) Subsection (1) does not authorize the use of force. 2017, c. 23, Sched. 4, s. 29.

Note: On April 1, 2024, the day named by proclamation of the Lieutenant Governor, subsection 30.2 (5) of the Act is amended by striking out “subsection (1)” and substituting “subsection (1) or (1.1)”. (See: 2020, c. 36, Sched. 6, s. 19 (2))

Experts, etc.

(6) An officer who enters land under this section may be accompanied and assisted by any person with such knowledge, skills or expertise as may be required for the purposes of the inspection. 2017, c. 23, Sched. 4, s. 29.

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 29 – 01/04/2024

2020, c. 36, Sched. 6, s. 19 (1, 2) – 01/04/2024

2022, c. 21, Sched. 2, s. 11 (1, 2) – 01/04/2024

Searches

Search with warrant

30.3 (1) An officer may obtain a search warrant under Part VIII of the *Provincial Offences Act* in respect of an offence under this Act. 2017, c. 23, Sched. 4, s. 29.

Assistance

(2) The search warrant may authorize any person specified in the warrant to accompany and assist the officer in the execution of the warrant. 2017, c. 23, Sched. 4, s. 29.

Search without warrant

(3) If an officer has reasonable grounds to believe that there is something on land that will afford evidence of an offence under this Act but that the time required to obtain a warrant would lead to the loss, removal or destruction of the evidence, the officer may, without warrant, enter and search the land. 2017, c. 23, Sched. 4, s. 29.

No entry to buildings

(4) The power to enter land under subsection (3) does not authorize the entry into a dwelling or other building situated on the land. 2017, c. 23, Sched. 4, s. 29.

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 29 – 01/04/2024

Stop order

30.4 (1) An officer appointed under section 30.1 may make an order requiring a person to stop engaging in or not to engage in an activity if the officer has reasonable grounds to believe that the person is engaging in the activity, has engaged in the activity or is about to engage in the activity and, as a result, is contravening,

- (a) subsection 28 (1) or a regulation made under subsection 28 (3) or under section 28.5; or
- (b) the conditions of a permit that was issued under section 28.1 or under a regulation made under clause 28.5 (1) (c). 2017, c. 23, Sched. 4, s. 29.

Note: On April 1, 2024, the day named by proclamation of the Lieutenant Governor, subsection 30.4 (1) of the Act is repealed and the following substituted: (See: 2020, c. 36, Sched. 6, s. 20 (1))

Stop order

(1) An officer appointed under section 30.1 may make an order requiring a person to stop engaging in or not to engage in an activity if the officer has reasonable grounds to believe that,

- (a) the person has engaged in, is engaging in or is about to engage in the activity and, as a result, is contravening or will contravene,
 - (i) subsection 28 (1) or 28.1.2 (19) or a regulation made under section 28.5, or

Note: On April 1, 2024, the day subsection 20 (1) of Schedule 6 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures)*, 2020 comes into force, subclause 30.4 (1) (a) (i) of the Act is repealed and the following substituted: (See: 2022, c. 21, Sched. 2, s. 12 (1))

Attachment No. 2: Excerpts of Portions of the Conservation Authorities Act to Come into Force and Effect on April 1, 2024

- (i) subsection 28 (1), 28.1.2 (19) or 28.1.2 (19.1) or a regulation made under section 28.5, or
 - (ii) the conditions of a permit issued under section 28.1, 28.1.1 or 28.1.2 or issued under a regulation made under clause 28.5 (1) (c);
- (b) the activity has caused, is causing or is likely to cause significant damage and,
- (i) the damage affects or is likely to affect the control of flooding, erosion, dynamic beaches or the pollution or the conservation of land, or

Note: On April 1, 2024, the day subsection 20 (1) of Schedule 6 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures)*, 2020 comes into force, subclause 30.4 (1) (b) (i) of the Act is repealed and the following substituted: (See: 2022, c. 21, Sched. 2, s. 12 (2))

- (i) the damage affects or is likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock, or
 - (ii) in the event of a natural hazard, the damage will or is likely to create conditions or circumstances that might jeopardize the health and safety of persons or result in damage or destruction of property; and
- (c) the order will prevent or reduce the damage described in clause (b). 2020, c. 36, Sched. 6, s. 20 (1).

Information to be included in order

- (2) The order shall,
- (a) specify the provision that the officer believes is being, has been or is about to be contravened;
 - (b) briefly describe the nature of the contravention and its location; and
 - (c) state that a hearing on the order may be requested in accordance with this section. 2017, c. 23, Sched. 4, s. 29.

Note: On April 1, 2024, the day named by proclamation of the Lieutenant Governor, subsection 30.4 (2) of the Act is repealed and the following substituted: (See: 2020, c. 36, Sched. 6, s. 20 (1))

Information to be included in the order

- (2) The order shall,
- (a) specify the provision that the officer believes is being or is about to be contravened;
 - (b) briefly describe the nature of the contravention and its location;
 - (c) briefly describe the nature of the damage being caused or likely to be caused by the activity; and
 - (d) state that a hearing on the order may be requested in accordance with this section. 2020, c. 36, Sched. 6, s. 20 (1).

Service of order

- (3) An order under this section shall be served personally or by registered mail addressed to the person against whom the order is made at the person's last known address. 2017, c. 23, Sched. 4, s. 29.

Registered mail

- (4) An order served by registered mail shall be deemed to have been served on the fifth day after the day of mailing, unless the person served establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive the order until a later date. 2017, c. 23, Sched. 4, s. 29.

Effective date

- (5) An order under this section takes effect when it is served, or at such later time as is specified in the order. 2017, c. 23, Sched. 4, s. 29.

Right to hearing

- (6) A person who is served with an order under this section may request a hearing before the authority or, if the authority so directs, before the authority's executive committee by mailing or delivering to the authority, within 30 days after service of the order, a written request for a hearing that includes a statement of the reasons for requesting the hearing. 2017, c. 23, Sched. 4, s. 29.

Powers of authority

- (7) After holding a hearing, the authority or executive committee, as the case may be, shall,

Attachment No. 2: Excerpts of Portions of the Conservation Authorities Act to Come into Force and Effect on April 1, 2024

- (a) confirm the order;
- (b) amend the order; or
- (c) remove the order, with or without conditions. 2017, c. 23, Sched. 4, s. 29.

Reasons for decision

(8) The authority or executive committee, as the case may be, shall give the person who requested the hearing written reasons for the decision. 2017, c. 23, Sched. 4, s. 29.

Appeal

(9) Within 30 days after receiving the reasons mentioned in subsection (8), the person who requested the hearing may appeal to the Minister and, after reviewing the submissions, the Minister may,

Note: On April 1, 2024, the day named by proclamation of the Lieutenant Governor, subsection 30.4 (9) of the Act is amended by striking out the portion before clause (a) and substituting the following: (See: 2020, c. 36, Sched. 6, s. 20 (2))

Appeal

(9) Within 30 days after receiving the reasons in subsection (8), the person who requested the hearing may appeal to the Minister or to a body prescribed by the regulations and, after reviewing the submissions, the Minister or the prescribed body may,

- (a) confirm the order;
- (b) amend the order; or
- (c) remove the order, with or without conditions. 2017, c. 23, Sched. 4, s. 29.

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 29 – 01/04/2024

2020, c. 36, Sched. 6, s. 20 (1, 2) – 01/04/2024

2022, c. 21, Sched. 2, s. 12 (1, 2) – 01/04/2024

Offences

30.5 (1) Every person is guilty of an offence if he or she contravenes,

- (a) subsection 28 (1) or a regulation made under subsection 28 (3) or under section 28.5;
- (b) the conditions of a permit that was issued under section 28.1 or under a regulation made under clause 28.5 (1) (c); or
- (c) a stop order issued under section 30.4. 2017, c. 23, Sched. 4, s. 29.

Note: On April 1, 2024, the day named by proclamation of the Lieutenant Governor, subsection 30.5 (1) of the Act is repealed and the following substituted: (See: 2020, c. 36, Sched. 6, s. 21)

Offences

(1) Every person is guilty of an offence if the person contravenes,

- (a) subsection 28 (1) or 28.1.2 (19);

Note: On April 1, 2024, the day section 21 of Schedule 6 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures)*, 2020 comes into force, clause 30.5 (1) (a) of the Act is repealed and the following substituted: (See: 2022, c. 21, Sched. 2, s. 13 (1))

- (a) subsection 28 (1), 28.1.2 (19) or 28.1.2 (19.1);
- (b) a regulation respecting activities permitted under subsection 28 (3) or (4) or a regulation made under section 28.5;

Note: On April 1, 2024, the day section 21 of Schedule 6 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures)*, 2020 comes into force, clause 30.5 (1) (b) of the Act is amended by striking out “subsection 28 (3) or (4)” substituting “subsection 28 (3), (4) or (4.1)”. (See: 2022, c. 21, Sched. 2, s. 13 (2))

- (c) the conditions of a permit that was issued under section 28.1, 28.1.1 or 28.1.2 or under a regulation made under clause 28.5 (1) (c); or
- (d) a stop order issued under section 30.4. 2020, c. 36, Sched. 6, s. 21.

Attachment No. 2: Excerpts of Portions of the Conservation Authorities Act to Come into Force and Effect on April 1, 2024

Penalty

- (2) A person who commits an offence under subsection (1) is liable on conviction,
- (a) in the case of an individual,
 - (i) to a fine of not more than \$50,000 or to a term of imprisonment of not more than three months, or to both, and
 - (ii) to an additional fine of not more than \$10,000 for each day or part of a day on which the offence occurs or continues; and
 - (b) in the case of a corporation,
 - (i) to a fine of not more than \$1,000,000, and
 - (ii) to an additional fine of not more than \$200,000 for each day or part of a day on which the offence occurs or continues. 2017, c. 23, Sched. 4, s. 29.

Monetary benefit

- (3) Despite the maximum fines set out in clauses (2) (a) and (b), a court that convicts a person of an offence under clause (1) (a) or (b) may increase the fine it imposes on the person by an amount equal to the amount of the monetary benefit that was acquired by the person, or that accrued to the person, as a result of the commission of the offence. 2017, c. 23, Sched. 4, s. 29.

Contravening s. 29 regulations

- (4) Every person who contravenes a regulation made under section 29 is guilty of an offence and on conviction is liable to a fine of not more than \$1,000. 2017, c. 23, Sched. 4, s. 29.

Obstruction of officer

- (5) Every person who prevents or obstructs an officer from entering land under section 30.2 or 30.3 is guilty of an offence and on conviction is liable to a fine of not more than \$10,000. 2017, c. 23, Sched. 4, s. 29.

Section Amendments with date in force (d/m/y)

- 2017, c. 23, Sched. 4, s. 29 – 01/04/2024
2020, c. 36, Sched. 6, s. 21 – 01/04/2024
2022, c. 21, Sched. 2, s. 13 (1, 2) – 01/04/2024

Limitation period

- 30.6** A proceeding shall not be commenced with respect to an offence under subsection 30.5 (1), (4) or (5) more than two years after the day on which the offence first comes to the attention of an officer appointed under section 30.1. 2017, c. 23, Sched. 4, s. 29.

Section Amendments with date in force (d/m/y)

- 2017, c. 23, Sched. 4, s. 29 – 01/04/2024

Rehabilitation orders

- 30.7** (1) In addition to any other remedy or penalty provided by law, the court, upon convicting a person of an offence under clause 30.5 (1) (a) or (b), may order the convicted person to,
- (a) remove, at the convicted person's expense, any development within such reasonable time as the court orders; and
 - (b) take such actions as the court directs, within the time the court may specify, to repair or rehabilitate the damage that results from or is in any way connected to the commission of the offence. 2017, c. 23, Sched. 4, s. 29.

Non-compliance with order

- (2) If a person does not comply with an order made under subsection (1), the authority having jurisdiction may arrange for any removal, repair or rehabilitation that was required of a person under subsection (1) to be carried out. 2017, c. 23, Sched. 4, s. 29.

Attachment No. 2: Excerpts of Portions of the Conservation Authorities Act to Come into Force and Effect on April 1, 2024

Liability for certain costs

(3) The person to whom an order is made under subsection (1) is liable for the cost of any removal, repair or rehabilitation arranged by an authority under subsection (2), and the amount is recoverable by the authority by action in a court of competent jurisdiction. 2017, c. 23, Sched. 4, s. 29.

Section Amendments with date in force (d/m/y)

2017, c. 23, Sched. 4, s. 29 – 01/04/2024

Attachment No. 3: Full Text of Ontario Regulation 41/24

Conservation Authorities Act

ONTARIO REGULATION 41/24

PROHIBITED ACTIVITIES, EXEMPTIONS AND PERMITS

Note: THIS REGULATION IS NOT YET IN FORCE. It comes into force on April 1, 2024, the day subsection 25 (2) of Schedule 6 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020* comes into force.

CONTENTS

1.	Definitions
2.	Prohibited activities, subparagraph 2 iii of s. 28 (1) of the Act
3.	Applicable Flood Event Standards
4.	Maps of regulated areas
5.	Exceptions
6.	Pre-submission consultation
7.	Application for permit
8.	Request for review
9.	Conditions of permits
10.	Lake Simcoe Protection requirements
11.	Period of validity of permits and extensions
12.	Policy and procedure documents re permits
Schedule 1	Flood event standards
Schedule 2	Description of standards
Schedule 3	Water surface elevations

Definitions

1. (1) In section 28 of the Act and in this Regulation,

“development activity” means,

- (a) the construction, reconstruction, erection or placing of a building or structure of any kind,
- (b) any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure,
- (c) site grading, or
- (d) the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere; (“activité d’aménagement”)

“hazardous land” means land that could be unsafe for development because of naturally occurring processes associated with flooding, erosion, dynamic beaches or unstable soil or bedrock; (“terrain dangereux”)

“watercourse” means a defined channel, having a bed and banks or sides, in which a flow of water regularly or continuously occurs; (“cours d’eau”)

“wetland” means land that,

- (a) is seasonally or permanently covered by shallow water or has a water table close to or at its surface,
- (b) directly contributes to the hydrological function of a watershed through connection with a surface watercourse,
- (c) has hydric soils, the formation of which have been caused by the presence of abundant water, and
- (d) has vegetation dominated by hydrophytic plants or water tolerant plants, the dominance of which have been favoured by the presence of abundant water. (“terre marécageuse”)

(2) The definition of “wetland” in subsection (1) does not include periodically soaked or wet land used for agricultural purposes which no longer exhibits a wetland characteristic referred to in clause (c) or (d) of that definition.

Prohibited activities, subparagraph 2 iii of s. 28 (1) of the Act

Attachment No. 3: Full Text of Ontario Regulation 41/24

2. (1) For the purposes of subparagraph 2 iii of subsection 28 (1) of the Act, river or stream valleys include river or stream valleys that have depressional features associated with a river or stream, whether or not they contain a watercourse, the limits of which are determined as follows:

1. Where the river or stream valley is apparent and has stable slopes, the valley extends from the stable top of the bank, plus 15 metres, to a similar point on the opposite side.
2. Where the river or stream valley is apparent and has unstable slopes, the valley extends from the predicted long term stable slope projected from the existing stable slope or, if the toe of the slope is unstable, from the predicted location of the toe of the slope as a result of stream erosion over a projected 100-year period, plus 15 metres, to a similar point on the opposite side.
3. Where the river or stream valley is not apparent, the valley extends,
 - (i) to the furthest of the following distances:
 - A. the distance from a point outside the edge of the maximum extent of the flood plain under the applicable flood event standard to a similar point on the opposite side, and
 - B. the distance from the predicted meander belt of a watercourse, expanded as required to convey the flood flows under the applicable flood event standard to a similar point on the opposite side, and
 - (ii) an additional 15-metre allowance on each side, except in areas within the jurisdiction of the Niagara Peninsula Conservation Authority.

(2) For the purposes of subparagraph 2 iv of subsection 28 (1) of the Act, areas adjacent or close to the shoreline of the Great Lakes-St. Lawrence River System or to inland lakes that may be affected by flooding, erosion or dynamic beach hazards include,

- (a) the area starting from the furthest offshore extent of the authority's boundary to the furthest of the following distances:
 - (i) the 100-year flood level, plus the appropriate allowance for wave uprush, and, if necessary, for other water-related hazards, including ship-generated waves, ice piling and ice jamming, except in respect of Wanapitei Lake in the Nickel District Conservation Authority, the applicable flood event standard for that lake being the one set out in item 1 of Table 16 of Schedule 1,
 - (ii) the predicted long-term stable slope projected from the existing stable toe of the slope or from the predicted location of the toe of the slope as that location may have shifted as a result of shoreline erosion over a 100-year period, and
 - (iii) where a dynamic beach is associated with the waterfront lands, an allowance of 30 metres inland to accommodate dynamic beach movement, except in the areas within the jurisdictions of the Mattagami Region Conservation Authority, the Nickle District Conservation Authority and the North Bay-Mattawa Conservation Authority where the allowance is 15 metres inland; and
- (b) the area that is an additional 15 metres allowance inland from the area described in clause (a).

(3) For the purposes of subparagraph 2 v of subsection 28 (1) of the Act, other areas in which development activities are prohibited are the areas within an authority's area of jurisdiction that are within 30 metres of a wetland.

Applicable Flood Event Standards

3. The applicable flood event standards with respect to an authority, for the purposes of paragraph 3 of subsection 2 (1) and to determine the maximum susceptibility to flooding of lands or areas in the area of jurisdiction of an authority are the standards specified in Schedule 1 as those standards are described in Schedule 2.

Maps of regulated areas

4. (1) An authority shall develop maps depicting the areas within the authority's area of jurisdiction where development activities are prohibited under paragraph 2 of subsection 28 (1) of the Act which shall be filed at the head office of the authority and made available to the public on the authority's website, and by any other means that the authority considers advisable.

- (2) At least once annually, the authority shall,
 - (a) review the maps referred to in subsection (1) and determine if updates to the maps are required;
 - (b) make and file such updates to the maps at its head office if required; and
 - (c) make the updated maps available to the public on its website and by any other means it considers advisable.

(3) Where new information or analysis becomes available that may result in significant updates to the areas where development activities are prohibited under paragraph 2 of subsection 28 (1) of the Act, including enlargements or reductions to such areas, the authority shall ensure that stakeholders, municipalities and the public are notified of the proposed changes

Attachment No. 3: Full Text of Ontario Regulation 41/24

in any manner that the authority considers advisable, including making any relevant information or studies available online at least 30 days prior to an authority meeting during which the proposed changes are on the agenda.

(4) Where significant changes to the areas where development activities are prohibited have been made in accordance with subsection (3), the authority shall promptly update the maps described in subsection (1).

(5) For greater certainty, in case of a conflict regarding the boundaries of the areas where development activities are prohibited under paragraph 2 of subsection 28 (1) of the Act, the description of those areas in that paragraph and in section 2 of this Regulation prevail over the depiction of the areas in the maps referred to in subsection (1) of this section.

Exceptions

5. Paragraph 2 of subsection 28 (1) of the Act does not apply to,

- (a) the construction, reconstruction, erection or placement of,
 - (i) a seasonal or floating dock that,
 - (A) is 10 square metres or less,
 - (B) does not require permanent support structures, and
 - (C) can be removed in the event of flooding,
 - (ii) a rail, chain-link or panelled fence with a minimum of 75 millimetres of width between panels, that is not within a wetland or watercourse,
 - (iii) agricultural in-field erosion control structures that are not within and that do not have any outlet of water directed or connected to a watercourse, wetland or river or stream valley,
 - (iv) a non-habitable accessory building or structure that,
 - (A) is incidental or subordinate to the principal building or structure,
 - (B) is 15 square metres or less, and
 - (C) is not within a wetland or watercourse, or
 - (v) an unenclosed detached deck or patio that is 15 square metres or less, is not placed within a watercourse or wetland and does not utilize any method of cantilevering;
- (b) the installation of new tile drains that are not within a wetland or watercourse, within 30 metres of a wetland or within 15 metres of a watercourse, and that have an outlet of water that is not directed or connected to a watercourse, wetland or river or stream valley, or the maintenance or repair of existing tile drains;
- (c) the installation, maintenance or repair of a pond for watering livestock that is not connected to or within a watercourse or wetland, within 15 metres of a wetland or a watercourse, and where no excavated material is deposited within an area where subsection 28 (1) of the Act applies;
- (d) the maintenance or repair of a driveway or private lane that is outside of a wetland or the maintenance or repair of a public road, provided that the driveway or road is not extended or widened and the elevation, bedding materials and existing culverts are not altered;
- (e) the maintenance or repair of municipal drains as described in, and conducted in accordance with the mitigation requirements set out in the Drainage Act and the Conservation Authorities Act Protocol, approved by the Minister and available on a government of Ontario website, as it may be amended from time to time; and
- (f) the reconstruction of a non-habitable garage with no basement, if the reconstruction does not exceed the existing footprint of the garage and does not allow for a change in the potential use of the garage to create a habitable space.

Pre-submission consultation

6. (1) Prior to submitting an application for a permit under section 28.1 of the Act, an authority and the applicant may engage in pre-submission consultation for the purposes of confirming the requirements of a complete application to obtain a permit for the activity in question, which may include,

- (a) requests by the authority to the applicant for,
 - (i) initial information on the proposed activity such as a description of the project and any associated plans, or
 - (ii) details about the property upon which the activities are proposed to be carried out, including copies of plans, maps or surveys; or
- (b) meetings between the authority and the applicant prior to the submission of an application, including any site visits to the property where the activities are proposed to be carried out.

Attachment No. 3: Full Text of Ontario Regulation 41/24

(2) If the applicant requests a pre-submission consultation under subsection (1), the authority is required to engage in the pre-submission consultation.

Application for permit

7. (1) An application for a permit under section 28.1 of the Act shall be submitted to an authority and shall include,

- (a) a plan of the area showing the type and location of the proposed development activity or a plan of the area showing plan view and cross-section details of an activity to straighten, change, divert or interfere with the existing channel of a river, creek, stream or watercourse, or change or interfere with a wetland;
- (b) the proposed use of any buildings and structures following completion of the development activity or a statement of the purpose of an activity to straighten, change, divert or interfere with the existing channel of a river, creek, stream or watercourse or to change or interfere with a wetland;
- (c) the start and completion dates of the development activity or other activity;
- (d) a description of the methods to be used in carrying out an activity to straighten, change, divert or interfere with the existing channel of a river, creek, stream or watercourse, or change or interfere with a wetland;
- (e) the elevations of existing buildings, if any, and grades and the proposed elevations of any buildings and grades after the development activity or other activity;
- (f) drainage details before and after the development activity or other activity;
- (g) a complete description of any type of fill proposed to be placed or dumped;
- (h) a confirmation of authorization for the proposed development activity or other activity given by the owner of the subject property, if the applicant is not the owner; and
- (i) any other technical information, studies or plans that the authority requests including information requested during pre-submission consultations between the authority and the applicant.

(2) Upon receipt of the information required under subsection (1) and payment by the applicant of the fee charged by the authority under subsection 21.2 (4) of the Act, the authority shall notify the applicant in writing, within 21 days, whether or not the application complies with subsection 28.1 (3) of the Act and is deemed to be a complete application.

(3) If the authority notifies an applicant under subsection (2) that the application is complete, the authority shall not require new studies, technical information or plans under clause (1) (i) from the applicant to make a determination on the application, unless agreed to by the authority and the applicant. For greater certainty, the authority may ask the applicant for clarification or further details regarding any matter related to the application.

Request for review

8. (1) An applicant may request a review by the authority if,

- (a) the applicant has not received a notice from the authority within 21 days in accordance with subsection 7 (2);
- (b) the applicant disagrees with the authority's determination that the application for a permit is incomplete; or
- (c) the applicant is of the view that a request by the authority for other information, studies or plans under clause 7 (1) (i) is not reasonable.

(2) A review requested by an applicant under subsection (1) shall be completed by the authority no later than 30 days after it is requested and the authority shall, as the case may be,

- (a) confirm that the application meets the requirements of subsection 7 (1) and is complete or provide reasons why the application is incomplete; or
- (b) provide reasons why a request for other information, studies or plans under clause 7 (1) (i) is reasonable or withdraw the request for all or some of the information, studies or plans.

Conditions of permits

9. (1) An authority may attach conditions on a permit issued under section 28.1 of the Act only if, in the opinion of the authority, the conditions,

- (a) assist in preventing or mitigating any effects on the control of flooding, erosion, dynamic beaches or unstable soil or bedrock;
- (b) assist in preventing or mitigating any effects on human health or safety or any damage or destruction of property in the event of a natural hazard; or
- (c) support the administration or implementation of the permit, including conditions related to reporting, notification, monitoring and compliance with the permit.

Attachment No. 3: Full Text of Ontario Regulation 41/24

(2) In addition to the conditions referred to in subsection (1), the Lake Simcoe Region Conservation Authority may attach conditions to a permit that relate to designated policies and other policies in the Lake Simcoe Protection Plan that apply to the issuance of the permit.

Lake Simcoe Protection requirements

10. For the purpose of clause 28.1 (1) (c) of the Act, a decision to issue a permit within the area of jurisdiction of the Lake Simcoe Region Conservation Authority shall,

- (a) conform with any designated policies in the Lake Simcoe Protection Plan that apply to the issuance of the permit; and
- (b) have regard to any other policies in the Lake Simcoe Protection Plan that apply to the issuance of the permit.

Period of validity of permits and extensions

11. (1) The maximum period of validity of a permit issued under sections 28.1, 28.1.1 and 28.1.2 of the Act, including any extension, is 60 months.

(2) If a permit is issued for less than the maximum period of validity, the holder of a permit may, at least 60 days before the expiry of the permit, submit an application for an extension of the permit to,

- (a) the authority that issued the permit, in the case of permits issued under section 28.1 or 28.1.2 of the Act; or
- (b) the Minister, in the case of permits issued under section 28.1.1 of the Act.

(3) An authority or the Minister, as the case may be, may approve an extension of the period of validity of a permit that was issued for a period of less than 60 months but the total period of validity of the permit, including the extension, shall not exceed 60 months.

(4) If an authority intends to refuse a request for an extension, the authority shall give notice of intent to refuse to the holder of the permit, indicating that the extension will be refused unless the holder requests a hearing under subsection (5).

(5) Within 15 days of receiving a notice of intent to refuse a request for an extension, the holder of the permit may submit a written request for a hearing to the authority.

(6) If a request for hearing is submitted under subsection (5), the authority shall hold the hearing within a reasonable time, and shall give the holder at least five days notice of the date of the hearing.

(7) After holding a hearing under subsection (6), the authority may,

- (a) confirm the refusal of the extension; or
- (b) grant an extension for such period of time as it deems appropriate, as long as the total period of validity of the permit does not exceed the applicable maximum period specified in subsection (1).

Policy and procedure documents re permits

12. Each authority shall develop policy and procedure documents with respect to permit applications and reviews that, at a minimum, include the following:

1. Additional details regarding the pre-submission consultation process described in section 6 as well as additional details related to complete permit application requirements.
2. Procedures respecting the process for a review under section 8.
3. Standard timelines for the authority to make a decision on permit applications following a notification that an application is complete under subsection 7 (2), as the authority determines advisable.
4. Any other policies and procedures, as the authority considers advisable, for the purpose of administering the issuance of permits under Part VI of the Act.
5. A process for the periodic review and updating of the authority's policy and procedure documents, including procedures for consulting with stakeholders and the public during the review and update process, as the authority considers advisable.

13. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS REGULATION).

SCHEDULE 1 FLOOD EVENT STANDARDS

1. For the following conservation authorities, the applicable flood event standards are those specified in Table 1 below:

1. Ausable Bayfield Conservation Authority.
2. Catfish Creek Conservation Authority.
3. Credit Valley Conservation Authority.

Attachment No. 3: Full Text of Ontario Regulation 41/24

4. Ganaraska Region Conservation Authority.
5. Grand River Conservation Authority.
6. Halton Region Conservation Authority.
7. Kettle Creek Conservation Authority.
8. Maitland Valley Conservation Authority.
9. Saugeen Valley Conservation Authority.
10. Toronto and Region Conservation Authority.

TABLE 1

Item	Areas	Applicable Flood Event Standards
1.	All areas	The Hurricane Hazel Flood Event Standard, the 100 Year Flood Event Standard and the 100-year flood level plus wave uprush

2. For the following conservation authorities, the applicable flood event standards are those specified in Table 2 below:

1. Cataraqui Region Conservation Authority.
2. Long Point Region Conservation Authority.
3. Quinte Region Conservation Authority.
4. Raisin Region Conservation Authority.
5. South Nation River Conservation Authority.

TABLE 2

Item	Areas	Applicable Flood Event Standards
1.	All areas	The 100 Year Flood Event Standard and the 100-year flood level plus wave uprush

3. For the following conservation authorities, the applicable flood event standards are those specified in Table 3 below:

1. Mississippi Valley Conservation Authority.
2. Rideau Valley Conservation Authority.

TABLE 3

Item	Areas	Applicable Flood Event Standards
1.	All areas	The 100 Year Flood Event Standard

4. For the following conservation authorities, the applicable flood event standards are those specified in Table 4 below:

1. Mattagami Region Conservation Authority.
2. Nottawasaga Valley Conservation Authority.
3. Sault Ste. Marie Region Conservation Authority.

TABLE 4

Item	Areas	Applicable Flood Event Standards
1.	All areas	The 100 Year Flood Event Standard, the Timmins Flood Event Standard, and the 100-year flood level plus wave uprush

5. For the Crowe Valley Conservation Authority, the applicable flood event standards are those specified in Table 5 below:

TABLE 5

Item	Areas	Applicable Flood Event Standards
1.	All areas	The 100 Year Flood Event Standard, the Timmins Flood Event Standard, the Hurricane Hazel Flood Event Standard and the 100-year flood level

6. For the Kawartha Region Conservation Authority, the applicable flood event standards are those specified in Table 6 below:

Attachment No. 3: Full Text of Ontario Regulation 41/24

TABLE 6

Item	Areas	Applicable Flood Event Standards
1.	All areas	The 100 Year Flood Event Standard and the Timmins Flood Event Standard

7. For the Central Lake Ontario Conservation Authority, the applicable flood event standards are those specified in Table 7 below:

TABLE 7

Item	Areas	Applicable Flood Event Standards
1.	Pringle Creek and Darlington	The 100 Year Flood Event Standard
2.	Lake Ontario in the Great Lakes-St. Lawrence River System	The 100-year flood level plus wave uprush
3.	All other areas	The Hurricane Hazel Flood Event Standard

8. For the Essex Region Conservation Authority, the applicable flood event standards are those specified in Table 8 below:

TABLE 8

Item	Areas	Applicable Flood Event Standards
1.	The main branch and the east branch (Silver Creek) of the Ruscom River, and its tributaries within the Town of Lakeshore and the Town of Kingsville and the main and north branch of Canard River in the Town of LaSalle, Concessions I and II, and on the main branch of the Canard River in the Town of Amherstburg, Concessions I, II, III and IV	The March 1985 Flood Event Standard
2.	All other areas	The 100 Year Flood Event Standard

9. For the Grey Sauble Conservation Authority, the applicable flood event standards are those specified in Table 9 below:

TABLE 9

Item	Areas	Applicable Flood Event Standards
1.	The Sauble River Watershed	The 100 Year Flood Event Standard
2.	Lake Huron and Georgian Bay in the Great Lakes-St. Lawrence River System	The 100-year flood level plus wave uprush
3.	All other watersheds	The Timmins Flood Event Standard

10. For the Hamilton Region Conservation Authority, the applicable flood event standards are those specified in Table 10 below:

TABLE 10

Item	Areas	Applicable Flood Event Standards
1.	Watercourses WCO, WCI, WC2, 3, 4, 5.0, 5.1, 6.0, 6.1, 6.2, 6.3, 6.4, 7.0, 7.1, 7.2, 7.3, 8.0, 9.0, 10.0, 10.1, 10.2, 11.0 and 12.0 as indicated on Map Figure 1 of Project 98040-A, Stoney Creek, Stormwater Management Assessment, prepared by Philips Engineering and located at the Hamilton Region Conservation Authority head office and	The 100-year flood level

Attachment No. 3: Full Text of Ontario Regulation 41/24

	Hamilton Harbour in the Great Lakes-St. Lawrence River System	
2.	Lake Ontario in the Great Lakes-St. Lawrence River System	The 100-year flood level plus wave uprush
3.	All other areas	The Hurricane Hazel Flood Event Standard

11. For the Lake Simcoe Region Conservation Authority, the applicable flood event standards are those specified in Table 11 below:

TABLE 11

Item	Areas	Applicable Flood Event Standards
1.	Bunker's Creek and Sophia Creek	The 100 Year Flood Event Standard
2.	Talbot River and the Trent-Severn waterway	The Timmins Flood Event Standard
3.	Lake Simcoe	The 100-year flood level plus wave uprush
4.	All other areas	The Hurricane Hazel Flood Event Standard

12. For the Lakehead Region Conservation Authority, the applicable flood event standards are those specified in Table 12 below:

TABLE 12

Item	Areas	Applicable Flood Event Standards
1.	The main channel of the Kaministiquia River	The 100 Year Flood Event
2.	Lake Superior in the Great Lakes-St. Lawrence River System	The 100-year flood level plus wave uprush
3.	All other areas	Timmins Flood Event Standard

13. For the Lower Thames Valley Conservation Authority, the applicable flood event standards are those specified in Table 13 below:

TABLE 13

Item	Areas	Applicable Flood Event Standards
1.	All areas	The 1937 Regulatory Flood Event Standard and the 100-year flood level plus wave uprush

14. For the Lower Trent Region Conservation Authority, the applicable flood event standards are those specified in Table 14 below:

TABLE 14

Item	Areas	Applicable Flood Event Standards
1.	The main channels of Rice Lake and Trent River	The rainfall, snowmelt, or a combination of rainfall and snowmelt, that would produce the water surface elevations above Canadian Geodetic Datum described in Table 1 of Schedule 3
2.	Lake Ontario in the Great Lakes-St. Lawrence River System	The 100-year flood level plus wave uprush
3.	All other areas	The Timmins Flood Event Standard

15. For the Niagara Peninsula Conservation Authority, the applicable flood event standards are those specified in Table 15 below:

Attachment No. 3: Full Text of Ontario Regulation 41/24

TABLE 15

Item	Areas	Applicable Flood Event Standards
1.	The watersheds associated with Shriner's Creek, Ten Mile Creek and Beaverdam Creek (including Tributary W-6-5) in the City of Niagara Falls	The Hurricane Hazel Flood Event Standard
2.	Lake Ontario and Lake Erie in the Great Lakes-St. Lawrence River System	The 100-year flood level plus wave uprush
3.	All other areas	The 100 Year Flood Event Standard

16. For the Nickel District Conservation Authority, the applicable flood event standards are those specified in Table 16 below:

TABLE 16

Item	Areas	Applicable Flood Event Standards
1.	Wanapitei Lake	The maximum flood allowance elevation of 267.95 metres Canadian Geodetic Datum (in accordance with Ontario Power Generation's Licence of Occupation Agreement #6168)
2.	All other areas	The Timmins Flood Event Standard and the 100 Year Flood Event Standard

17. For the North Bay-Mattawa Conservation Authority, the applicable flood event standards are those specified in Table 17 below:

TABLE 17

Item	Areas	Applicable Flood Event Standards
1.	Chippewa Creek and its tributaries below the North Bay Escarpment, Parks Creek, the Mattawa River in the Town of Mattawa and the La Vase River	The 100 Year Flood Event Standard
2.	Lake Nipissing	100-year flood level plus wave uprush
3.	All other areas	The Timmins Flood Event Standard

18. For the Otonabee Region Conservation Authority, the applicable flood event standards are those specified in Table 18 below:

TABLE 18

Item	Areas	Applicable Flood Event Standards
1.	Rice Lake, Stony Lake, Clear Lake, Lovesick Lake, Deer Bay, Buckhorn Lake, Chemong Lake, Pigeon Lake, Katchiwanooka Lake and Lower Buckhorn Lake	The rainfall, snowmelt, or a combination of rainfall and snowmelt, that would produce the water surface elevations above Canadian Geodetic Datum described in Table 2 of Schedule 3.
2.	All other areas	The Timmins Flood Event Standard

19. For the St. Clair Region Conservation Authority, the applicable flood event standards are those specified in Table 19 below:

TABLE 19

Item	Areas	Applicable Flood Event Standards
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Attachment No. 3: Full Text of Ontario Regulation 41/24

1.	Perch Creek	The 100 Year Flood Event Standard
2.	Lake Huron, Lake St. Clair and St. Clair River in the Great Lakes-St. Lawrence River System	The 100-year flood level plus wave uprush
3.	All other areas	The Hurricane Hazel Flood Event Standard

20. For the Upper Thames Region Conservation Authority, the applicable flood event standards are those specified in Table 20 below:

TABLE 20

Item	Areas	Applicable Flood Event Standards
1.	All areas	The 1937 Flood Event Standard

SCHEDULE 2 DESCRIPTION OF STANDARDS

1. The Hurricane Hazel Flood Event Standard means a storm that produces over a 48-hour period,
 - (a) in a drainage area of 25 square kilometres or less, rainfall that has the distribution set out in Table 1; or
 - (b) in a drainage area of more than 25 square kilometres, rainfall such that the number of millimetres of rain referred to in each case in Table 1 is modified by the percentage amount shown in Column 2 of Table 2 opposite the corresponding size of the drainage area set out Column 1 of Table 2.

TABLE 1

73 millimetres of rain in the first 36 hours
6 millimetres of rain in the 37th hour
4 millimetres of rain in the 38th hour
6 millimetres of rain in the 39th hour
13 millimetres of rain in the 40th hour
17 millimetres of rain in the 41st hour
13 millimetres of rain in the 42nd hour
23 millimetres of rain in the 43rd hour
13 millimetres of rain in the 44th hour
13 millimetres of rain in the 45th hour
53 millimetres of rain in the 46th hour
38 millimetres of rain in the 47th hour
13 millimetres of rain in the 48th hour

TABLE 2

Column 1 Drainage Area (square kilometres)	Column 2 Percentage
26 to 45 both inclusive	99.2
46 to 65 both inclusive	98.2
66 to 90 both inclusive	97.1
91 to 115 both inclusive	96.3
116 to 140 both inclusive	95.4
141 to 165 both inclusive	94.8
166 to 195 both inclusive	94.2
196 to 220 both inclusive	93.5
221 to 245 both inclusive	92.7
246 to 270 both inclusive	92.0
271 to 450 both inclusive	89.4
451 to 575 both inclusive	86.7
576 to 700 both inclusive	84.0
701 to 850 both inclusive	82.4
851 to 1000 both inclusive	80.8
1001 to 1200 both inclusive	79.3
1201 to 1500 both inclusive	76.6
1501 to 1700 both inclusive	74.4
1701 to 2000 both inclusive	73.3
2001 to 2200 both inclusive	71.7

Attachment No. 3: Full Text of Ontario Regulation 41/24

2201 to 2500 both inclusive	70.2
2501 to 2700 both inclusive	69.0
2701 to 4500 both inclusive	64.4
4501 to 6000 both inclusive	61.4
6001 to 7000 both inclusive	58.9
7001 to 8000 both inclusive	57.4

2. The Timmins Flood Event Standard means a storm that produces over a 12-hour period,
- (a) in a drainage area of 25 square kilometres or less, rainfall that has the distribution set out in Table 3; or
 - (b) in a drainage area of more than 25 square kilometres, rainfall such that the number of millimetres of rain referred to in each case in Table 3 is modified by the percentage amount shown in Column 2 of Table 4 opposite the corresponding size of the drainage area set out in Column 1 of Table 4.

TABLE 3

15 mm of rain in the 1st hour
20 mm of rain in the 2nd hour
10 mm of rain in the 3rd hour
3 mm of rain in the 4th hour
5 mm of rain in the 5th hour
20 mm of rain in the 6th hour
43 mm of rain in the 7th hour
20 mm of rain in the 8th hour
23 mm of rain in the 9th hour
13 mm of rain in the 10th hour
13 mm of rain in the 11th hour
8 mm of rain in the 12th hour

TABLE 4

Column 1 Drainage Area (km ²)	Column 2 Percentage
26 to 50 both inclusive	97
51 to 75 both inclusive	94
76 to 100 both inclusive	90
101 to 150 both inclusive	87
151 to 200 both inclusive	84
201 to 250 both inclusive	82
251 to 375 both inclusive	79
376 to 500 both inclusive	76
501 to 750 both inclusive	74
751 to 1000 both inclusive	70
1001 to 1250 both inclusive	68
1251 to 1500 both inclusive	66
1501 to 1800 both inclusive	65
1801 to 2100 both inclusive	64
2101 to 2300 both inclusive	63
2301 to 2600 both inclusive	62
2601 to 3900 both inclusive	58
3901 to 5200 both inclusive	56
5201 to 6500 both inclusive	53
6501 to 8000 both inclusive	50

3. The 100 Year Flood Event Standard means rainfall, snowmelt, or a combination of rainfall and snowmelt, producing at any location in a river, creek, stream or watercourse a peak flow that has a probability of occurrence of one per cent during any given year.

4. The 100-year flood level means the peak instantaneous still water level plus an allowance for wave uprush and other water-related hazards for inland lakes and the Great Lakes-St. Lawrence River System that has a probability of occurrence of one per cent during any given year.

5. The March 1985 Flood Event Standard means the flood levels observed, surveyed and mapped, and located at the Essex Region Conservation Authority head office, along portions of the relevant prescribed watercourses that exceeded the 100 Year Flood Event Standard.

Attachment No. 3: Full Text of Ontario Regulation 41/24

6. The 1937 Flood Event Standard means the historical observed 1937 flood on the Thames River. This event is equivalent to the combination of events that caused the flood event on the Thames River in April of 1937. The 1937 flood event is estimated to be equivalent to a 1 in 250-year return flood.

7. The 1937 Regulatory Flood Event Standard means the historical observed 1937 flood on the Thames River. This event is equivalent to a flow of 1,540 cubic metres per second (cms) commencing at Delaware and proportionately reducing until 1,160 cms at Thamesville and 1,125 cms at Chatham. The 1937 flood event is estimated to be equivalent to a 1 in 250-year return flood.

SCHEDULE 3 WATER SURFACE ELEVATIONS

1. The water surface elevations above Canadian Geodetic Datum applicable to Item 1 in Table 14 of Schedule 1 are shown in Table 1.

TABLE 1
LOWER TRENT REGION CONSERVATION AUTHORITY

Location	Water Surface Elevation
Rice Lake	187.9 metres
Trent River below Dam #1 (Trenton)	77.2 metres
Trent River below Dam #2 (Sidney)	81.3 metres
Trent River below Dam #3 (Glen Miller)	87.7 metres
Trent River below Dam #4 (Batawa)	95.7 metres
Trent River below Dam #5 (Trent)	101.7 metres
Trent River below Dam #6 (Frankford)	107.9 metres
Trent River below Dam #7 (Glen Ross)	113.5 metres
Trent River below Dam #8 (Meyers)	117.9 metres
Trent River below Dam #9 (Hagues Reach)	128.1 metres
Trent River below Dam #10 (Ranney Falls)	143.4 metres
Trent River below Dam #11 (Campbellford)	148.3 metres
Trent River below Dam #12 (Crowe Bay)	154.3 metres
Trent River below Dam #13 (Healy Falls)	175.5 metres
Trent River below Dam #14 (Hastings)	186.7 metres

2. The water surface elevations above Canadian Geodetic Datum applicable to Item 1 in Table 18 of Schedule 1 are shown in Table 2.

TABLE 2
OTONABEE REGION CONSERVATION AUTHORITY

Water Body	Water Surface Elevation
Rice Lake	187.90 metres
Stony Lake	235.95 metres
Clear Lake	235.95 metres
Lovesick Lake	242.16 metres
Deer Bay	244.31 metres
Buckhorn Lake	247.12 metres
Chemong Lake	247.12 metres
Pigeon Lake	247.12 metres
Katchiwanooka Lake	233.68 metres
Lower Buckhorn Lake	244.31 metres

ONTARIO REGULATION 42/24
made under the
CONSERVATION AUTHORITIES ACT

Made: February 15, 2024
Filed: February 16, 2024
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Amending O. Reg. 686/21
(MANDATORY PROGRAMS AND SERVICES)

1. Ontario Regulation 686/21 is amended by adding the following section:

Standards and requirements, Part VI

8.1 (1) The programs and services provided by an authority related to ensuring that the authority satisfies its duties, functions and responsibilities to administer Part VI of the Act shall be provided in accordance with the following requirements:

1. The authority shall prepare and publish an annual report that outlines statistics on permits, including reporting on its level of compliance with the requirements of Ontario Regulation 41/24 (Prohibited Activities, Exemptions and Permits), made under the Act, respecting the application for and issuance of permits, including any associated timelines.

Commencement

2. This Regulation comes into force on the later of the day subsection 15 (2) of Schedule 6 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020* comes into force and the day this Regulation is filed.

March 1, 2024



DRAFT for
CONSULTATION

Policy and Procedural Document

For Land Use Planning and Regulation

Made Pursuant to the Requirements of
Section 12 of *Ontario Regulation 41/24*

Attachment 5

Contents

CHAPTER 1 – ROLES AND RESPONSIBILITIES	6
1.1 History of Conservation Authorities	6
1.2 CLOCA’s Strategic Plan.....	6
1.3 Legislative Mandate	6
1.4 Conservation Authorities Act (CA Act).....	7
1.5 Planning Act and Provincial Policy Statement.....	7
1.6 Clean Water Act, 2006	8
1.7 Environmental Assessment Act (EA Act)	8
1.8 Building Code Act, 1992	8
1.9 CLOCA Watershed Plans and Action Plans	8
Watershed Plans	8
Action Plans	9
1.10 Memoranda of Understanding for Planning Services.....	9
CHAPTER 2 – GENERAL POLICY	10
2.1 General Policies	10
CHAPTER – 3 LAND USE POLICIES	12
3.1 Context	12
3.2 Provincial Policy Statement	13
3.3 Provincial Plans.....	13
3.4 Region of Durham Official Plan	13
3.5 Local Municipal Official Plans.....	14
3.6 Infrastructure	15
3.7 Water Resources	15
3.8 Stormwater Management.....	16
3.9 High Volume Recharge Areas (HVRA).....	16
CHAPTER 4 - LAKE ONTARIO SHORELINE HAZARDS	17
4.1 Statutory Requirements	17
4.2 Guidance for Shoreline Processes and Functions.....	17
4.3.1 Policies for Development within Shoreline Flood Hazard	18
4.3.2 Policies for Development within the Allowance Adjacent to the Shoreline Flood Hazard ...	20
Shoreline Erosion Hazard.....	20
4.4.1 Policies for Development within the Shoreline Erosion Hazard	20

Attachment 5

4.4.2	Policies for Development within the Allowance Adjacent to the Shoreline Erosion Hazard	21
4.5	Dynamic Beach Hazard	22
4.5.1	Policies for Development within the Dynamic Beach Hazard	22
4.5.2	Policies for Development within the Allowance Adjacent To the Dynamic Beach Hazard	22
4.6	Lake Ontario Shoreline Protection Works	23
4.6.1	Long Term Risk Prevention for Existing Development within Shoreline Hazard Areas	24
CHAPTER 5 - RIVER OR STREAM VALLEYS		26
5.1	Statutory Requirements	26
5.2	Guidance for River or Stream Valley Processes and Functions	26
	Erosion Hazard	27
5.3.1	Policies for Erosion Hazards – River and Stream Valleys	27
5.3.2	Policies for Development within the Allowance Adjacent - Erosion Hazard of a River or Stream Valleys	29
5.4	Flooding Hazard	29
5.4.1	Policies for One-zone Floodplain - River or Stream Valleys	29
5.4.2	Policies for Development within the Allowance of the Regulatory Floodplain- River or Stream Valleys	32
5.5	Floodproofing	32
5.6	Safe Access (and Egress)	34
5.7	Large Fill Policy	35
5.8	Cut and Fill	35
5.9	Separate Policy Management Areas	36
CHAPTER 6 - WATERCOURSES AND WETLANDS		38
6.1	Statutory Requirements	38
6.2	Watercourse Processes and Functions	38
6.3	Interference with a Watercourse	39
6.3.1	Policies for Interference with a Watercourse	39
6.4	Wetlands Processes and Functions	41
6.4.1	Policies for Development within Wetlands and Interference with Wetlands	42
6.4.2	Policies for Development within 30 metres of a wetland (“other areas”)	43
CHAPTER 7 - HAZARDOUS LANDS – UNSTABLE SOIL OR BEDROCK		45
7.1	Statutory Requirements	45

Attachment 5

7.2 Hazardous Land Processes and Functions.....	45
7.3 Policies for Development within Unstable Soil and Unstable Bedrock Hazardous Lands 46	
CHAPTER 8 – REGULATION PROCEDURES.....	49
8.1 Part VI of the Conservation Authorities Act.....	49
8.2 Prohibited Activities and Permit Tests for Approval.....	49
8.3 Exceptions.....	50
8.4 Mapping of Regulated Areas	50
8.5 Permit Phases.....	51
8.6 Pre-requisite Approvals.....	52
8.7 Pre-submission Consultation or “Pre-consultation”	52
8.8 Complete Application	53
8.9 Requests for Review.....	55
8.10 Application Fees, Fee Reconsiderations and Fee Appeals	56
8.11 Processing of Complete Applications.....	57
8.12 Decisions	58
8.13 Amending/Revising Permits	61
8.14 Hearing	61
8.15 Request for Minister’s Review	62
8.16 Cancellation of Permits and Cancellation Appeals	62
8.17 Appeals.....	62
8.18 Enforcement	63
8.19 Violations.....	63
8.20 Court Action.....	64
8.21 Transition Provisions	64
APPENDIX A - DEFINITIONS:	65
APPENDIX B: CLOCA HEARING BOARD AND CLOCA HEARING OFFICER PROCEDURES	70

Attachment 5

Part A: The Policy Document

CHAPTER 1 – ROLES AND RESPONSIBILITIES

1.1 History of Conservation Authorities

As local, watershed-based organizations, Conservation Authorities (CAs) have a history in Ontario that dates back to the period of ‘reconstruction’ after World War II. Recognizing the need for sound planning for post-war growth and prosperity, environmental restoration, protection from flooding, erosion, and job creation for troops returning from war, the Government of Ontario passed two pieces of historic legislation in 1946: The *Conservation Authorities Act* (CA Act) recognized that the watershed unit that transcends political boundaries while supporting local leadership and control were an appropriate model to base the formation of Conservation Authorities. At the same time, the Planning Act was established to give municipalities tools to undertake comprehensive land use planning while at the same time integrated and coordinated with local Conservation Authorities.

After severe economic and human losses associated with flooding from Hurricane Hazel (1954), including the loss of 81 lives and over \$1 billion in economic damage, it was recognized that Conservation Authorities were an appropriate agency to mitigate future flood risks, in part, through effective regulation of development activity. Changes were made to the CA Act in 1956 to empower CAs to make regulations to prohibit filling in flood plains. These regulatory powers were refined in the 1960’s, 1970’s, and again in the 1990’s to ultimately ensure that all development and site alteration activities in relation to river-based and Great Lake-based flooding and erosion natural hazards were effectively addressed.

The current CA regulations were enacted in 2024. They identify and regulate certain *development* activities in and adjacent to watercourses (including valleylands), wetlands, shorelines of Lake Ontario and *hazardous lands*. Permits are issued if a development or site alteration proposal meets five “tests,” as set out in the CA Act. These include ‘(1) the control of flooding, (2) erosion, (3) dynamic beaches, (4) pollution or the (5) conservation of land’ and are explored in further detail in this document.

1.2 CLOCA’s Strategic Plan

CLOCA’s work is guided by a Strategic Plan, which provides the fundamental context for the formulation of the policies set out in the PPD. The 2021-25 Strategic Plan contains a Vision, Mission, Core Values and five strategic Goals. The current Strategic Plan may be found at cloca.com.

1.3 Legislative Mandate

The following outlines the legislative mandate for CLOCA’s land use planning and regulatory roles:

Attachment 5

1.4 Conservation Authorities Act (CA Act)

The purpose of the CA Act is “to provide for the organization and delivery of programs and services that further the conservation, restoration, development and management of natural resources in watersheds in Ontario.” CLOCA is a public organization established under the CA Act and is governed by a Board of Directors. The Board of Directors is appointed by the municipalities in CLOCA’s jurisdiction pursuant to the CA Act.

Part V of the CA Act sets out the Objects, Powers and Duties of conservation authorities. This includes the provision of a suite of “mandatory, municipal or ‘other’ programs and services”

Part VI of the CA Act sets out the Regulatory Powers of conservation authorities. Specifically, the CA Act prohibits, in the absence of a permit “activities to straighten, change, divert or interfere in any way with the existing channel of a river, creek, stream or watercourse or to change or interfere in any way with a wetland.” Development activities are also prohibited in hazardous lands, wetlands, river or stream valleys and shorelines in the absence of a permit.

To implement, in part, the provisions of Part VI of the CA Act, Ontario Regulation 41/24 has been made by the Minister of Natural Resources and Forestry, which has application to all conservation authorities in the province, including CLOCA. A principal mandate of CLOCA is to prevent the loss of life and property due to flooding and erosion and to conserve and enhance natural resources. Ontario Regulation 41/24 is a key tool in fulfilling this mandate because it prevents or restricts *development* activity in areas where the control of flooding, erosion, dynamic beaches, unstable soil or bedrock may be affected by *development*. Further *development* activity is prohibited if an activity is likely to create conditions or circumstances that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in damage or destruction of property.

1.5 Planning Act and Provincial Policy Statement

The *Planning Act* sets out the ground rules for land use planning in Ontario and describes how land uses may be controlled, and who may control them. The *Planning Act* also establishes the machinery for the review and approval of development proposals and gives citizens and public organizations, such as CLOCA, the opportunity to be notified about planning proposals, to give their views to their municipal council and, where permitted, to appeal decisions to an administrative tribunal known as the Ontario Land Tribunal.

Two essential elements of the *Planning Act* include the listing of key planning issues, known as “Provincial Interests” and provisions that enable the Provincial Policy Statement to provide specific province-wide policy direction to address Provincial Interests. This includes policies of paramount importance to CLOCA’s mandate: “Protecting Public Health and Safety” through flooding and erosion related Natural Hazards policies. CLOCA has responsibility for the Provincial Interests related to Natural Hazards through a provincial Memorandum of Understanding. The current Provincial Policy Statement may be viewed at Ontario.ca/pps.

Finally, the *Planning Act* requires CLOCA’s review of planning applications and comments to “be consistent” or, alternatively “to conform to” the Provincial Policy Statement and Provincial Plans.

Attachment 5

Regular reviews of municipal Official Plans are required under the *Planning Act* to ensure that municipal policies are up to date. CLOCA participates and represents the Provincial Interest for natural hazards in these regular reviews.

1.6 Clean Water Act, 2006

One of CLOCA's "mandatory programs" includes "programs and services related to the authority's duties, functions and responsibilities as a source protection authority under the *Clean Water Act, 2006*". CLOCA's mandate in this regard includes: supporting the local Source Protection Committee, regular reviews and updates of the CTC Source Water Protection Plan and in assisting in the review of development applications that have a source water protection component.

1.7 Environmental Assessment Act (EA Act)

Under the provisions of the *EA Act*, CLOCA reviews and comments on class and individual environmental assessments that occur in the watershed. CLOCA brings local natural hazard and watershed knowledge into the review and assessment process.

It is a requirement for proponents to identify and consult with government agencies and may include CAs if the proposed project may have an impact on an issue related to the CAs areas of interest.

CAs as landowners may also be a project proponent under the *EA Act* for proposed projects that may occur on CA lands. The *Class EA for remedial flood and erosion control projects (Class EA)* establishes a planning and approval process for a variety of remedial flood and erosion control projects that may be carried out by CAs including CLOCA.

1.8 Building Code Act, 1992

CLOCA works closely with local building officials to ensure that legislative requirements for *development/construction* within regulated areas are adhered to. The *Building Code Act, 1992* specifies a need to conform to other existing legislation, which is referred to as "applicable law." Ontario Regulation 41/24 is applicable law, meaning that where Ontario Regulation 41/24 applies, a permit must be obtained from CLOCA before a municipal building permit may be issued.

1.9 CLOCA Watershed Plans and Action Plans

Watershed Plans

Watershed Plans are science-based documents that make recommendations to achieve specific watershed health targets. CLOCA's Watershed Plans provide guidance to CLOCA, watershed municipalities, planning authorities, and agencies regarding the effective management of

Attachment 5

watershed resources in response to a changing environment. The Watershed Plans recognize urban, rural and natural environment conditions present in each watershed, consider future growth and planning policy, and recommend specific measures to protect natural resources, including goals, targets and recommendations that, when implemented, will ensure healthy and more sustainable watersheds. Current Watershed Plans may be viewed at cloca.com/watershed-plans

Action Plans

Action Plans, including this document, have been prepared by CLOCA with an objective to achieve and attain specific watershed health objectives, contributing to the fundamental watershed goal of a healthy and resilient watershed. All Action Plans address watershed concerns, issues and actions identified during development of the Watershed Plans. Some of the Action Plans are designed to be implemented at a larger scale i.e., the CLOCA jurisdiction, while other Action Plans will be directed to specific watersheds, subwatersheds or even a site specific area. Current Action Plans may be viewed at cloca.com/action-plans

1.10 Memoranda of Understanding for Planning Services

To support transparency and to define roles and responsibilities in the local land use planning process, CLOCA has a formal Partnership Agreement (Agreement) for planning services with the Region of Durham and watershed municipalities. The Agreements recognize the technical expertise provided by CLOCA in watershed management and natural hazard planning. The Agreements include address, in part:

- Attendance at pre-consultation meetings;
- Advising of technical requirements for complete applications;
- Reviewing and commenting on planning applications and documents within the context of the relevant legislation, as listed above in this chapter;
- Reviewing and commenting on planning applications and documents within the context of the identification, function and significance of hydrological features and systems and the review of studies which assess impacts on these features and areas;
- The need for and adequacy of stormwater management plans from a watershed management perspective; and,
- Information and analysis of natural hazards and water management.

Current Memoranda of Understanding for Planning Services may be viewed at cloca.com/policies-guidelines

Attachment 5

CHAPTER 2 – GENERAL POLICY

2.1 General Policies

The PPD contains a number of general and specific policies intended to provide guidance to CLOCA's flooding and erosion natural hazard land use planning responsibilities under the *Planning Act* and the corresponding administration and the implementation of Ontario Regulation 41/24 under the *Conservation Authorities Act*.

General policies provide the basis for the formulation of the specific policies contained in Chapters 3-7. General policies also provide a set of considerations, restrictions and/or requirements applicable to proposed *development* and interference/alteration that are within CLOCA's scope and mandate related to land use planning and Ontario Regulation 41/24.

The specific policies found in Chapters 3-7 do not address all potential forms of proposed *development*, site alteration or other alterations. It is intended that the general policies will provide guidance on how to respond to those proposals that are not specifically referenced. Furthermore, when considering proposals not specifically referenced in the PPD, policies dealing with similar or like activities/uses will also be considered.

General Policies:

- In the face of rapid climate change that is increasing the risk of natural hazards, our watershed community's prosperity, health and social well-being depends on taking positive steps and managing development effectively to reduce the potential for risk and costs to residents from flooding and erosion natural hazards;
- Proper natural hazard management requires that natural hazards be recognized and addressed on a watershed basis by ensuring that provincial and municipal land use policy directions are effectively integrated and implemented to direct development away from areas of natural hazards, and to not create new or aggravate existing hazards, through the land use planning system before implementing site-specific regulatory approaches under Ontario Regulation 41/24;
- Effective natural hazard management can only occur with the province, municipalities and conservation authorities working together on a watershed and littoral reach basis with due consideration given to cumulative development effects;
- Local conditions vary along flood plains and shorelines including depth, velocity, littoral drift, fetch, accretion, deposition, valleyland characteristics, etc. and accordingly must be taken into account in the planning and management of natural hazards;
- Where a regulated area pertains to more than one water-related hazard (e.g., lands susceptible to flooding that are part of a wetland), policies will be applied jointly, and where applicable, the more restrictive policies will apply.
- Applications related to existing *development* that is susceptible to natural hazards must demonstrate that there is no increase in risk to public safety or property damage and no

Attachment 5

new hazards are created by prohibiting additional development in the form of additional habitable floor space, and/or additional units and/or a larger building envelope in areas where CLOCA has determined that there is no safe access;

- *Development*, specifically infrastructure development, shall ensure that there are no *adverse hydraulic or fluvial impacts* on watercourses;
- *Development* must not preclude access for emergency works and maintenance to erosion hazards;
- Works are constructed, repaired and/or maintained according to accepted *engineering principles* and approved engineering standards or to the satisfaction of CLOCA, whichever is applicable based on the scale and scope of the project;
- All additional development in the form of increased additional habitable floor space, and/ or additional units and/or a larger building envelope is prohibited unless it has have safe access to the satisfaction of CLOCA;
- Wherever possible, groundwater recharge functions which support natural features or hydrologic or ecological functions on-site and adjacent to the site will be maintained or enhanced;
- *Development* is prohibited in the *dynamic beach hazard*, areas without safe access in relation to *flooding hazards, erosion hazards, and/or dynamic beach hazards* and in *hazardous lands and hazardous sites* where the use is:
 - a. an institutional use including, but not limited to, those associated with hospitals, nursing homes, preschool, school nurseries, day care and schools, as there is a threat to the safe evacuation of the sick, the elderly, persons with disabilities or the young during an emergency as a result of flooding and/or failure of floodproofing measures or protection works; or
 - b. an essential emergency service such as that provided by fire, police and ambulance stations and electrical substations as it would be impaired during an emergency as a result of erosion, the failure of floodproofing measures and/or protection works; or
 - c. uses associated with the disposal, manufacture, treatment or storage of hazardous substances;
- With the exception of certain minor additions (described in the detailed policies below), flood and/or erosion control works, infrastructure, or passive non-structural uses which do not affect flood flows, *development* shall not be permitted within a riverine *floodway* regardless of whether the area contains high points of land not subject to flooding; and,
- As it relates to administration of *Ontario Regulation 41/24*, prior to the issuance of a permission, CLOCA must be satisfied that the activity proposed is not likely to affect the control of flooding, erosion, dynamic beaches, or unstable soil or bedrock and that the activity is not likely to create conditions or circumstances that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction or property.

CHAPTER – 3 LAND USE POLICIES

3.1 Context

The Land Use Planning Framework in the CLOCA Watershed

Land use planning and development in the CLOCA watershed is directed by policies approved by the province in the Provincial Policy Statement and Provincial Land Use Plans and by policies approved at the local level by the Region of Durham and area municipalities through their Official Plans. CLOCA supports environmentally sound decision-making and effective implementation of provincial and municipal land use planning policy by providing the following services through Memoranda of Understanding between CLOCA, the Region of Durham and the area municipalities:

- key components of necessary scientific and technical environmental information, including flood plain and erosion hazard mapping;
- the preparation of watershed plans and policy support for up-to-date municipal plans and zoning; and,
- active participation with individual development proposals through an integrated review and commenting role in municipal planning and development processes throughout the watershed.

CLOCA Helps Support Implementation of Land Use Planning in the Watershed

Ensuring that land use planning and development safeguards healthy watersheds for today and tomorrow means actively pursuing efficient and effective integration and implementation of critical environmental and natural hazard elements of provincial and municipal land use planning policy. For CLOCA, this includes supporting updates to the Regional and area municipal official plans to ensure they have up-to-date policy and mapping consistent with provincial policy direction. It also includes working collaboratively to modernize local zoning by-laws to incorporate the latest environmental and natural hazard information to properly regulate development and keep people safe.

An integrated and collaborative approach to implementation is specifically recognized in the Provincial Policy Statement with respect to natural hazards: “Mitigating potential risk to public health or safety or of property damage from natural hazards, including the risks that may be associated with the impacts of a changing climate, will require the Province, planning authorities, and conservation authorities to work together¹.”

A “Planning First” Approach to Regulation – Integration

Efficient and effective local planning decision-making that is based on modern official plans and

¹ Provincial Policy Statement, 2020, Section 3.0, Protecting Public Health and Safety

Attachment 5

zoning by-laws, will integrate information related to natural hazards and other environmental features, such as wetlands, and streamline review and approvals under the Conservation Authorities Act. CLOCA supports a “planning first” approach to its regulatory mandate, which means that development proposals should be evaluated through up-to-date provincially and municipally approved planning policy and zoning before any regulatory requirements under Part VI of the Conservation Authorities Act are integrated and applied.

Accordingly, the following are CLOCA’s Land Use Policies:

3.2 Provincial Policy Statement

3.2.1 In the review and comment on development proposals and making decisions on permit applications, and pursuant to the Memorandum of Understanding between the Province and conservation authorities, CLOCA will seek to ensure consistency with the policies contained in:

- Policy 3.0, Protecting Public Health and Safety and Policy 3.1, Natural Hazards; and,
- The associated implementing Technical Guides issued by the province and amended from time-to-time.

3.2.2 In the review and comment on development proposals and making decisions on permit applications, and pursuant to the Memorandum of Understanding between the Region of Durham and CLOCA and Memoranda between area municipalities and CLOCA, CLOCA will seek to ensure consistency with the policies contained in:

- Policy 1.6.6.7, Stormwater Management;
- Policy 2.2, Water
- Policy 3.0, Protecting Public Health and Safety, including Policy 3.1, Natural Hazards and Policy 3.2.3, Excess Soil.

3.3 Provincial Plans

3.3.1 In the review and comment on development proposals, and making decisions on permit applications, and pursuant to the Memorandum of Understanding between the Region of Durham and CLOCA and Memoranda between area municipalities and CLOCA, CLOCA will seek to ensure conformity with the policies contained in provincial plans in relation to water resource systems, hydrologic features and natural hazards.

3.4 Region of Durham Official Plan

3.4.1 In the review and comment on development proposals, and making decisions on permit applications, and pursuant to the Memorandum of Understanding between the Region of Durham and CLOCA, CLOCA will seek to ensure conformity with the policies of the Region of Durham Official Plan relation to water resource systems, hydrologic features and natural hazards.

Attachment 5

3.5 Local Municipal Official Plans

In the two-tiered municipal land use planning system within the CLOCA watershed, the Regional Official Plan and Local Municipal Official Plans work together to provide one integrated set of land use planning policy, which integrates direction from the Provincial Policy Statement and Provincial Plans. Local Municipal Official Plans provide the most detailed and precise level of planning direction that is directly related to site-specific development proposals, including critical water related hazard planning directions.

3.5.1 In the review and comment on development proposals, and making decisions on permit applications, and pursuant to the Memorandum of Understanding between the Region of Durham, Local Municipalities in the watershed and CLOCA, CLOCA will seek to ensure conformity with the following policy directions of Local Municipal Official Plans:

- Climate Change Mitigation, Adaption and Resiliency;
- Watershed and Subwatershed Planning;
- Natural Hazards and Hazard Lands;
- Water Resource Systems;
- Hydrologic Features and Areas;
- Water Resources and Stormwater Management;
- Drinking Water Source Protection; and,
- Lake Ontario Shoreline Management.

CLOCA Objectives for Official Plan Municipal Official Plan Reviews

Further to the discussion in Section 1.4, Legislative Framework, above, the Planning Act requires municipalities to ensure their official plans are up to date via a process known as a Municipal Official Plan Review.

3.5.2 In the review and comment on official plan Official Plan Reviews, CLOCA will seek to achieve the following objectives:

- Implementation of Watershed Plans through corresponding policies and designations;
- Effective policy direction and land use structure that addresses and prepares for climate change resiliency to impacts, mitigation, and adaptation at the watershed, subwatershed and local scales;
- Policies and designations that ensure that natural hazards are properly recognized and managed pursuant to provincial policy and implementation guidance, including the provision of minimum 6 m access allowances;
- Provision for stormwater management innovation including low impact development stormwater management techniques and best practices; and,
- Directions related to excess soil management and more sustainable built form (i.e. passive and net-zero design) that meet or exceed provincial standards.

Attachment 5

3.6 Infrastructure

Infrastructure and transportation projects shall demonstrate that there will not be any impediment to wildlife movement, stream flow, fish movement or aquatic habitat. Improvements to existing infrastructure, including roads, shall incorporate measures to eliminate any existing and/or future impediment to stream flow, fish movement or aquatic habitat. Where existing in stream barriers exist, the Municipality and CLOCA will work together to determine the best method of removal or preservation.

Where it is not feasible to avoid wildlife barriers, adequate wildlife crossing provisions must be provided as part of the approval, to the satisfaction of the Municipality in consultation with CLOCA. Improvements to existing infrastructure, including roads, shall incorporate measures to eliminate barriers to wildlife movement and include measures to accommodate enhanced wildlife movement.

Green Infrastructure that provides ecological and hydrological benefits is encouraged. . Green infrastructure can include components such as natural heritage features and systems, parklands, stormwater management systems, urban forests, permeable surfaces, and green roofs.

All new infrastructure shall respect natural drainage patterns, and approval will require confirmation of appropriate minor/major systems, management of external drainage, and discharge to appropriate outlets.

Generally, linear infrastructure should cross perpendicular to the NHS and at its most narrow point.

Where natural hazards exist, infrastructure should consider options for remediation.

When infrastructure cannot protect a natural feature, or part of a natural feature, (and the feature is not protected by any other applicable federal, provincial, or municipal requirement(s), compensation be provided in consultation with the municipality(ies).

3.7 Water Resources

Water resources are vital components of both environmental and human health. The quality, quantity, and temperature characteristics of water resources significantly impact ecosystem ecology, human well-being, recreational activities and city aesthetics.

CLOCA supports the protection, improvement and restoration of vulnerable surface and ground water, sensitive surface water features and sensitive ground water features, and their hydrologic functions. CLOCA's Watershed Plans contain objectives, targets and policies related to sustainable and functioning water resources within our watershed. In addition, CLOCA has prepared a Guideline for Hydrogeological Assessment submissions. The Guideline provides information and guidance material related to hydrogeological assessment requirements to ensure comprehensive evaluations of potential impacts associated with development on natural ecological features and functions that are supported by groundwater resources.

Attachment 5

3.8 Stormwater Management

CLOCA supports the effective management of stormwater run-off to protect the ecological health of the watershed and contribute to the protection of human life and property during storm events. Stormwater run-off will be controlled and treated for quality and quantity to the satisfaction of the Municipality in consultation with CLOCA. Pre- development runoff rates, flow paths, water quality and stream temperature shall be maintained. Where appropriate, the Municipality and CLOCA may determine that stormwater quantity controls are not required. CLOCA supports the use of enhanced stormwater quality treatment for all new development.

CLOCA has a Board approved Technical Guideline for Stormwater Management Submission that outlines CLOCA's expectations for all stormwater management submissions, which include a description of CLOCA policies, guidance on approved methods and techniques, a summary of key hydrologic parameters, and a summary of submission requirements.

Stormwater management practices should minimize stormwater volumes and contaminant loads, and maintain or increase the extent of vegetative and pervious surfaces. CLOCA also supports incorporation of a best management treatment train approach with increased emphasis on lot level/source, low impact development (LID) technologies and conveyance methods in addition to traditional end-of-pipe methods.

Discharge of stormwater to a receiving watercourse must be occur in a manner that does not adversely impact channel morphology, stream bank erosion or natural water temperature regimes of the receiving stream /feature. A geomorphological investigation shall be conducted to ensure that the impacts of stormwater discharge on streambank erosion are minimized.

Where stormwater management facilities do not exist or provide limited water quality treatment, efforts will be made to retrofit all areas with approved stormwater management measures using the most recent technologies and best management practices.

Redevelopment and infill development shall provide measures to improve water quality and quantity controls, including where possible, treatment of run-off from existing adjacent development.

Diversion of water from an existing drainage catchment to another catchment is discouraged and every effort shall be made to maintain drainage patterns and watershed boundaries.

3.9 High Volume Recharge Areas (HVRA)

Prior to any *development* within a HVRA, a Hydrogeological Report shall be completed to the satisfaction of CLOCA demonstrating that the proposed *development* or site alteration will have no adverse effects on groundwater recharge rates, quantity or quality or on natural heritage functions and hydrological features that rely on groundwater.

Attachment 5

CHAPTER 4 - LAKE ONTARIO SHORELINE HAZARDS

4.1 Statutory Requirements

The *Conservation Authorities Act* and *Ontario Regulation 41/24* contain the following provisions which establish regulatory boundaries and prohibit *development* along Lake Ontario shoreline unless permission is granted by CLOCA after it has been determined that the specific legislated tests have been met:

Prohibited Activities (subsection 28(1) of the *Conservation Authorities Act*)

28(1) “... **no person shall carry on the following activities**, or permit another person to carry on the following activities...

2. **Development activities** in areas that are...

iv. ... **adjacent or close to the shoreline of [Lake Ontario]** and that may be affected by flooding, erosion or dynamic beach hazards...”

Permits (subsection 28.1(1) of the *Conservation Authorities Act*)

28.1(1) “[**CLOCA**] **may issue a permit** to a person to engage in [a development] activity specified in the permit that would otherwise be prohibited by section 28, **if, in the opinion of [CLOCA]**

(a) the [development] activity is **not likely to affect the control of flooding, erosion, dynamic beaches ...;**

(b) the [development] activity is **not likely to create conditions or circumstances that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property...**”

4.2 Guidance for Shoreline Processes and Functions

Natural Hazards along the Lake Ontario shoreline within the CLOCA watershed are comprised of three components, which are often overlapping on the coastal landscape:

- 1) flooding hazards,
- 2) erosion hazards, and
- 3) dynamic beach hazards.

These three Lake Ontario hazards are described further in *Ontario Regulation 41/24* and in the following provincial guidance documents *Understanding Natural Hazards* (at section 6) and in the *Great Lakes-St. Lawrence River System Technical Guide (2001)* prepared and updated from time-to-time by the Ministry of Natural Resources and Forestry.

Attachment 5

4.3.1 Policies for Development within Shoreline Flood Hazard

Where more than one hazard exists, the farthest combined landward extent of the hazards plus the access allowance delineates shoreline hazard lands.

In accordance with the procedural chapter, all required plans and reports must be carried out by a qualified expert. In the review of the plans and reports CLOCA may retain the services of an expert consultant to carry out a peer review. Such a peer review will be carried out at the applicant's expense.

- 1) *Development* is prohibited within the shoreline flood hazard except where the requirements under policies 4.3.1.2 – 4.3.1.8, and the General Policies have been addressed to the satisfaction of CLOCA,
- 2) Repairs, maintenance and interior alterations may be permitted provided it does not result in additional *dwelling units*;
- 3) Public infrastructure (e.g. roads, sewers, flood and erosion control works) and various utilities (e.g. pipelines) may be permitted;
- 4) Public parks (e.g. passive or low intensity outdoor recreation and education, trail systems) may be permitted;
- 5) A new building/structure on an *existing vacant lot of record* or a *minor addition* to an existing building/structure or *reconstruction* associated with *existing uses* may be permitted if it has been demonstrated to the satisfaction of CLOCA that:
 - a. All *Planning Act* permissions are in effect prior to April 1, 2024;
 - b. the *development* is not likely to create conditions or circumstances that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property;
 - c. there is safe access, as determined to the satisfaction of CLOCA, to the lot;
 - d. there is no feasible alternative location outside of the shoreline flood hazard for the proposed *development*;
 - e. the proposed *development* does not result in an increase of flooding risk (i.e. floodproofing measures applied) and is located in an area of least risk (i.e. located furthest possible distance from the lake);
 - f. the proposed works do not create new or aggravate flooding on the subject, adjacent or other properties;
 - g. the *development* is protected from the shoreline flood hazard in accordance with established floodproofing and protection techniques. *Habitable* buildings must be dry-floodproofed. Non *habitable* buildings/structures must as a minimum be wet floodproofed;
 - h. potential for surficial erosion has been addressed through the submission of proper drainage, erosion and sediment control and site stabilization/restoration plans;

Attachment 5

- i. the proposed *reconstruction* is not for a building/structure that was destroyed by erosion and/or flooding and provided the *reconstruction* does not exceed the original *habitable* floor area and/or the original footprint of the previous structure, contains the same or fewer number of *dwelling units*, and the use of the reconstructed dwelling/structure does not increase the risk to property and public safety.
- 6) Non-*habitable accessory* building/structures, pools, landscaping retaining walls, grading, unenclosed decks, etc., associated with *existing uses* may be permitted if:
- a. proposed *development* larger than 15m² demonstrates to the satisfaction of CLOCA that:
 - All *Planning Act* permissions are in effect prior to April 1, 2024;
 - the *development* is anchored and is less than 50 square metres;
 - there is no feasible alternative site outside of the shoreline flood hazard;
 - the development is not likely to create conditions or circumstances that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property;
 - that there will not be an increase of flooding risk (i.e. floodproofing measures applied) and is located in an area of least risk (i.e. located furthest possible distance from the lake);
 - there will not be new or aggravated flooding on the subject, adjacent or other properties;
 - there will be access for emergency works, maintenance and evacuation; and
 - the *development* will be flood proofed to the satisfaction of CLOCA.
- 7) The repair or replacement of a malfunctioned sewage disposal system may be permitted. The replacement system should be located outside of the shoreline flood hazard where possible and only permitted within the shoreline flood hazard in the area of lowest risk.
- 8) Parking lots associated with existing non-residential uses may be permitted if it has been demonstrated to the satisfaction of CLOCA that:
- a. all *Planning Act* permissions are in effect prior to April 1, 2024;
 - b. there is no feasible alternative site outside the flood hazard;
 - c. the development is not likely to create conditions or circumstances that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property; and,
 - d. floodproofing is undertaken to the extent practical.

In general, underground parking within the shoreline flood hazard shall not be permitted.

Parking lots must be floodproofed 0.3m above the shoreline flood hazard unless it can be demonstrated to the satisfaction of CLOCA that floodproofing is not technically feasible or would result in a compromise of other policy objectives in the PPD and that flood elevation will not exceed a depth of 0.2m.

Attachment 5

4.3.2 Policies for Development within the Allowance Adjacent to the Shoreline Flood Hazard

- 1) *Development* may be permitted within the allowance adjacent to the shoreline flood hazard if it has been demonstrated to the satisfaction of CLOCA that the General Policies have been satisfied and:
 - a. the *development* will not create new or aggravate existing flood hazards;
 - b. safe access, to the satisfaction of CLOCA, to and from a public road is provided;
 - c. the potential for surficial erosion has been addressed through proper drainage, erosion and sediment control and site stabilization/restoration plans; and,
 - d. the development is not in the erosion and dynamic beach hazards plus the required allowance.

Shoreline Erosion Hazard

4.4.1 Policies for Development within the Shoreline Erosion Hazard

- 1) *Development* is prohibited in the shoreline erosion hazard except where the requirements under policies 4.4.1.2 - 4.4.1.8 and the General Policies have been addressed to the satisfaction of CLOCA;
- 2) Public and private infrastructure (e.g. roads, sewers, flood and erosion control works) and various utilities (e.g. pipelines) may be permitted;
- 3) Public parks (e.g. passive or low intensity outdoor recreation and education, trail systems) may be permitted if it has been demonstrated to the satisfaction of CLOCA that the *development* is located as far as possible from the hazard;
- 4) Stabilization/erosion protection works within the shoreline erosion hazard to allow for future/proposed *development* or an increase in a *development* envelope or area shall not be permitted. New *development* may be considered within the erosion hazard, where protection stabilization works has previously been constructed, provided all *Planning Act* permissions are in effect prior to April 1, 2024 and the *development* complies with the provincial guideline – *Technical Guide For Great Lakes - St. Lawrence River Shorelines Appendix A7.2*).
- 5) Shoreline, bank, and slope stabilization to protect existing *development* and conservation or restoration projects may be permitted if it has been demonstrated to the satisfaction of CLOCA that all matters outlined in section 4.6 of this chapter;
- 6) *Development* associated with *minor additions* to buildings/structures and *reconstruction* of existing buildings/structures may be permitted if it has been demonstrated to the satisfaction of CLOCA that:
 - a. All *Planning Act* permissions are in effect prior to April 1, 2024;
 - b. the *development* is not likely to create conditions or circumstances that, in the event

Attachment 5

of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property;

- c. there is safe access, as determined to the satisfaction of CLOCA, to the lot;
 - d. there is no feasible alternative site outside of the shoreline erosion hazard;
 - e. the proposed *development* does not result in an increased risk of erosion damage and is located in an area of least and acceptable risk;
 - f. there is no impact on existing and future slope stability and bank stabilization;
 - g. the potential of increased risk due to loading forces on the top of the slope is addressed;
 - h. the proposed *development* will not prevent access into and along the shoreline erosion hazard in order to undertake preventative actions/maintenance or during an emergency;
 - i. the proposed *development* will have no negative impacts on natural shoreline processes;
 - j. the potential for surficial erosion has been addressed through the submission of proper drainage, erosion and sediment control and site stabilization/ restoration plans;
 - k. there is no increase in the number of *dwelling units*; and
 - l. the proposed *reconstruction* is not for a building/structure that was destroyed by erosion or flooding and provided the *reconstruction* does not exceed the original *habitable* floor area and/or the original footprint of the previous structure and contains the same or fewer number of *dwelling units*.
- 7) Non-*habitable accessory* structures, pools, small-scale (i.e. under 0.5 m in height) landscaping retaining walls, grading, unenclosed decks, etc. associated with *existing uses* may be permitted provided:
- the *development* will not prevent access into and through the shoreline erosion hazard in order to undertake preventative actions/maintenance or during an emergency;
 - there is no feasible alternative site outside of the shoreline erosion hazard;
 - the proposed *development* is located in an area of least (and acceptable) risk;
 - no *development* is located within the stable slope allowance plus a setback to accommodate a 50 year erosion rate for non-*habitable* buildings/structures, decks and pools;
 - there is no impact on existing and future slope stability and bank stabilization;
 - there is no ability for conversion into *habitable* space in the future.
- 8) Exterior repairs and interior alterations may be permitted provided it does not result in additional *dwelling units*.

4.4.2 Policies for Development within the Allowance Adjacent to the Shoreline Erosion Hazard

Development may be permitted within the allowance adjacent to the shoreline erosion hazard if it has been demonstrated to the satisfaction of CLOCA that all applicable General Policies

Attachment 5

are addressed and submitted plans demonstrate that:

- a. *all Planning Act* permissions are in effect prior to April 1, 2024;
- b. the *development* is not likely to create conditions or circumstances that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property;
- c. there is no new or aggravated erosion hazard;
- d. safe access, to the satisfaction of CLOCA, to and from a public road is provided;
- e. the potential for surficial erosion has been addressed through proper drainage, erosion and sediment control and site stabilization/restoration plans; and,
- f. the development is not in the flooding and dynamic beach hazards plus the required allowance.

4.5 Dynamic Beach Hazard

4.5.1 Policies for Development within the Dynamic Beach Hazard

- 1) *Development* within a dynamic beach hazard is prohibited except where the requirements under policies 4.5.1.2 – 4.5.1.6 and the General Policies have been addressed to the satisfaction of CLOCA;
- 2) Underground public infrastructure (e.g. sewers) and various utilities (e.g. pipelines) shall avoid the dynamic beach hazard to the extent possible, however if no feasible alternative exists, may be permitted;
- 3) Public parks (e.g. passive or low intensity outdoor recreation and education, trail systems) may be permitted if it has been demonstrated to the satisfaction of CLOCA that the *development* is located as far as possible from the hazard;
- 4) Conservation or restoration projects may be permitted.
- 5) New stabilization/protection works within the dynamic beach hazard to protect existing habitable *development* at risk of damage from dynamic beach or erosion hazards may be permitted, however works to facilitate an increase in a *development* envelope or area shall not be permitted will not be permitted.
- 6) Exterior building repairs and maintenance and interior alterations may be permitted provided it does not result in additional *dwelling units*.

4.5.2 Policies for Development within the Allowance Adjacent To the Dynamic Beach Hazard

- 1) *Development* may be permitted within the allowance adjacent to the dynamic beach hazard if it has been demonstrated to the satisfaction of CLOCA that the General Policies have been satisfied and:
 - a. there is no new or aggravated hazard;
 - b. safe access, to the satisfaction of CLOCA, to and from a public road is provided;
 - c. the potential for surficial erosion has been addressed through proper drainage, erosion and sediment control and site stabilization/restoration plans; and,
 - d. the *development* is not in the flooding and erosion hazards plus the required allowance.

Attachment 5

4.6 Lake Ontario Shoreline Protection Works

In an attempt to manage the erosion of shorelines, structures such as breakwaters, seawalls and revetments may be used under certain circumstances. Even with the installation of remedial measures (i.e. assumed to address the erosion hazard), the natural forces of erosion, storm action/attack and other naturally occurring water and erosion related forces may prove to be such that the remedial measures may only offer a limited measure of protection and may only reduce or address the erosion hazard over a temporary period of time. Even if the shoreline is successfully armoured, the near shore lake bottom continues to erode or down cut eventually on all shorelines. This process is more active typically on cohesive shorelines. Eventually the lakebed down cutting will undermine the shoreline armouring causing the structure present to ultimately fail (Figure X). The failure and ultimate property loss may extend back to the point at which the natural shoreline occurs. The natural shoreline position is typically not the present waterline or break wall interface, but actually some point inland from the armoured shoreline position.

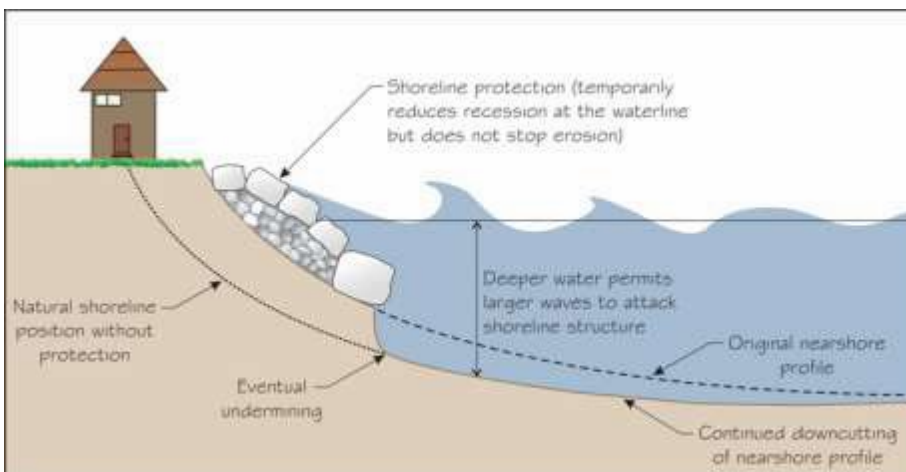


Figure X - Lake Erosion Down Cutting - See also Technical Guidelines - Great Lakes - St. Lawrence River (MNR, 1996b)

These problems usually occur on updrift and/or downdrift properties, aggravating existing off-site hazards, and/or posing unacceptable detrimental impacts on a wide array of environmental components of the shoreline ecosystem (e.g. fisheries, wetlands, water quality). The natural movement of the shoreline due to erosion can be aggravated by these human activities and the impact of the activity can be transferred some distance from the impact site.

As a result of the temporary nature of erosion protection works, measures which harden the shoreline to facilitate new *development* should be avoided wherever possible and should only be considered to lessen the threat of a risk to areas with existing development provided it can

Attachment 5

be demonstrated on a comprehensive reach approach that the following have been addressed:

- The need and purpose of the proposed works have been clearly defined;
- The shoreline works have been designed to the Lake Ontario flood hazard limit and according to accepted scientific and coastal *engineering principles*;
- The works have been designed to the satisfaction of CLOCA and approved by a professional engineer with experience and qualifications in coastal engineering;
- Slope stability has been assessed to the satisfaction of CLOCA by a professional engineer with experience and qualifications in geotechnical engineering;
- The ownership of land, where the protection works are proposed, has been clearly established, to the satisfaction of CLOCA by the applicant;
- The design and installation of protection works allows for safe access to the satisfaction of CLOCA, along the protection works for appropriate equipment and machinery for regular maintenance purposes and repair should failure occur;
- The protection works should follow accepted sustainable management practices;
- The protection works will not create new hazards or aggravate existing hazards on the subject or other properties;
- The works do not result in a measurable and unacceptable impact or cumulative effect on the control of flooding, erosion, dynamic beaches, pollution or the *conservation of land*;
- The works are not proposed within a dynamic beach hazard unless to protect existing habitable *development* at risk of damage identified to the satisfaction of CLOCA;
- In areas of existing adjacent *development*, protection works should be coordinated with adjacent properties; and
- The protection works must address the considerations outlined in the “*Technical Guide For Great Lakes – St. Lawrence River Shorelines Appendix A7.1 Recommended Approach For Designing Shoreline Protection Works*” as updated from time-to-time by the Province of Ontario.

4.6.1 Long Term Risk Prevention for Existing Development within Shoreline Hazard Areas

To effectively deal with the protection of human health and property for existing *development* within shoreline hazard areas, a comprehensive approach to the reduction in the hazard risk must be considered long term risk prevention and should be addressed through a shoreline management plan which can examine in detail matters such as:

- Public education and awareness;
- Formal monitoring of shoreline hazards;
- Protection works; and,
- Public acquisition.

Attachment 5

A Lake Ontario Shoreline Management Plan was prepared in 2020 for the shoreline area of Central Lake Ontario, Ganaraska Region and Lower Trent Region Conservation Authorities which provided information the three coastal natural hazards on and generic shore protection methods and management strategies for the various shoreline reaches. Any application of structural protection works to assist in addressing the erosion hazards must also consider the impacts to adjacent properties as well as to the terrestrial and aquatic environment.

Attachment 5

CHAPTER 5 - RIVER OR STREAM VALLEYS

5.1 Statutory Requirements

The *Conservation Authorities Act* and *Ontario Regulation 41/24* contain the following provisions which establish regulatory boundaries and prohibit *development* in or on river or stream valleys unless permission is granted by CLOCA after it has been determined that specific legislated tests have been met:

Prohibited Activities (subsection 28(1) of the *Conservation Authorities Act*)

28(1) “... **no person shall carry on the following activities**, or permit another person to carry on the following activities...

3. **Development activities** in areas that are...
 - iii. ... **river or stream valleys...**”

Permits (subsection 28.1(1) of the *Conservation Authorities Act*)

28.1(1) “[**CLOCA**] **may issue a permit** to a person to engage in [a development] activity specified in the permit that would otherwise be prohibited by section 28, **if, in the opinion of [CLOCA]**

- (a) the [development] activity is **not likely to affect the control of flooding, erosion, dynamic beaches ...;**
- (b) the [development] activity is not likely to create conditions or **circumstances that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property...**”

5.2 Guidance for River or Stream Valley Processes and Functions

Natural Hazards along river or stream valleys are shaped and re-shaped by erosion, slope stability and flooding. These “riverine hazards” are identified in policy as erosion hazards and flooding hazards, which are often overlapping on the landscape.

Riverine hazards are described further in *Ontario Regulation 41/24* and in the following provincial guidance documents *Understanding Natural Hazards* (at section 7) and in the *Technical Guide River and Stream Systems: Flooding Hazard Limit (2001)* and the *Technical Guide River and Stream Systems: Erosion Hazard Limit (2002)* prepared and updated from time-to-time by the Ministry of Natural Resources and Forestry.

Attachment 5

Erosion Hazard

5.3.1 Policies for Erosion Hazards – River and Stream Valleys

The following outlines the specific policies for implementing the *Conservation Authorities Act* and *Ontario Regulation 41/24* with respect to erosion hazards associated with a river and stream valleys.

- 1) *Development* is prohibited within the erosion hazard of a river or stream valley except where the requirements under policies 5.3.1.2) – 5.3.1.10) and the General Policies have been addressed to the satisfaction of CLOCA;
- 2) With the exception of necessary outfall and emergency flow route structures, stormwater management facilities shall be located outside of the erosion hazard and the appropriate access allowance;
- 3) Public infrastructure (e.g. roads, sewers, flood and erosion control works) and various utilities (e.g. pipelines) may be permitted if it has been demonstrated to the satisfaction of CLOCA that there is the demonstrated need to locate in the hazard. Detailed geotechnical study will be required to determine precise erosion hazard limits(s) and demonstrate how impacts to the erosion hazard will be mitigated to ensure that there is no impact on existing and future slope stability;
- 4) Public parks and passive outdoor recreational uses (e.g. passive or low intensity outdoor recreation and education, trail systems) may be permitted if it has been demonstrated to the satisfaction of CLOCA that:
 - there is no feasible alternative location outside of the erosion hazard
 - buildings, structures and parking facilities are located outside of the erosion hazard;
 - a geotechnical study demonstrates that there is no impact on existing and future slope stability; and
 - the *development* is not likely to create conditions or circumstances that, in the event of a natural hazard, might jeopardize the health safety of persons or result in the damage or destruction of property;
- 5) Stream bank, slope and valley stabilization may be permitted subject to policies contained in Chapter X and X dealing with interference to watercourses and natural hazards;
- 6) Construction of a driveway or access way over an erosion hazard of a river or stream valley in order to provide access to lands outside of the river or stream valley, may be permitted subject to policies contained in Chapter 6 dealing with interference to watercourses;
- 7) *Minor addition* to an existing building/structure and the *reconstruction* of an existing building/structure may be permitted if it has been demonstrated to the satisfaction of CLOCA that:
 - a. the *development* is not likely to create conditions or circumstances that, in the event

Attachment 5

of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property

- b. there is no feasible alternative site outside erosion hazard. In the event that there is no feasible alternative site, that the proposed *development* is located in an area of least (and acceptable) risk and the addition does not result in an increase in risk;
 - c. no *development* is located within the stable slope allowance plus a setback to accommodate the greater of the 70 year erosion rate or 8m toe erosion allowance;
 - d. there is no impact on existing and future slope stability;
 - e. any required bank stabilization or erosion protection works complies with the policies in Chapter 6 dealing with interference to watercourses;
 - f. there will be no negative impacts on natural stream meandering/fluviat processes;
 - g. the potential of increased loading forces on the top of the slope is addressed;
 - h. access into and through the valley system will be maintained wherever feasible;
 - i. the potential for surficial erosion has been addressed through the submission of proper drainage, erosion and sediment control and site stabilization/ restoration plans;
 - j. any related wetlands and/or hydrologic features are protected and flooding hazards have been adequately addressed;
 - l. the proposed *reconstruction* is not for a dwelling/structure that was destroyed by erosion/slope movements and provided the *reconstruction* does not exceed the original *habitable* floor area and/or the original footprint of the previous structure and contains the same or fewer number of *dwelling units*.
- 8) Non-*habitable accessory* buildings/structures, pools, small-scale (i.e. under 0.5 m in height) landscaping retaining walls, grading, decks, etc., associated with *existing uses* may be permitted provided:
- the *development* will not prevent access into and through the erosion hazard in order to undertake preventative actions/maintenance or during an emergency;
 - there is no feasible alternative site outside of the erosion hazard;
 - the proposed development is located in an area of least (and acceptable) risk;
 - no development is located within the meander belt of an unconfined system
 - within a confined system, it has been demonstrated that the proposed development will not be subject to unstable slopes or stream erosion as determined by an erosion setback of the greater of a 50 year toe erosion or 8m. toe erosion allowance for non-habitable buildings/structures, decks and pools,
 - there is no impact on existing and future slope stability and bank stabilization; and,
 - there is no ability for conversion into habitable space in the future.
- 9) The repair or replacement of a malfunctioned sewage disposal system may be permitted. The replacement system should be relocated outside of the erosion hazard wherever possible.

Attachment 5

- 10) Exterior repairs and interior alterations may be permitted provided it does not result in additional *dwelling units*.

5.3.2 Policies for Development within the Allowance Adjacent - Erosion Hazard of a River or Stream Valleys

Development may be permitted within the allowance adjacent to the erosion hazard of a river or stream valley if it has been demonstrated to the satisfaction of CLOCA that all applicable General Policies have been satisfied and:

- a. the development is not likely to create conditions or circumstances that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property;
- b. there is no new or aggravated erosion hazard;
- c. safe access, to the satisfaction of CLOCA, to and from a public road is provided;
- d. there is a setback of sufficient distance from the stable top of bank to avoid increases in loading forces on the top of the slope; and
- e. there is no change in drainage or vegetation patterns that would compromise slope stability or exacerbate erosion of the slope face;
- f. the potential for surficial erosion has been addressed through proper drainage, erosion and sediment control and site stabilization/restoration plans; and
- g. wetland features and/or hydrological functions are protected and flooding hazards have been adequately addressed.

5.4 Flooding Hazard

5.4.1 Policies for One-zone Floodplain - River or Stream Valleys

The following outlines the specific policies for implementing the *Conservation Authorities Act* and *Ontario Regulation 41/24* with respect to flooding hazards associated with a river and stream valleys.

- 1) *Development* is prohibited within the regulatory floodplain except where the requirements under policies 5.4.1.2) – 5.4.1.15) and the General Policies have been addressed to the satisfaction of CLOCA;
- 2) A new building/structure on an *existing vacant lot of record* may be permitted provided it can be demonstrated that:
 - a. all *Planning Act* permissions are in effect prior to April 1, 2024;
 - b. safe access, to the satisfaction of CLOCA, to and from a public road is provided;
 - c. No feasible alternative site outside of the flood hazard;
 - d. the *development* is not likely to create conditions or circumstances that, in the event

Attachment 5

- of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property;
- e. The proposed *development* is located in an area of least risk;
 - f. flood storage and flood hydraulics are not negatively affected;
 - g. The *development* can be floodproofed , including demonstration that the proposed development can withstand hydrostatic pressure to the satisfaction of CLOCA;
- 3) Stormwater management facilities shall be located outside of the flood hazard.
 - 4) Public infrastructure (e.g. roads, sewers, flood and erosion control works) and various utilities (e.g. pipelines) may be permitted if it has been demonstrated to the satisfaction of CLOCA that there is a demonstrated need to locate in the flood hazard and there is no reasonable alternative;
 - 5) Public parks (e.g. passive or low intensity outdoor recreation and education, trail systems) may be permitted if it has been demonstrated to the satisfaction of CLOCA that there is no alternative location outside of the flood hazard;
 - 6) Stream, bank, slope, and valley stabilization to protect existing *development* and conservation or restoration projects may be permitted.
 - 7) *Minor addition* to an existing building/structure and *reconstruction* of existing building/structure may be permitted if it has been demonstrated to the satisfaction of CLOCA that:
 - a. the *development* is not likely to create conditions or circumstances that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property;
 - b. there is safe access, as determined to the satisfaction of CLOCA, to the lot;
 - c. there is no feasible alternative site outside of the Regulatory floodplain for the proposed *development* or in the event that there is no feasible alternative site, that the proposed *development* is located in an area of least (and acceptable) risk;
 - d. flood storage and flood hydraulics are not negatively affected. There must also be no potential for debris (ice) to be trapped or jammed creating a flood hazard;
 - e. the *development* is protected, to the extent feasible, from the flood hazard in accordance with established floodproofing and protection techniques;
 - f. the proposed *development* will not prevent access for emergency works, maintenance, and evacuation;
 - g. the potential for surficial erosion has been addressed through the submission of proper drainage, erosion and sediment control and site stabilization/restoration plans;
 - h. wetlands and/or hydrological functions are protected, and erosion hazards have been adequately addressed;
 - i. the number of *dwelling units* is the same or fewer and there is no opportunity for conversion of non-*habitable* additions into additional *dwelling units*;
 - j. no basement is proposed; and
 - k. the past structure subject to the *reconstruction* was not previously damaged or destroyed by flooding or erosion and the *reconstruction* shall not exceed the original footprint and *dwelling units*, unless it is demonstrated that the replacement structure provides greater protection from flooding hazard and the use of the reconstructed dwelling/structure does not increase the risk to property and public safety.

Attachment 5

- 8) *Non-habitable accessory* structures, pools, small-scale (i.e. under 0.5 m in height) landscaping retaining walls, grading, decks, etc. may be permitted if it has been demonstrated that:
 - a. it is anchored;
 - b. there is no feasible alternative site outside of the flood hazard;
 - c. it does not result in an increase of flooding risk (i.e. floodproofing measures applied) and is located in an area of least risk (i.e. located furthest possible distance from the lake);
 - d. flood storage and flood hydraulics are not negatively affected;
 - e. there is no ability for conversion into habitable space in the future;
 - f. it will not prevent access for emergency works, maintenance and evacuation; and,
 - g. it will be flood proofed to the satisfaction of CLOCA.
- 9) Construction of a driveway or access way through the regulatory floodplain in order to provide access to an existing lot of record outside of the regulatory floodplain may be permitted provided safe access can be achieved to the extent possible and the applicable policies addressing interference with a watercourse have been satisfied;
- 10) The repair or replacement of a malfunctioned sewage disposal system may be permitted. The replacement system should be located outside of the floodplain where possible, and only permitted within the floodplain subject to being located in the area of lowest risk.
- 11) Parking lots associated with existing non-residential uses may be permitted if it has been demonstrated that:
 - a) there is no feasible alternative site outside the riverine flooding hazard;
 - b) safe pedestrian and vehicular access is achieved; and,
 - c) floodproofing is undertaken to the extent practical.

In general, underground parking within the regulatory floodplain shall not be permitted.

Parking lots associated with new land uses must be floodproofed 0.3 metres above the regulatory floodplain unless it can be demonstrated to the satisfaction of CLOCA that floodproofing is not technically feasible or would result in a compromise of other policy objectives in the PPD and that the flood elevation will not exceed a depth of 0.22 metres.

- 12) Golf courses, golf course expansion or driving ranges may be permitted if it has been demonstrated to the satisfaction of CLOCA that:
 - a. all associated structures are located outside of the riverine flooding hazard;
 - b. there is no loss of flood storage; and,
 - c. watercourse crossings are minimized through site and facility design and flood emergency plans.
- 13) A new *dug-out or isolated pond* (not connected to watercourse by way of inlet) may be permitted if it has been demonstrated to the satisfaction of CLOCA that:
 - a. the pond is not located within an erosion hazard; and
 - b. all dredged material is removed from the riverine flooding hazard and the riverine erosion hazard.

Attachment 5

- 14) Dredging of an existing *dug-out* or isolated pond may be permitted where it has been demonstrated to the satisfaction of CLOCA that:
 - a. all dredged material is removed from the riverine flooding hazard and the riverine erosion hazard;
 - b. hydrologic functions are restored and enhanced to the extent possible; and,
 - c. the risk of pollution and sedimentation during dredging operations is minimized.
- 15) Exterior building repairs and maintenance and interior alterations may be permitted provided it does not result in additional *dwelling units*.

5.4.2 Policies for Development within the Allowance of the Regulatory Floodplain- River or Stream Valleys

Development may be permitted within the allowance of a regulatory floodplain if it has been demonstrated to the satisfaction of CLOCA that the General Policies have been satisfied and:

- a. it will not aggravate the flood hazard or create a new one;
- b. safe access, to the satisfaction of CLOCA, to and from a public road is provided;
- c. the potential for surficial erosion has been addressed through proper drainage, erosion and sediment control and site stabilization/restoration plans; and,
- d. wetlands and/or hydrologic functions and erosion hazards have been adequately addressed.

5.5 Floodproofing

All *development* proposed within the flood hazard limit must be floodproofed.

Floodproofing means structural changes and/or adjustments incorporated into the basic design and/or construction or alteration of individual buildings, structures or properties to protect them from flood damage. In many situations, floodproofing involves non- conventional design of the structural, drainage and electrical/mechanical systems of the building. Accordingly, for certain applications, the services of a licensed professional engineer will be a requirement, such as to ensure proposed development can withstand the hydrostatic pressures that would be caused in the event of a regional storm flooding event.

Where buildings can be approved, but the services of a licensed professional engineer are required by this policy, the designer shall produce a summary or “owner’s manual” for the owner (and for subsequent owners) such that measures to be taken prior to, during and following a flood event are defined to ensure the building’s suitability for ongoing human habitation and to outline ongoing maintenance responsibilities and requirements.

Floodproofing Methods

The following describes the basic options available for floodproofing typical structures and the

Attachment 5

policies of the Authority in circumstances where *development* may be permitted. It should be recognized that for some situations one or more of the following options may prove to be technically or economically impractical. Recognizing the required floodproofing measures are the minimum standard, where feasible, CLOCA will require the most effective floodproofing measures in an effort to reach the maximum protection possible.

The following describes types and standards for floodproofing. For additional information, reference should be made to the *Technical Guide River and Stream Systems: Flood Hazard Limit*, MNR 2002.

a. wet floodproofing

- Wet floodproofing involves designing a building or structure using materials, methods and design measures that maintain structural integrity by avoiding external unbalanced forces from acting on buildings or structures during and after a flood, to reduce flood damage to contents, and to reduce the cost of post flood clean up.
- Wet floodproofing is not permitted for habitable structures.
- Drawings must clearly indicate the means by which hydrostatic pressure is to be equalized on either side of the foundation walls and slab;
- At least two openable windows shall be provided on opposite sides of building;
- Top of window sills to be not less than 150 mm below finished exterior grade (to allow flood waters into the structure relieving hydrostatic pressure as soon as flooding of the surrounding land commences);
- Construction material must withstand alternate wetting and drying such as concrete, pressure treated wood etc.
- Be securely anchored.
- Sump pump may be required (to facilitate clean-up);
- The vertical height within the enclosed space under the building between the underside of the floor assembly and the ground cover directly below shall be no greater than 1800 mm.

b. dry floodproofing (active and passive)

- Active dry floodproofing includes techniques such as installing water tight doors, seals or floodwalls to prevent water from entering openings below the level of the flood hazard.
- Passive dry floodproofing is the use of fill or design modifications to elevate structure or openings in the building at, or above, the level of the flood hazard.
- Underside of main floor shall be at least 0.3 m above the regulatory flood level;
- All openings (windows, vents, doors) and electrical must be located at least 0.3m above the regulatory flood level.

Attachment 5

- Structural details of foundation elements and specifications for fill *materials* and compaction procedures must be prepared or approved by a qualified professional engineer at the applicant's expense;
- The responsible professional engineer shall certify in writing that the design has taken into account regulatory flood (velocity and depth of flow) and site (soil type, bearing capacity, etc.) conditions encountered at the specific location of the *development*; and,
- The professional engineer's certificate must confirm that the foundation and building are designed to withstand hydrostatic pressures and/or impact loading that would develop under water levels equivalent to the design storm plus (minimum) 0.3 metres of freeboard;
- The responsible professional engineer must also identify all operation and maintenance requirements to be met in order to ensure the effective performance of the floodproofing measures over the design life of the structure.

5.6 Safe Access (and Egress)

The ability for the public and emergency operations personnel (police, firefighters, ambulance, etc.) to safely access the floodplain during regulatory flood events is a paramount consideration in any application for *development* within the riverine floodplain.

Ingress and egress must be "safe" pursuant to provincial floodproofing guidelines (MNR, 2002a). Depths and velocities should be such that pedestrian and vehicular emergency evacuations are possible on a municipal roadway or private right of way.

Access/egress shall remain dry at all times for institutional buildings servicing the sick, the elderly, the disabled or the young and in buildings utilized for public safety (i.e. police, fire, ambulance and other emergency measures) purposes.

Safe Access for New Development

Safe access to and from a site may only be achieved where the following depth and velocity criteria for pedestrians and automobiles are met:

- a. For depths up to and including 0.2 metres, the velocity must be less than or equal to 4.5 metre/second (based on the flood hazard); and,
- b. For depths greater than 0.2 metres and less than or equal to 0.3 metres, the velocity must be less than 3.0 metres/second and for depths between 0.3 and 0.4 metres, the velocity must be less than or equal to 0.6 metres/second (based on the flood hazard).

For existing *development*, safety risks are a function of the occupancy of the structure, the flood susceptibility of the structure and the access routes to the structure. For *minor additions* or *reconstruction* of an existing structure, the following factors will be considered:

- the degree of risk with the use of the existing access
- the ability to modify the existing access or construct a new safe access;
- the ability to find and use the access during an emergency; and

Attachment 5

- the ability and willingness of emergency vehicles to use the access.

5.7 Large Fill Policy

CLOCA has an Authority Board approved policy for the large fill applications. Applications to place fill volumes in excess of 500m³ should refer to the large Fill Policy for application requirements. Applications for permission to place minor or small fill quantities (less than 500 cubic metres) in regulated areas shall include a plan of the subject property, drawn at an appropriate scale, clearly showing the boundaries of the area upon which fill is to be placed (with dimensions) and both the existing grade and proposed grades of the fill site. Placement of fill for the purpose of floodproofing shall include geodetic datums. Existing grades may be derived from up-to-date topographic mapping of suitable quality and scale; the source of such topographic information shall be identified in the application.

5.8 Cut and Fill

Cut and fill is a technique that is used to balance flood storage losses resulting from the placement of fill within a floodplain. Any proposal for a cut and fill within the flooding hazard must be in accordance with the following:

- a) The loss of flood plain storage volume within the regulatory flood plain which will result from the placement of fill shall be fully compensated for by an incrementally stage storage balanced cut (or excavation) to be carried out in close proximity to and concurrently with the placement of the fill on the same property or with the consent of adjacent property owner;
- b) All fill removed shall be required to be moved to an area that is outside of the floodplain;
- c) Demonstrate that there will not be an adverse impact on wetlands, valleylands or hydrologic functions;
- d) The volume of available flood plain storage capacity within the affected river or stream reach shall not be reduced
- e) The proposed site grading (cut and fill) must be designed to result in no increase in upstream water surface elevations and no increase in flow velocities in the affected river cross-sections, under a full range of potential flood discharge conditions (1:2 year to 1:100 year return periods and Regional storm); compliance with this requirement shall be demonstrated by means of hydraulic computations completed to the satisfaction of CLOCA.

Increases to flood elevation levels resulting from proposed development may be considered provided they are contained entirely within the property subject to the proposed development provided no existing or proposed development is subject to a natural hazard.

Should flooding increases occur in offsite areas as a result of proposed development, they may be acceptable to CLOCA provided the risk to existing structures and public health and safety are not increased and written acknowledgement and acceptance of the increases is obtained from

Attachment 5

the affected offsite owners.

Compliance with the cut and fill requirements shall be demonstrated by means of detailed plans prepared by a professional engineer which clearly show the existing and proposed grading in plan view and in cross section, accompanied by the designer's computations of the volume of flood plain storage to be displaced by proposed fill and the volume of the compensating flood plain storage to be created by means of the proposed excavation, completed to the satisfaction of CLOCA.

Where minor site alterations are permitted the proponent shall submit a final as built grading plan immediately upon completion of the approved works prepared by a professional engineer indicating that grades achieved on the site conform to those indicated on the approved plan, maintenance of stage storage and that the quality of fill is appropriate for the subject site.

5.9 Separate Policy Management Areas

Notwithstanding the above policies, the Authority Board have approved two separate floodplain management policies for specific areas within CLOCA watershed that remain in effect. The first is the floodplain management policy for the West Corbett Creek and the second is the two-zone flood plain management policy for a reach of the Goodman Creek.

5.9.1 Floodplain Management Policy for the West Corbett Creek

In 1977, the Authority Board adopted a floodplain management policy for the West Corbett Creek. The policy identifies two areas within the West Corbett Creek watershed and contains special policies guiding *development* that may be permitted and recommendations for a management approach for the subject lands. A copy of the West Corbett Creek policy is available at the CLOCA office.

5.9.2 Two-zone Flood Plain Management Policy for a Reach of the Goodman Creek

In 1998, the Authority Board adopted a two zone floodplain management policy for a reach of the Goodman Creek. A two-zone concept identifies a floodway and the flood fringe area. The floodway is defined as the inner portion of the flood plain representing the area required for the safe passage of flood flow and/or that area where flood depths and/or velocities are considered to be such that they pose a potential threat to life and/or property. The flood fringe is the outer portion of the flood plain where flood depths and velocities are less severe and where *development* may be permitted subject to certain established standards and procedures.

Attachment 5

The two-zone policy provides direction on the type and form of *development* that may be permitted within this area. A copy of the two-zone policy is available at the CLOCA office.

In April 2013, the Authority Board adopted Phase 2 of the two-zone floodplain management policy for a reach of the Oshawa and Goodman Creeks immediately upstream of the CP Railway embankment considered to be a flood damage centre (Chapter 5 & Appendix C). Based on two technical reports prepared by Greck and Associates Ltd. dated July 2005, and Rand Engineering, dated 1997, a flood fringe area was identified where, due to minimum flood depths and velocities, *development* may be permitted. The policies outline certain standards and procedures that must be addressed in these flood fringe areas.

Attachment 5

CHAPTER 6 - WATERCOURSES AND WETLANDS

6.1 Statutory Requirements

The *Conservation Authorities Act* and *Ontario Regulation 41/24* contain the following provisions which establish regulatory boundaries and prohibit *development* and interference in any way in and around wetlands as well as the straightening, changing, diverting or interference with watercourses unless permission is granted by CLOCA after it has been determined that specific legislated tests have been met:

Prohibited Activities (subsection 28(1) of the *Conservation Authorities Act*)

28(1) “... **no person shall carry on the following activities**, or permit another person to carry on the following activities...

4. **Activities to straighten, change, divert or interfere in any way with the existing channel of a...watercourse or to change or interfere in any way with a wetland.**
5. **Development activities** in areas that are...
 - ii. ...**wetlands...**
 - v. **[areas within 30 metres of a wetland]**”

Permits (subsection 28.1(1) of the *Conservation Authorities Act*)

28.1(1) “[**CLOCA**] **may issue a permit** to a person to engage in [a development] activity specified in the permit that would otherwise be prohibited by section 28, **if, in the opinion of [CLOCA]**

- (a) the [development] activity is **not likely to affect the control of flooding, erosion, ...;**
- (b) the [development] activity is **not likely to create conditions or circumstances that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property...**”

6.2 Watercourse Processes and Functions

Watercourses transport both water and sediment from areas of high elevation to areas of low elevation. Watercourses are dynamic, living systems with complex processes that are constantly undergoing change. The structure and function of watercourses are influenced by channel morphology, sediment characteristics (soil type, bedrock, and substrate characteristics) and the nature of the *riparian vegetation* both on the overbank and rooted

Attachment 5

in the bed of the watercourse. Any changes to one of these influences can have significant impacts upon other parts of the system. One of the key influences on the structure and function of a watercourse is related to the hydrology of the stream and its normal hydrograph. Changes in the volume, peaks and timing of flows can significantly impact stream morphology, sediment transport and even riparian vegetation impacting water quality and flooding downstream reaches.

6.3 Interference with a Watercourse

Watercourses are defined pursuant to subsection 1(1) of Ontario Regulation 41/24 as “a defined channel, having bed and banks or sides, in which a flow of water regularly or continuously occurs.” Watercourses include intermittent or ephemeral creeks. Watercourses may need to be confirmed by CLOCA through field investigation by considering matters such as flow assessment and channel form.

The *Conservation Authorities Act* uses the phrase “in any way” when describing change or interference with a watercourse. Activities proposed within the watercourse boundary that could interfere in any way with the watercourse, including both those activities that meet the definition of *development* and those that do not necessarily meet the definition of *development* are regulated as described in paragraph 1 of subsection 28(1) of the *Conservation Authorities Act*. An example of an activity that could represent interference is vegetation removal. “Interference in any way” is interpreted by CLOCA as any *anthropogenic* act or instance which hinders, disrupts, degrades or impedes in any way the natural features or hydrologic and ecological functions of a watercourse.

6.3.1 Policies for Interference with a Watercourse

The following outlines the specific policies for implementing the *Conservation Authorities Act* and *Ontario Regulation 41/24* with respect to interference with watercourses. The term “interference” below includes all alterations (straighten, change, divert or interfere in any way).

- 1) Interference with a watercourse is prohibited except where the requirements in policies 6.3.1.2) – 6.3.1.7) and the General Policies have been addressed to the satisfaction of CLOCA;
- 2) Interference associated with public infrastructure (e.g. sewers, flood and erosion control works) and various utilities (e.g. pipelines) may be permitted if the interference on the natural features and hydrologic and ecological functions of the watercourse has been deemed to be acceptable by CLOCA;
- 3) Stream, bank, and channel realignment, stabilization, lowering, channelization or straightening to improve hydraulic and fluvial processes or aquatic habitat may be

Attachment 5

permitted if the interference on the natural features and hydrologic and ecological functions of the watercourse has been deemed to be acceptable by CLOCA, policies in Chapter X dealing with stream erosion protection works have been addressed and the following matters are addressed to the satisfaction of CLOCA:

- a. the interference to a watercourse should be designed in accordance with natural channel design principles;
 - b. the works do not increase off site upstream or downstream floodplain elevations, flood frequency, erosion rates or erosion frequency along either side of the watercourse;
 - c. the works are designed to ensure that the storage capacity of the floodplain is maintained or improved;
 - d. the works will not adversely affect the ecological function of the watercourse or riparian area;
 - e. erosion protection is enhanced; and
 - f. adequate sediment and erosion control measures are incorporated during the construction phase;
- 4) Dredging of a watercourse may be permitted to improve hydraulic characteristics and fluvial processes or to improve aquatic habitat provided that the following is demonstrated:
- a. stream bank stability is maintained or enhanced;
 - b. the works will not adversely affect the ecological function of the watercourse or riparian area; and
 - c. immediately following any required drying time, the dredge material is removed from the riverine flooding and erosion hazard.
- 5) Watercourse crossings may be permitted if it has been demonstrated that the interference on the natural features and hydrologic and ecological functions of the watercourse has been deemed to be acceptable by CLOCA. At a minimum, the submitted reports/plans should demonstrate the following based on morphological characteristics of the watercourse system;
- a. culverts have an open bottom where it is feasible, or where it is not feasible, the culverts should be appropriately embedded into the watercourse;
 - b. maintenance of ecological and hydrological functions of the valley or stream corridor;
 - c. crossing location, width, and alignment should be compatible with stream morphology, which typically requires location of the crossing on a straight and shallow/riffle reach of the watercourse with no evidence of erosion with the crossing situated at right angles to the watercourse;
 - d. the crossing is sized and located such that there is no increase in upstream or downstream erosion or flooding;
 - e. risks associated with erosion and flood hazards on the crossing structure are avoided or mitigated as verified by a qualified person;
 - f. there is no obstruction of fish and wildlife passage;
 - g. where unavoidable, intrusions on natural features or hydrologic or ecological functions are minimized and it can be demonstrated that best management

Attachment 5

- practices including site and infrastructure design and appropriate remedial measures will adequately restore and enhance features and functions; and
- h. any works that are to be located below the bed of the river within a watercourse shall be located below the long term scour depth to the satisfaction of CLOCA.
- 6) *Enclosures* of watercourses are not permitted.
 - 7) Alterations, maintenance or decommissioning of existing water control structures may be permitted where it can be demonstrated that:
 - a. Impacts on watercourse functionality are avoided;
 - b. There are no adverse impacts on the capacity of the structure to pass flows; and
 - c. The integrity of the original structure is maintained.

6.4 Wetlands Processes and Functions

Wetlands provide functions that have both ecosystem and human values. From an ecosystem perspective these include primary production, sustaining biodiversity, wildlife habitat, habitat for species at risk, maintenance of natural cycles (carbon, water) and food chains. From a human perspective, wetlands provide social and economic values such as flood attenuation, recreation opportunities, production of valuable products, improvement of water quality and educational benefits.

Wetlands retain waters during periods of high water levels or peak flows (i.e. spring freshet and storm events) allowing the water to be slowly released into the watercourse, infiltrate into the ground, and evaporate. As well, wetlands within the floodplain of a watercourse provide an area for the storage of flood waters and reduce the energy associated with the flood waters.

Wetlands retain and modify nutrients, chemicals and silt in surface and groundwater thereby improving water quality. This occurs temporarily in the plants of the wetland but long term in the organic soils.

In addition, wetlands provide a variety of hydrologic functions. Over 60 potential hydrological functions were identified for wetlands when the province was developing the Southern Ontario Wetland Evaluation System. Confirmation of many of these functions requires hydrological experts and field studies by qualified hydrologists.

A wetland is defined in subsections 1(1) and (2) of *Ontario Regulation 41/24* as an area that:

- a) is seasonally or permanently covered by shallow water or has a water table close to or at its surface,
- b) directly contributes to the hydrological function of a watershed through connection with a surface watercourse,
- c) has hydric soils, the formation of which has been caused by the presence of abundant water, and
- d) has vegetation dominated by hydrophytic plants or water tolerant plants, the dominance of which has been favoured by the presence of abundant water,

but does not include periodically soaked or wet land that is used for agricultural purposes and

Attachment 5

no longer exhibits a wetland characteristic referred to in clause c) or d).

Hydrologic function means the functions of the hydrological cycle that include the occurrence, circulation, distribution and chemical and physical properties of water on the surface of the land, in the soil and underlying rocks, and in the atmosphere, and water's interaction with the environment including its relation to living things. This is a comprehensive definition for the hydrologic cycle, which allows many factors to be considered when reviewing interference to wetlands. The Southern Ontario Wetland Evaluation System (OWES) states "it must be recognized that many non-hydrological functions of a wetland depend, in part on the wetland's hydrological setting and that changes in the basin beyond the boundaries of the wetland could have an effect on the ecological value of the wetland".

Development and Interference

As part of the review of an application, CLOCA may request an environmental impact study (EIS) to address potential impacts to a wetland. An EIS is a mechanism for assessing impacts to determine the suitability of a proposal and the minimum buffer from *development* to ensure no negative impact on the wetland. The submission of an EIS does not guarantee approval of the works. An EIS must be carried out by a qualified professional, with recognized expertise in the appropriate area of concern and shall be prepared using established procedures and recognized methodologies to the satisfaction of CLOCA

6.4.1 Policies for Development within Wetlands and Interference with Wetlands

The following outlines the specific policies for implementing the *Conservation Authorities Act* and *Ontario Regulation 41/24* with respect to *development* within wetlands and interference with wetlands.

- 1) *development* and interference is prohibited within wetlands except where the requirements under policies 6.4.1.2) – 6.4.1.9) and the General Policies have been addressed to the satisfaction of CLOCA;
- 2) Dredging of existing ponds within a wetland may be permitted subject to the appropriate floodplain hazard policies and provided the dredging does not have an adverse impact on the wetland feature and function and provided all dredging material is placed at a suitable distance from the wetland;
- 3) A single dwelling may be permitted on an *existing vacant lot of record* within a wetland provided:
 - a. All *Planning Act* permissions are in place;
 - b. There is no alternative location for the dwelling on the subject lot outside of the wetland;
 - c. Hazards related to organic soils can be addressed; and
 - d. The applicant demonstrates, to the extent possible, that the *development* will not adversely affect the wetland feature and functions. An EIS will be required to assess

Attachment 5

the ecology of the wetland and identify mitigation measures and best efforts to minimize impacts. If best efforts are not demonstrated to the satisfaction of CLOCA, a permit will not be issued.

- 4) Public infrastructure (e.g. roads, sewers, flood and erosion control works) and various utilities (e.g. pipelines) may be permitted if it has been demonstrated to the satisfaction of CLOCA through plan review that:
 - the proposed infrastructure minimizes wetland loss or interference to the greatest extent possible; and
 - the control of flooding and erosion, will not be affected and the interference on the hydrologic and ecological functions of the wetland has been deemed to be acceptable;
 - there is a demonstrated need and no reasonable alternative that would avoid the wetland.
- 5) Conservation or restoration projects may be permitted if it has been demonstrated to the satisfaction of CLOCA that the interference on the natural features and hydrologic and ecological functions of the wetland has been deemed to be acceptable;
- 6) Trails may be permitted if it has been demonstrated to the satisfaction of CLOCA that there is not a feasible alternative location outside of the wetland and the interference on the natural features and hydrologic and ecological functions of the wetland has been deemed to be acceptable by CLOCA.
- 7) Stream, bank, and channel realignment, stabilization, lowering, channelization or straightening to improve hydraulic and fluvial processes or aquatic habitat may be permitted within riparian wetlands if the interference on the wetland has been deemed to be acceptable by CLOCA and the policy matters outlined in the section dealing with interference to watercourses are addressed.
- 8) Interference to a wetland by selective tree harvesting employing good forestry practices may be permitted provided it can be demonstrated through an EIS or equivalent, such as a forest management plan, that there will be no negative impact on the hydrologic and ecological functions of the wetland.
- 9) *Reconstruction* of existing structures may be permitted provided:
 - The replacement structure is restored to its original footprint or smaller; and
 - There is no feasible alternative location on the subject lot outside of the wetland.

6.4.2 Policies for Development within 30 metres of a wetland (“other areas”)

- 1) *Development* is prohibited within other areas of a wetland except where the requirements under policies 6.4.2.2)- 6.4.2.8) and the General Policies have been addressed to the satisfaction of CLOCA:
- 2) Public infrastructure (e.g. roads, sewers, flood and erosion control works) and various utilities (e.g. pipelines) may be permitted if it has been demonstrated to the satisfaction of CLOCA that there is a demonstrated need and no reasonable alternative location outside of a 30 m buffer.

Attachment 5

- 3) Conservation or restoration projects may be permitted.
- 4) *Development* associated with public lands (e.g. passive or low intensity outdoor recreation and education, trail system) may be permitted;
- 5) Land uses with existing *Planning Act* approvals may be permitted provided the previous approval was granted with CLOCA's support following an environmental review and the proposed *development* is modified in accordance with the General Policies, wherever possible.
- 6) A single dwelling on an *existing vacant lot of record*, *minor additions* to existing *buildings/structures*, *accessory building/structures* (less than 500 m²), and *reconstruction* of existing buildings may be permitted provided it has been demonstrated to the satisfaction of CLOCA that:
 - a. A minimum buffer of 15 metres is established;
 - b. all *development* (including grading) is located outside the wetland and maintains as much buffer as feasible;
 - c. disturbances to natural vegetation communities contributing to the hydrologic function of the wetland are avoided;
 - d. the overall existing drainage patterns will be maintained;
 - e. disturbed area and soil compaction is minimized;
 - f. where appropriate, *development* is located above the high water table;
 - g. all septic systems are located a minimum of 15 metres from the wetland and a minimum of 0.9 metres above the water table;
 - h. impervious areas are minimized;
 - i. the area between the proposed *development* and the wetland is or will be comprised of dense vegetation; and
 - j. *best management practices* are used to:
 - Maintain water balance
 - Control sediment and erosion
 - Buffer wetlands
 - Limit impact of *development* on wildlife species

Attachment 5

CHAPTER 7 - HAZARDOUS LANDS – UNSTABLE SOIL OR BEDROCK

7.1 Statutory Requirements

The *Conservation Authorities Act* and *Ontario Regulation 41/24* contain the following provisions which prohibits *development* in hazard lands unless permission is granted by CLOCA after it has been determined that specific legislated tests have been met:

Prohibited Activities (subsection 28(1) of the *Conservation Authorities Act*)

28(1) “... **no person shall carry on the following activities**, or permit another person to carry on the following activities...

2. Development activities in areas that are...

i. ...**hazardous lands...**”

Permits (subsection 28.1(1) of the *Conservation Authorities Act*)

28.1(1) “[**CLOCA**] **may issue a permit** to a person to engage in [a development] activity specified in the permit that would otherwise be prohibited by section 28, **if, in the opinion of [CLOCA]**

- (a) the [development] activity is **not likely to affect ... unstable soil or bedrock...**;
- (b) the [development] activity is **not likely to create conditions or circumstances that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property...**”

7.2 Hazardous Land Processes and Functions

Hazardous land means land that could be unsafe for *development* because of naturally occurring processes associated with flooding, erosion, dynamic beaches or unstable soil or bedrock. If an activity is proposed within unstable soil and unstable bedrock *hazardous lands*, then this section applies, otherwise refer to the river or stream valleys and great lakes and large inland lakes shorelines chapters for other hazards such as flooding, erosion, and dynamic beaches.

Due to the specific nature of areas of unstable soil or unstable bedrock, it is difficult to identify these hazards. The potential for catastrophic failures in some areas of unstable soil and unstable bedrock warrant site specific studies to determine the extent of these *hazardous lands*, and

Attachment 5

therefore the appropriate limits of the hazard and regulation limits. The regulated area will be based on the conclusions and recommendations of such studies, to the satisfaction of CLOCA.

Unstable soil

Unstable soil includes but is not necessarily limited to areas identified as containing sensitive marine clays (e.g. leda clays) or organic soils (MNR & co, 2005). Leda clays are not found within CLOCA's watershed.

Organic Soils

Organic soils are normally formed by the decomposition of vegetative and organic materials into humus, a process known as humification. A soil is organic when the percentage weight loss of the soil, when heated, is five to eighty per cent (MNR, 2001).

As a result, organic soils can cover a wide variety of soil types. Peat soils, however, are the most common type of organic soil in Ontario. Therefore, a CA's wetland inventory may provide guidance in the location of organic soils. In addition, maps by the Geological Survey of Canada, MNR, Ministry of Mines, and the Ministry of Agriculture, Food and Rural Affairs may provide additional information on the location of organic soils.

Due to the high variability of organic soils, the potential risks and hazards associated with *development* in this type of hazardous land are also highly variable. As such, assessment of *development* potential in areas of organic soils is site specific. Section 4.0 of the *Hazardous Sites Technical Guide (MNR, 1996a)* provides important guidance in this regard.

Unstable Bedrock

Unstable bedrock includes, but is not necessarily limited to, areas identified as karst formations. Karst formations may be present in limestone or dolomite bedrock, and are extremely variable in nature. Local, site-specific studies are required for identifying karst formations. Air photo interpretation of surface features such as sink holes may provide an indication of karst formations (MNR and co, 2005). No karst formations have been identified in CLOCA's watershed.

7.3 Policies for Development within Unstable Soil and Unstable Bedrock Hazardous Lands

The following outlines the specific policies for implementing the *Conservation Authorities Act* and *Ontario Regulation 41/24* with respect to unstable soil and bedrock.

- 1) *Development* is prohibited within *hazardous lands* associated with unstable soils or unstable bedrock except where the requirements in policy 7.3.2 and 7.3.3 and the General Policies have been addressed to the satisfaction of CLOCA;
- 2) Where *development* is proposed in *hazardous lands* associated with unstable soil or unstable bedrock, the applicant will be required to provide a technical report identifying a more

Attachment 5

- precise boundary or limit of the hazardous land, to the satisfaction of CLOCA.
- 3) *Development* may be permitted within *hazardous lands* due to organic soils where a site specific technical study and/or environmental impact study establishes a more precise hazardous land boundary and where it can be demonstrated that:
 - a) there is no feasible alternative location outside the hazard land; and
 - b) the risk of instability which would result in structural failure or property damage is eliminated or minimized. CLOCA may require a peer review of any technical report. The cost of the peer review will be at the applicant's expense.

Attachment 5

Part B: The Procedure Document

CHAPTER 8 – REGULATION PROCEDURES

8.1 Part VI of the Conservation Authorities Act

Part VI of the *Conservation Authorities Act* sets out how various development activities are regulated to protect people, property, and the environment in relation to flooding and erosion hazards.

Reference should be made to the Act and regulations available at ontario.ca/laws for the complete legal text.

In accordance with these requirements, this chapter sets out procedural information.

8.2 Prohibited Activities and Permit Tests for Approval

Section 28 of the *Conservation Authorities Act* sets out a series of prohibitions, as follows:

“No person shall carry on the following activities, or permit another person to carry on the following activities...

1. Activities to **straighten, change, divert or interfere in any way with the existing channel of a river, creek, stream or watercourse or to change or interfere in any way with a wetland.**

2. **Development activities** in areas that are...

I **Hazardous lands,**

II **Wetlands,**

III **river or stream valleys...**

IV **areas that are adjacent or close to the shoreline of [Lake Ontario] and that may be affected by flooding, erosion or dynamic beach hazards...**”

“Development Activity” is defined as:

- The construction, reconstruction, erection or placing of a building or structure of any kind,
- Any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure,
- Site grading,
 - The temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere.

Attachment 5

Section 28.1 of the *Conservation Authorities Act* establishes the legal tests for approval of permit applications. A conservation authority may issue a permit:

“if in the opinion of the authority,

- a) the activity is **not likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock;**
- b) the activity is **not likely to create conditions or circumstances that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property...**”

8.3 Exceptions

Section 5 of *Ontario Regulation 41/24* prescribes exceptions to the regulation of development activities for a list of specific types of development activities under certain conditions. These activities include certain types of docks, fencing, agricultural erosion control structures, non-habitable accessory structures, decks or patios. The specific list may be viewed here: <https://www.ontario.ca/laws/regulation/240041#BK4>

By contacting CLOCA staff and/or during the Pre-Submission Consultation process described below, the applicability of certain exceptions to the regulation of certain development activities may be verified.

8.4 Mapping of Regulated Areas

Section 4 of *Ontario Regulation 41/24* prescribes requirements for mapping of areas where development activities are prohibited. This includes requirements for annual review and updating, public access and notification.

Extensive mapping of the approximate regulated area has been undertaken by CLOCA in support of *Ontario Regulation 41/24* and will be updated annually pursuant to the regulation. The approximate, or conceptual extent, of the regulated area is delineated by mapping and identifies the area where the regulation is expected to apply. It is not a development setback, land use designation, zone, or a specific *development* limit. The regulated area includes flooding and erosion hazards associated with riverine systems and the Lake Ontario shoreline, hazard lands, along with wetlands and *areas of interference* around the wetlands. General mapping of the regulated areas is provided in [Figure 1](#).

Figure 1 – Regulation Mapping

Attachment 5

5. Decision: Recommendation for Approval (and Permit Issuance) or Refusal (and Hearing(s))

The phases listed above take place sequentially and are discussed in detail below.

8.6 Pre-requisite Approvals

CLOCA supports a “planning first” approach to its regulatory mandate, which means that development proposals should be evaluated through up-to-date provincially and municipally approved planning policy and zoning before any implementing regulatory requirements under the Conservation Authorities Act are applied. This ensures that the ‘principle of development’ has been determined through the appropriate planning approval and ensures that requirements under the Conservation Authorities Act are streamlined and focused on natural hazard concerns.

As part of the “Pre-requisite Approvals Phase,” applicants are required to ensure that Planning Act approvals or other agency approvals that establish the ‘principle of development’ or other first-principles associated with a development proposal, are obtained prior to commencing the permit application process with CLOCA

8.7 Pre-submission Consultation or “Pre-consultation”

In order to avoid wasted effort of applicants and staff, prior to the submission of an application for a permit, all applicants shall consult with CLOCA staff. Section 6 of *Ontario Regulation 41/24* sets out the concept of pre-submission consultation and directs that if an applicant requests a pre-submission consultation, CLOCA is required to engage in the pre-submission consultation. The pre-consultation process is intended to:

- determine if an application is required and if the required Planning Act approvals are in place prior to the permit application;
- what information should be submitted with the application (e.g. studies, drawings, etc.) to ensure that fulsome submissions are made that can efficiently lead to complete submissions;
- potentially undertake site visit(s) to verify the presence or absence of features such as valleylands, wetlands and watercourses
- clarify the general process that is required to obtain a permission; and
- identify any concerns that CLOCA may have with the proposed undertaking and to provide a preliminary determination of compliance with the policies contained in the PPD.

The type, scale and location of the proposal will determine the extent and formality of the pre-consultation process. For complex or major applications, applicants should contact CLOCA staff to arrange a formal meeting which could involve a number of internal staff as well as external

Attachment 5

municipal, agency, provincial and federal representatives who may have an interest in the review of the proposed activity. Pre-consultation meetings should also include input on the terms of references for technical requirements to ensure that the matters of interest are sufficiently addressed.

Where proposals also require approval under the *Planning Act*, joint pre-consultation meetings with the relevant municipality will be required. *Planning Act* approvals will be obtained prior to submission of permit applications and integrated with CLOCA technical input to ensure that most, if not all, matters are addressed proactively prior to the implementing permit process under the *Conservation Authorities Act*.

8.8 Complete Application

An application for a permit must be made by a person having an interest in the land (i.e. owner, purchaser with owner's knowledge and permission, or an authorized agent).

If required Planning Act approvals are in place, and the applicant has undertaken the required pre-submission consultation, and paid the required application fee, the application will be provided with the relevant application form for submission. E-stamped received and assigned a file number which can be referred to for processing. Applications will not be stamped received and a file will not be opened if *Planning Act* approvals are not in place and/or if the required application fee does not accompany the application. Applications will also not be received if there are outstanding violations of *Ontario Regulation 42/06* or *Ontario Regulation 41/24* on the subject lands.

At the time a permit application is received, CLOCA staff will determine if the application is considered complete and in accordance with this section and the provisions of Section 7 of *Ontario Regulation 41/24*, the applicant is to be notified in writing within 21 days, whether or not the application complies with the requirements of subsection 7 (1) of the regulation.

To ensure the application may be appropriately assessed, including the technical aspects of a proposal against the tests set out in subsection 28.1 (1) of the *Conservation Authorities Act*, the submission must include the compulsory information listed below. In addition, there are a number of potential technical information requirements that may be needed to assess the application as noted below. The scale, location, and complexity of a proposal and type of feature and or hazard existing typically determines which information items listed below will apply to an application. The level of detail required for studies and reports can vary widely depending on the property and the proposal. In some situations, a single-page letter from a qualified expert will be sufficient, while in other cases a major study will be necessary. CLOCA has prepared a number of best management guidelines to assist in determining the level of scope required for technical reports. In addition, in the absence of a full set of complete application information, it is not possible for staff to determine if an application may be recommended for approval or considered at a Hearing Board in the case of a recommendation for refusal.

Attachment 5

Application Requirements, Including Prescribed Requirements Pursuant to subsection 7(1) of Ontario Regulation 41/24:

- In-force Planning Act approval(s)
- No outstanding violations of *Ontario Regulation 42/06* or *Ontario Regulation 41/24*
- completed application form (applications for large fill sites also require all information under “Schedule A” of the application form)
- application fee
- a description of the works proposed
- appropriate to-scale plans/drawings including a key map and location of works showing the type and location of the proposed development activity or a plan of the area showing plan view and cross-section details of an activity to straighten, change, divert or interfere with the existing channel of a watercourse or change or interfere with a wetland
- the proposed use of any buildings and structures following completion of the development activity or a statement of the purpose of an activity to straighten, change, divert or interfere with the existing channel of a river, creek, stream or watercourse or to change or interfere with a wetland
- the start and completion dates of the development activity or other activity
- a description of the methods to be used in carrying out the activity to straighten, change, divert or interfere with the existing channel of a watercourse or to interfere with a wetland
- the elevations of existing buildings, if any, and grades and the proposed elevations of any buildings and grades after the development activity or other activity
- drainage details before and after the development activity or other activity
- a complete description of any type of fill proposed to be placed or dumped
- a confirmation of authorization for the proposed development activity or other activity given by the owner of the subject property, if the applicant is not the owner
- any **other technical information, studies or plans** that CLOCA staff requests including information requested during pre-submission consultations between the authority and the applicant

Potential Technical Requirements (i.e. Other Technical Information, studies or plans per above and clause 7(1)(i) of *Ontario Regulation 41/24*)

- legal survey
- existing and proposed topographic and/or metric geodetic elevations
- flood line delineation study/hydraulics
- structural elevations and construction details
- architectural plans
- channel crossings assessment
- erosion and sediment control plans
- grading plans
- functional servicing plan
- geotechnical/slope stability study
- headwater drainage feature evaluation
- hydrogeological assessment
- landscaping/site rehabilitation plan
- environmental impact study
- watercourse erosion analysis stream corridor protection study

Attachment 5

- stormwater management study/design drawings
- water balance analysis
- construction access and staging plans
- coastal engineering study
- soil quality report
- other reports/studies identified through staff consultation

Works that involve substantial site *development* should be prepared using the services of professionals. In all cases, it is necessary that the information provided with the application is clear as to the work proposed and is sufficient to allow CLOCA staff to complete a technical review and to make recommendations of approval or refusal.

When proposed *development* is also subject to *Planning Act*. *Planning Act* approvals will be obtained prior to submission of permit applications and integrated with CLOCA technical input so as to ensure that most, if not all, matters are addressed proactively prior to the implementing permit process under the *Conservation Authorities Act*. Information and study requirements will be co-ordinated with the applicable agency/municipality/ministry, if possible. If CLOCA staff are of the opinion that other approvals could result in revisions to description of proposed works/submitted plans/drawings, the application may be deemed incomplete and/or the applicant may be asked to withdraw the application pending the outcome of external or pre-requisite approvals.

8.9 Requests for Review

Pursuant to subsection 8 (1) of *Ontario Regulation 41/24*, an applicant may request a review by the Director of Planning and Regulation if:

- a) the applicant has not received notice from the authority within 21 days in accordance with subsection 7(2);
- b) the applicant disagrees with the authority's determination that the application for a permit is incomplete; or
- c) the applicant is of the view that a request by the authority for other information, studies or plans is not reasonable.

Requests must identify what element is to be reviewed (a, b or c above) and submit the request in writing to planningreview@cloca.com. Requesters should use "Section 8 Review Request" in the subject line.

Pursuant to subsection 8(2) of *Ontario Regulation 41/24*, a review request shall be completed by CLOCA no later than 30 days after it is requested and CLOCA shall, as the case may be,:

- a) confirm that the application meets the requirements of the application requirements of subsection 7(1) of the regulation and is complete or provide reasons why the application is incomplete; or
- b) provide reasons why a request for other information, studies or plans under clause 7(1)(i) of the regulation is reasonable or withdraw the request for all or some of the information, studies or

Attachment 5

plans.

8.10 Application Fees, Fee Reconsiderations and Fee Appeals

In accordance with subsection 21.2(4) of the *Conservation Authorities Act*, CLOCA is responsible for setting and collecting fees. Fees are set out in annual fee schedules approved by the CLOCA Board of Directors, pursuant to subsection 21.2(6) of the *Conservation Authorities Act* (the Act), for the administration and review of applications and must be paid in full at the time of submitting an application or as part of pre-submission consultation, as the case may be.

Pursuant to subsection 21.2(7) of the Act CLOCA's full *Fee Policy* has been adopted by the Board of Directors and may be found at cloca.ca

Note that the following provisions relate only to permit-related application fees and not to fees for planning services:

Pursuant to subsection 21.2 (13) of the Act applicants may request to reconsider a permit-related fee to planningreview@cloca.com. Requesters should use "Section 21.2 Review Request" in the subject line. CLOCA shall make its decision within 30 days after receiving the request.

Pursuant to subsection 21.2 (14) of the Act, if CLOCA does not reconsider a fee within 30 days of receiving a request for reconsideration, the person who made the request may appeal the amount of the fee directly to the Ontario Land Tribunal.

Pursuant to subsection 21.2 (15) of the Act, if, after reconsideration of a fee charged for an application for a permit CLOCA orders a person to pay the fee, the person shall pay the fee in accordance with the order.

Pursuant to subsection 21.2 (16) of the Act, a person who pays a fee under subsection (15) may: (a) when paying the fee, indicate to CLOCA in writing that the fee is being paid under protest; and (b) within 30 days after payment of the fee, appeal the amount charged by CLOCA upon reconsideration to the Ontario Land Tribunal.

The fee schedule is available at cloca.com/planning-permits. The fee for a technical review is triggered when a technical report(s) is required in order to review the application and deem it complete. The technical review fee is based on the number of technical reports submitted by discipline (e.g. an EIS, SWM Report, and geotechnical assessment equals three reports). The technical review fee must be paid at the time of submission of technical reports. Examples of technical reports include:

- environmental impact study
- stormwater management study
- functional servicing plan
- flood line delineation study/hydraulics
- geotechnical/slope stability study
- hydrogeological assessment

Attachment 5

- watercourse erosion analysis
- channel crossings assessment
- stream corridor protection study
- coastal engineering study

CLOCA will undertake a update of the fee schedule annually to ensure that the cost recovery is appropriate and that fee rates are in-line with the prevailing inflation rate.

Permit applications for large fill proposals are also subject to a fee based on the volume of fill to be received. In order to establish the fee, CLOCA staff will confirm the application volumes through the review of pre and post elevation drawings prepared by an OLS and/or by undertaking a site visit to estimate the volume capacity. In accordance with the large fill policy, the permit holder will monitor the fill volume. If it is determined that fill volumes exceed the permitted amount, the applicant will be responsible for submitting the outstanding fee. Once the fill activity has reached half of the permitted volume there will be no refund of fees if the final volumes are less than originally permitted.

A Fees Implementation Guideline for both Regulation and Plan Review fees can be found at cloca.com/planning-permits.

8.11 Processing of Complete Applications

All applications are reviewed to determine if they have the required Planning Act approvals in place as a prerequisite and to ensure that they meet the legislative requirements and tests of both the *Conservation Authorities Act* and *Ontario Regulation 41/24* and, finally, that they conform to the policies set out in this document.

Site visits are typically conducted in order to confirm on-site or nearby features and application information. Site visits can also be used to determine and/or stake the limits of natural features, natural hazards including drip lines of vegetation communities and the physical top-of-bank of valley systems. Further, a site visit may reveal the need for technical studies that were not identified during the determination of a complete application. Boundaries of Provincially Significant Wetlands (PSW) are most often staked by CLOCA staff but will require confirmation by MNR staff once wetland evaluation information has been prepared and submitted to the ministry. Other wetland boundaries may be confirmed by CLOCA staff during the growing season (June-Sept).

In the review of certain technical studies there may be a need for CLOCA to retain external expertise to assist in the review (coastal hazards, soil quality/geotechnical). The cost of such a peer review is borne by the applicant.

When both a *Conservation Authorities Act* Section 28.1 permit application and a *Planning Act*



Attachment 5

application is required, CLOCA staff will coordinate the review to ensure that permit technical matters are addressed through the planning process to the fullest extent possible. This approach streamlines and reduces or eliminates duplication of review by ensuring that most, if not all, matters are addressed proactively prior to the implementing permit process under the *Conservation Authorities Act*. To ensure that permissions are given that reflect final design and plans, prior to issuing a permit for *development* that includes infrastructure works, the applicant is required to provide proof of all required *Planning Act* approvals before a CLOCA permit application will be received.

If an application remains inactive for one year after submission of materials or the issuance of CLOCA comments regarding a submission, CLOCA will consider the application to be abandoned and the file will be closed.

Electricity Act, 1998

Renewable energy projects proposed in areas regulated by CLOCA pursuant to Section 28.1 of the *Conservation Authorities Act*, require permission to ensure the control of flooding, erosion, dynamic beaches or unstable soil or bedrock are adequately addressed.

8.12 Decisions

Upon finishing a review of an application deemed complete, CLOCA staff will either:

- Issue a permit, with or without conditions; or
- Recommend approval, with or without conditions to the Authority Board for a decision; or
- Advise the applicant that the application cannot be supported and refer the application to a CLOCA Hearing Board with a recommendation for refusal.

Permits must be signed by the applicant/owner and the enforcement officer to be valid.

Approval granted by CLOCA under *Ontario Regulation 41/24* shall not be interpreted as eliminating the need to fulfill the requirements of other federal, provincial and municipal bylaws, statutes, regulations and requirements.

Staff Delegated Approvals

Authority appointed regulation officers are delegated the responsibility to:

- Obtain from an applicant, any surveys, studies, engineering models and other information as may be necessary to make a decision on an application and to be able to deem an application complete.
- Approve and issue permits in response to applications that: o comply with the policies of contained within the PPD; o are considered non-complex;

Attachment 5

- o have a maximum period of validity of 24 months or less
- Extend a permit that was granted under the 24 month category.

Examples of delegated non-complex applications within a hazard include:

- cable and pipeline watercourse crossings
- minor stream bank or valley erosion control works
- storm sewer outfalls
- minor bridge/road crossing work or repair
- any emergency repair work
- any permitted development activity in accordance with the policies contained within the PPD

Non-delegated Approvals

The following applications will be referred to the Authority Board for an approval decision prior to issuance:

- applications that can be supported by staff and are considered to be complex

Complex applications are those which are considered to be a significant departure to the applicable policies contained in the PPD. The PPD contains numerical figures. It is the intent that minor deviations (eg 10%) may be permitted and would not be considered a significant policy departure requiring the Board approval.

Applications referred to the Authority Board for approval will be accompanied by a staff report with rationale for support. The applicant will be notified of the Board meeting date and provided a copy of the staff report. If approved by the Authority Board, staff will issue a permit within 5 working days of the decision. Two copies of the permit are sent to the applicant and one copy is retained for CLOCA's reference.

Decision Timelines and Annual Reporting

Decision timelines are legislated pursuant to subsection 28.1(22) of the *Conservation Authorities Act*, which directs that if CLOCA has not provided notice of a decision within 120 days (4 months) of a complete application, an applicant may file an appeal with the Ontario Land Tribunal.

In addition to the legislated timelines, guidance related to service standards for Section 28.1 permit applications are specified in a document from the former Ministry of Natural Resources (MNR) titled *Policies and Procedures for Conservation Authority Plan Review and Permitting Activities* (2010). This guidance addresses administrative matters including determining "complete applications," and decision timelines for "minor" and "major" applications. Following receipt of a complete set of information or "complete application," this policy indicates that conservation authorities should

Attachment 5

aim to render a decision (i.e., complete the review of a complete application) within 30 days for a minor application or 90 days for a major application.

Further to the 2010 provincial guidance, Conservation Ontario created a second document titled *Client Service Standards for Conservation Authority Plan and Permit Review*. This guidance established a second, more aggressive, set of service standards that conservation authorities would strive to meet as a best practice beyond provincial guidance. Under this framework, for applications with complete information, conservation authorities would complete their review and make a decision within 28 days for “major” applications, 21 days for “minor” applications and within 14 days for “routine” applications.

Pursuant to subsection 8.1(1) of *Ontario Regulation 868/21*, CLOCA is required to prepare and publish an annual report that outlines statistics on permits, including reporting on timelines on permit applications, reviews and decision making. This report is published each January at cloca.ca

Refusal Decisions

If, in the opinion of CLOCA staff, an application cannot be supported, the applicant will be advised of options that may be pursued to either bring the application into conformity, withdraw the application or of steps that can be taken to proceed to a formal Hearing before the Authority Board. The hearing process is discussed below at section 2.13.

If the Authority Board disagrees with the recommendation report for approval, the application must be referred to a Board Hearing and notification requirements must be adhered to.

Period of Validity and Extensions

Pursuant to subsection 11(1) of *Ontario Regulation 41/24*, the maximum period of validity of a permit, including any extensions, is 60 months (5 years), however most standard permits will be issued with a 24 month (2 year) period of validity.

Pursuant to subsection 11(2) of *Ontario Regulation 41/24*, if a permit is granted for a period of time less than 60 months, the holder of a permit may, at least 60 days before the expiry of the permit, submit an application to CLOCA for an extension of the permit.

Pursuant to subsection 11(3) of *Ontario Regulation 41/24*, CLOCA may grant an extension of the permit to a total maximum validity period of 60 months (5 years).

Pursuant to subsection 11(4) of *Ontario Regulation 41/24*, if CLOCA refuses a request for a permit extension, CLOCA shall give “notice of intent to refuse” to the holder of the permit indicating that the extension will be refused unless the holder requests a hearing.

Pursuant to subsections 11(5) to (7) of *Ontario Regulation 41/24*, within 15 days of receiving a “notice of intent to refuse” a request for an extension, the holder of the permit may submit a written request for a hearing to CLOCA. CLOCA will then hold a hearing within a reasonable time and shall give the holder at least five (5) days’ notice of the date of the hearing. After holding a hearing, CLOCA may (a) confirm the refusal of the extension or (b) grant an extension for such period of time that it deems appropriate, as long as the total period of validity of the permit does not exceed 60 months (5 years).

Attachment 5

8.13 Amending/Revising Permits

If a proposal is revised after the issuance of a permit but prior to completion of works, the permit may be amended/revised. An application to amend the permission along with any required information and the required fee must be submitted. Amendments can include changes to the proposal and/or changes to the conditions of approval. All revisions to a proposal that are not in keeping with the permission shall require approval from CLOCA. If approved, the permit shall be amended to reflect the revised permission.

For example, if changes are made to drawing to reflect requirements of a municipal building department that change drawings approved by CLOCA under the *Conservation Authorities Act*, then the CLOCA permit will need to be amended/revised.

Typically, such amendments will be addressed by staff without the need for a specific referral to the Authority Board. However, if it is deemed to be a significant revision that results in a new or changed activity that is considered a significant departure from CLOCA policy, the amending application may be referred to the Authority Board with a staff report or the applicant will be required to file a new permit application.

8.14 Hearing

The applicant has the right to a hearing before a CLOCA Hearing Board/Officer when:

- staff is recommending refusal of an application or the CLOCA Board of Directors cannot support a permit application (subsection 28.1(5) of the *Conservation Authorities Act*);
- The applicant objects to the conditions of approval (subsection 28.1(5) of the *Conservation Authorities Act*);
- CLOCA cannot support a request for an extension of a permit (subsection 11(5) of *Ontario Regulation 41/24*); or,
- CLOCA intends to cancel a permit (subsection 28.3(2) of the *Conservation Authorities Act*)

CLOCA staff shall, by personal service or by registered mail, give appropriate written notice of the time and place of the hearing of the application, together with a brief explanation of the nature of the application to: the applicant or their designated agent and will advise the Members of the CLOCA Hearing Board or Officer, as the case may be of an upcoming hearing event.

Upon hearing evidence submitted by the applicant or their designated agent and CLOCA staff in turn submitted in support or rejection of the application or request for extension, the CLOCA Hearing Board or Officer, as the case may be, shall approve (with or without conditions) or refuse the application or request for extension. Upon refusal of the application or if permission is granted subject to conditions, the CLOCA Hearing Board or Officer, as the case may be, shall give written response to the applicant, including reasons, for its decision pursuant to subsection 28.1 (7) of the *Conservation Authorities Act*.

Attachment 5

Detailed Hearing Procedures are included in Appendix B of the PPD.

8.15 Request for Minister's Review

Pursuant to subsection 28.1(8) of the *Conservation Authorities Act*, if, after a hearing by the CLOCA Hearing Board or Officer, as the case may be, and a permit is refused or there are conditions on a permit to which the applicant objects, the applicant may, within 15 days of receiving reasons for the refusal, submit a request to the Minister responsible for the *Conservation Authorities Act* (currently the Minister of Natural Resources and Forestry) to review the decision. Subsections 28.1(9) to (19) of the *Conservation Authorities Act* set out the further process for a Minister's Review once a request has been made.

8.16 Cancellation of Permits and Cancellation Appeals

Subsection 28.3(1) of the *Conservation Authorities Act* provides that CLOCA may, at any time, cancel a permit if it is of the opinion that the conditions of the permit have not been met.

Pursuant to Subsections 28.3(2) to (6) of the *Conservation Authorities Act*, before cancelling a permit, CLOCA staff shall give "notice of intent to cancel a permit" to the holder of the permit indicating that the permission will be cancelled on a date specified unless the holder requests a Hearing by submitting a written request to CLOCA within 15 days of receiving a "notice of intent to cancel a permit." CLOCA will then set a date and hold a Hearing by the CLOCA Hearing Board or Officer, as the case may be. After a Hearing, a decision may be made to confirm, rescind or vary the decision to cancel a permit. If the permit holder objects to the decision/order of the CLOCA Hearing Board or Officer, as the case may be, an appeal the decision to the Ontario Land Tribunal.

8.17 Appeals

An applicant who has been refused permit or is not in agreement with conditions of an approval may, within thirty (30) days of the receipt of the reasons for the decision, submit a request to the Minister of Natural Resources and Forestry as discussed above at Section 2.14 in this document.

Pursuant to subsection 28.1(20) of the *Conservation Authorities Act*, within 90 days after receiving the reasons of decision to refuse a permit from the CLOCA Hearing Board or Officer, as the case may be, the applicant may appeal the decision to the Ontario Land Tribunal except in instances where a request for Minister's review has been made (see subsection 28.1(21) of the *Conservation Authorities Act*).

Finally, pursuant to subsection 28.1(22) of the *Conservation Authorities Act*, an applicant may

Attachment 5

appeal an application directly to the Ontario Land Tribunal if no decision has been made 120 days (4 months) after a complete application is made.

The Minister may refuse the permit or may order CLOCA to issue the permit, with or without conditions.

8.18 Enforcement

Enforcement is an important component of CLOCA's mandate to ensure the integrity of the legislation and the protection of the environment, people and property in relation to flooding and erosion natural hazards.. Pursuant to section 30.1 of the *Conservation Authorities Act*, CLOCA has appointed Officers for the purpose of ensuring compliance with the Act and the regulations. These officers have the responsibility of liaising with applicants and inspecting properties. Responsibilities also include investigating and monitoring violation situations as well as undertaking all other enforcement work under the Act and *Ontario Regulation 41/24*. Regulation officers carry identification for inspection purposes.

Whenever necessary, each permit issued by CLOCA should be inspected by CLOCA staff prior to commencement of the activity, during the *development* activity and at a minimum at least once following completion of the *development*.

8.19 Violations

A violation of *Ontario Regulation 41/24* generally occurs in two ways:

- i. when *development* or interference activities have taken place in an area regulated by the CLOCA pursuant to *Ontario Regulation 41/24* without written approval;
- ii. when *development* or interference activities have been undertaken contrary to the conditions stipulated in a permit issued by the CLOCA.

CLOCA enforcement staff, in coordination with municipal building and/or by-law enforcement staff, may carry out an initial investigation where the activity is clearly visible from a public road or property where access to private property is not required or permitted. Photographs and field notes of the activity taking place are taken and landowner contact is initiated. If the activity is not clearly visible from a public location, CLOCA staff will attempt to contact the landowner to arrange a site visit to discuss the matter. Subsequent to this, a determination regarding whether or not an offence has occurred is made and the appropriate action is taken.

Part VII of the *Conservation Authorities Act*, sets out enforcement powers and offences including provisions related to appointment of officers, entry without warrant, searches, stop work orders, offences, a limitation period and rehabilitation orders.

The provisions of the *Conservation Authorities Act* and the *Provincial Offences Act* direct CLOCA staff when investigating a violation. It is normal that in addition to any penalty levied by the court upon conviction, CLOCA will seek an order for rehabilitation of the site and/or removal of any

Attachment 5

buildings and/or structures ruled in contravention of Ontario Regulation 41/24.

8.20 Court Action

Penalties available to a Court under the *Conservation Authorities Act* are identified under subsection 30.5(2), which states that a person who commits an offence under the *Conservation Authorities Act* is liable on conviction, (a) in the case of an individual, (i) to a fine of not more than \$50,000 or to a term of imprisonment of not more than three months, or to both, and (ii) to an additional fine of not more than \$10,000 for each day or part of a day on which the offence occurs or continues; and (b) in the case of a corporation, (i) to a fine of not more than \$1,000,000, and (ii) to an additional fine of not more than \$200,000 for each day or part of a day on which the offence occurs or continues.

Despite the maximum fines contained in subsection 30.5(2) of the Act, pursuant to subsection 30.5(3) a court that convicts a person of certain offences under the Act may increase the fine it imposes on the person by an amount “equal to the amount of the monetary benefit that was acquired by the person, or that accrued to the person, as a result of the commission of the offence.”

8.21 Transition Provisions

Unless specifically referenced otherwise, the policies and procedures contained in this document will apply to in process applications and decisions on all permit applications as of **April 1, 2024**, which is the date several provisions of the *Conservation Authorities Act* and *Ontario Regulation 41/24* come into force.

It is recognized that there may be historic planning approvals that were made in the absence of current technical information or approvals that pre-date the approval of this Policy and Procedural Document which could now be considered to be contrary to the requirements of the *Conservation Authorities Act* and *Ontario Regulation 41/24*. Under such circumstances, CLOCA shall ensure that prior to the issuance of a permission all tests are satisfied. Where possible, if an issue remains unresolved, the CA will work with the proponent and the municipality to pursue a resolution.

Attachment 5

APPENDIX A - DEFINITIONS:

Accessory building or structure - a use of a building or structure that is subordinate and exclusively devoted to a main use, building or structure and located on the same lot.

Adverse hydraulic and fluvial impacts – any increase in flood elevation or impedance of flood and ice flows and/or an increase in the risk of flooding and erosion on adjacent upstream and/or downstream properties.\

Anthropogenic – adverse human impact.

Aquifer - an underground layer of water-bearing permeable rock or unconsolidated materials (gravel, sand, silt or clay).

Areas of interference – 30 metres surrounding a wetland (other areas) where development could interfere with the hydrologic function of a wetland.

Backwater area - a section of watercourse with a water surface elevation that is increased above the normal because of a downstream human-made obstruction such as a narrow bridge opening or culvert that restricts natural water flow.

Best management practices (BMPs) - methods, facilities and structures which are designed to protect or improve the environment and natural features and functions from the effects of development or interference.

Buffers - an area or band of permanent vegetation, preferably consisting of native species, located adjacent to a natural heritage feature and usually bordering lands that are subject to development or site alteration. The purpose of the buffer is to protect the feature and its function(s) by mitigating the impacts of the proposed land use and allowing an area for edge phenomena to continue. A buffer may also provide an area for recreational trails and a physical separation for new development that will discourage encroachment (adapted from Ontario Ministry of Natural Resources' Natural Heritage Reference Manual, 2nd Edition, 2010). The vegetation within a buffer can be managed (e.g. trimmed, cut, thinned, but not cultivated) providing that the integrity of the buffer remains intact.

Confined River or Stream System - a watercourse located within a valley corridor, either with or without a floodplain, and is confined by valley walls. The watercourse may be located at the toe of the valley slope, in close proximity to the toe of the valley slope (less than 15 m) or removed from the toe of the valley slope (more than 15 m). The watercourse can contain perennial, intermittent or ephemeral flows and may range in channel configuration, from seepage and natural springs to detectable channels.

Development Activity - as defined by *Ontario Regulation 41/24*:

Attachment 5

- The construction, reconstruction, erection or placing of a building or structure of any kind;
- Any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure;
- Site grading; or,
- The temporary or permanent placing, dumping or removal of material, originating on the site or elsewhere.

Development - as defined by the Provincial Policy Statement means the creation of a new lot, a change in land use, or the construction of buildings or structures, requiring approval under the Planning Act, but does not include:

- Activities that create or maintain infrastructure authorized under an environmental assessment process;
- Works subject to the Drainage Act; or,
- Underground or surface mining or minerals or advanced exploration on mining lands in significant areas of mineral potential in ecoregion 5e, where advanced exploration has the same meaning as under the Mining Act.

Dug-out or isolated ponds - anthropogenic waterbodies that are created by excavating basins with no inlet or outlet channels and in which surface and ground water collect.

Dwelling unit - a suite operated as a housekeeping unit, used or intended to be used as a domicile by one or more persons and usually containing cooking, eating, living, sleeping and sanitary facilities.

Enclosure - a pipe or other conduit for carrying a creek, stream or watercourse underground.

Engineering principles - current coastal, hydraulic and geotechnical engineering principles, methods and procedures that would be judged by a peer group of qualified engineers (by virtue of their qualifications, training and experience), as being reasonable for the scale and type of project being considered, the sensitivity of the locations, and the potential threats to life and property.

Enhance - in the context of wetlands and wetland buffers, means the altering of an existing functional wetland to increase or improve selected functions and benefits.

Attachment 5

Environmental impact study - a report prepared to address the potential impacts of development or interference on natural features and ecological functions.

Erosion access allowance - a 6 metre development setback applied to the stable slope allowance/top of stable slope/meander belt allowance and forming part of the erosion hazard for confined (apparent) and unconfined (not apparent) river or stream systems. The erosion access allowance is applied to provide for emergency access to erosion prone areas, provide for construction access for regular maintenance and access to the site in the event of an erosion event or failure of a structure, and, provide for protection against unforeseen or predicted external conditions which could have an adverse effect on the natural conditions or processes acting on or within an erosion prone area.

Existing use - the type of activity associated with an existing building or structure or site on the date of a permit application.

Habitable - that portion of a building or structure containing rooms or spaces required and intended for overnight occupancy and associated living space and includes those portions which contain facilities for storage, heating, air-conditioning, electrical, hot water supplies, etc., which are necessary to maintain the habitable condition.

Hazardous lands - as defined by the Conservation Authorities Act, means land that could be unsafe for development because of naturally-occurring processes associated with flooding, erosion, dynamic beaches, or unstable soil or bedrock.

Hazardous lands - as defined by the Provincial Policy Statement, means property or lands that could be unsafe for development due to naturally occurring processes. Along the shorelines of the great lakes - St. Lawrence River system, this means the land, including that covered by water, between the international boundary, where applicable, and the furthest landward limit of the flooding hazard, erosion hazard or dynamic beach hazard limits. Along the shorelines of large inland lakes, this means the land, including that covered by water, between a defined offshore distance or depth and the furthest landward limit of the flooding hazard, erosion hazard or dynamic beach hazard limits. Along river, stream and small inland lake systems, this means the land, including that covered by water, to the furthest landward limit of the flooding hazard or erosion hazard limits.

Hazardous sites - as defined by the Provincial Policy Statement, means property or lands that could be unsafe for development and site alteration due to naturally occurring hazards. These may include unstable soils (sensitive marine clays (leda), organic soils) or unstable bedrock (karst topography).

Existing Vacant Lot of Record – A parcel or tract of land described in a deed or other legal document that is capable of being legally conveyed, containing no preexisting buildings or structures.

Attachment 5

Material - includes earth, sand, gravel, stone or woody debris (e.g., root wads, fascines).

Meander belt allowance - a limit for development within the areas where the river system is likely to shift. It is based on twenty (20) times the bankfull channel width where the bankfull channel width is measured at the widest riffle section of the reach. A riffle is a section of shallow rapids where the water surface is broken by small waves. The meander belt is centred over a meander belt axis that connects the riffle section of the stream.

Minor addition - a minor addition definition should not exceed provincial guidelines of 50% of the total floor area for riverine and shoreline flood hazards or 30% for riverine and shoreline erosion hazards and shall not result in an increase in the number of dwelling units. Once the total floor area maximum has been reached no further additions shall be permitted. Only the habitable floor space shall be considered when determining the existing floor space. Minor additions include both ground and above ground additions. All minor additions approved from January 1, 1988 shall count to allowable maximum habitable floor area.

One hundred year flood event (100-year flood) - rainfall or snowmelt, or a combination of rainfall and snowmelt, producing at any location in a river, creek, stream or watercourse a peak flow that has a probability of occurrence of one per cent during any given year.

One hundred year erosion rate - the predicted lateral movement of a river, creek, stream or watercourse or inland lake over a period of one hundred years.

Other water-related hazards - water-associated phenomena other than flooding hazards and wave uprush which act on shorelines. This includes, but is not limited to ship-generated waves, ice piling and ice jamming.

Protect - in the context of wetlands, means the preservation of wetlands in perpetuity through implementation of appropriate physical and/or legal mechanisms (e.g. ecological buffers, development buffers, zoning, fencing, conservation easements, etc.).

Reconstruction - the removal of an existing building or structure and the construction of a new building or structure. Reconstruction does not include reconstruction on remnant foundations or derelict or abandoned buildings or structures.

River - a large natural stream of water emptying into an ocean, lake, or other body of water and usually fed along its course by converging tributaries.

Riparian vegetation - the plant communities in the riparian zone, typically characterized by hydrophilic plants.

Stream - a flow of water in a channel or bed, as a brook, rivulet, or small river.

Toe of slope - the lowest point on a slope, where the surface gradient changes from relatively shallow to relatively steep.

Attachment 5

Top of slope - the point of the slope where the downward inclination of the land begins, or the upward inclination of the land levels off. This point is situated at a higher topographic elevation of land than the remainder of the slope.

Valley or valleyland - land that has depressional features associated with a river or stream, whether or not it contains a river or stream system.

Watercourse - a defined channel, having a bed and banks or sides, in which a flow of water regularly or continuously occurs.

Wave uprush - the rush of water up onto a shoreline or structure following the breaking of a wave; the limit of wave uprush is the point of furthest landward rush of water onto the shoreline.

Wetland - as defined by the *Ontario Regulation 41/24*, means land that:

- a. is seasonally or permanently covered by shallow water or has a water table close to or at its surface;
- b. directly contributes to the hydrological function of a watershed through connection with a surface watercourse;
- c. has hydric soils, the formation of which has been caused by the presence of abundant water; and,
- d. has vegetation dominated by hydrophytic plants or water tolerant plants, the dominance of which has been favoured by the presence of abundant water,

but does not include periodically soaked or wet land that is used for agricultural purposes and no longer exhibits a wetland characteristic referred to in clause (c) or (d).

Wetland - as defined by the Provincial Policy Statement, means lands that are seasonally or permanently covered by shallow water, as well as lands where the water table is close to or at the surface. In either case the presence of abundant water has caused the formation of hydric soils and has favoured the dominance of either hydrophytic plants or water tolerant plants. The four major types of wetlands are swamps, marshes, bogs and fens.

Attachment 5

APPENDIX B: CLOCA HEARING BOARD AND CLOCA HEARING OFFICER PROCEDURES

This appendix will follow at a later date.

REPORT

CENTRAL LAKE ONTARIO CONSERVATION AUTHORITY


DATE: March 19, 2024

FILE: HAQS3

S.R.: 5871-24

TO: Chair and Members, CLOCA Board of Directors

FROM: Jamie Davidson, Director, Watershed Planning and Natural Heritage
Michael Grieves, Wetland Biologist

APPROVED BY C.A.O. 

SUBJECT: Lynde Creek Watershed Stream Habitat Assessment, Enhancement and Restoration Project

Purpose

In the summer of 2022, CLOCA began to assess the viability of establishing a regular and cost-effective stream assessment and restoration program and took a significant step forward in 2023 with the launch of a pilot specifically targeting streams situated within our conservation areas. The pilot project involved two phases: a stream assessment aimed at identifying and prioritizing restoration opportunities, followed by the testing of various restoration techniques on priority sites. By the end of the summer, CLOCA had successfully surveyed 19 kilometers of stream habitat within its conservation areas and restored 160 meters of in-stream habitat. This initiative established collaborative partnerships with organizations such as the Department of Fisheries and Oceans (DFO), Ontario Streams, Miller Compost, and the City of Oshawa. The success of this pilot project also encouraged CLOCA to seek out external funding that would allow important work to continue. CLOCA recently received notice that it was successful in securing \$333,000 of Federal funding over the next three years through DFO's Canadian Nature Fund for Aquatic Species at Risk. This funding is focused on the restoration of critical habitat for Redside Dace and American Eel in Lynde Creek, emphasizing CLOCA's commitment to the ecological health of aquatic environments and the conservation of species at risk, which both contribute to achieving overall watershed health.

Project Development and Strategic Alignment

Since the late 1990s, CLOCA has been monitoring the condition of streams across its jurisdiction, amassing a robust and extensive dataset on abiotic and biotic components of stream environments. This comprehensive dataset serves as a valuable resource, offering insights into the long-term trends in stream health and providing a catalog of species that currently inhabit or have historically resided within these watersheds. Over the years, careful observations of these trends have highlighted the pressing need for a proactive approach in addressing the unhealthy conditions observed in some streams. Recognizing the importance of preventative measures, a stream assessment and restoration program has been deemed essential not only to identify and rehabilitate impaired sections, but also to protect healthier segments from potential deterioration. In the context of a changing climate, there is an emerging need to foster climate change resilience in aquatic environments. The incorporation of restoration techniques that specifically target building resiliency becomes crucial in mitigating the potential impacts of climate change on these vital ecosystems. By integrating these practices into its restoration work, CLOCA is not only addressing current environmental challenges but also future proofing these aquatic habitats against the uncertainties posed by a rapidly changing climate. This holistic and forward-thinking approach underscores the commitment to ensuring the sustained health and resilience of streams within the jurisdiction.

The development of programs dedicated to enhancing climate change resilience in aquatic environments is a key strategic objective outlined in the Durham Community Climate Adaptation Plan. Specifically, actions associated with this objective concentrate on the restoration of in-stream and riparian habitats, recognizing the pivotal role these ecosystems play in climate adaptation.

The restoration work undertaken within this project not only contribute significantly to the outlined climate adaptation goals within the Durham Community Climate Adaptation Plan but also directly align with the broader objectives set forth in CLOCAs Strategic and Watershed Plans. These overarching plans emphasize fostering climate change adaptation and resilience, and supporting restoration in both stream and riparian habitats.

Stream Restoration Program Overview

The stream assessment and restoration project will unfold in two distinct phases. A comprehensive streamside survey will first be conducted to identify and prioritize restoration opportunities within the stream environment. This detailed assessment will serve as the foundation for informed decision-making in the subsequent phase. The second phase of the project will focus on the implementation of stream and riparian restoration efforts, targeting priority sites highlighted during the initial survey. Stream restoration techniques will focus on implementing a low-tech process-based restoration strategy. This is a cost-effective approach that utilizes simple, hand-built natural structures designed to mimic natural functions that reactivate essential stream processes. This hands-on approach will utilize locally sourced woody materials and repurposed holiday trees in the construction of ecologically beneficial structures, such as Post Assisted Log Structures (PALS), Beaver Dam Analogs (BDAs), and brush bundles. The primary goal of the stream assessment and restoration project is to cultivate healthy riverscapes, with a specific focus on restoring both abiotic and biotic conditions within the stream and riparian environments. By adopting this holistic approach, the project aims to not only enhance the physical attributes of the streams but also foster the restoration of diverse ecological communities.

The goal of low-tech process-based restoration is to promote natural stream processes and functions, equipping the streams with the necessary tools (structures) to initiate its own healing. This approach fosters the restoration of healthy riverscapes and builds resilience to climate change and other disturbances. This restoration techniques adheres to several key principles:

- **Streams Need Space:**

Healthy streams are dynamic, they need space to adjust and interact with their floodplains.

- **Structure Forces Complexity:**

Building structures, such as Post Assisted Log Structures (PALS) and Beaver Dam Analogs (BDAs) creates physical diversity, creating covered habitats and altering flow patterns that form pools, eddies and undercuts. Diverse habitats are more resilient to climate change and other disturbances than homogeneous ones.

- **The Importance of Structures Varies:**

- Tailoring the approach and abundance of structures to specific stream types, flow regimes, and watershed contexts ensures realistic expectations and effective restoration.

- **Inefficient Conveyance of Water is Healthy:**

Inefficiency in the hydrologic regime is a crucial component to healthy systems. Reducing residence times for water in streams can attenuate floods, replenish groundwater, and increase baseflow conditions.

- **It's Okay to Be Messy:**

The structures built in streams are intended to mimic and promote the natural accumulation of wood and beaver dam activity. These structures do not have to be perfect to achieve healthy riverscapes, less focus should be placed on form, and more on the processes that will be promoted through their construction.

- **Strength in Numbers:**

A multitude of smaller structures in a complex setting has a more significant impact on promoting wood accumulation and beaver dam activity than a few isolated, larger structures. Building these complexes leads to desired outcomes and reduces the importance of any one structure.

- **Use Natural Building Materials:**

Constructing structures with locally sourced natural materials supports the intended imitation of natural processes and ensures sustainability.

- **Let the System Do the Work:**

Providing the tools (structures) to promote natural processes in streams allows riverscapes to heal using stream power and ecosystem engineering. This increase efficiency and allows restoration to scale of the scope of degradation.

- **Defer Decision Making to the Systems:**

When possible, allow the system to dictate design decisions using the provided tools and space.

- **Self-Sustaining Systems are the Solution:**

The aim of low-tech restoration techniques is to initiate processes that guide systems towards the ultimate goals of self-sufficiency and resilient riverscapes.

Conclusion

The recent funding announcement of \$333,000 through the Federal Canadian Nature Fund for Aquatic Species at Risk will allow CLOCA to continue with the development of the stream assessment and restoration project through 2024-2026, with a focus on the Lynde Creek Watershed. Using low-tech process-based restoration techniques, the project will assess and rehabilitate degraded stream ecosystems, protect existing healthy streams from deterioration, and build climate change resilience in riverscapes. The work completed within this project will contribute to the goals and objectives outlined in Durham Region's Durham Community Climate Adaptation Plan and CLOCA's watershed plans and strategic initiatives. Staff will provide the Board of Directors with future status reports on the project, showcase before and after project examples, and assess the success of restoration efforts using post-restoration monitoring results.


RECOMMENDATION:

THAT Staff Report #5871-24 be received for information.

REPORT

CENTRAL LAKE ONTARIO CONSERVATION AUTHORITY

DATE: March 19, 2024
FILE: PSSE92
S.R.: 5872-24
TO: Chair and Members, CLOCA Board of Directors
FROM: Jamie Davidson, Director, Watershed Planning and Natural Heritage
SUBJECT: **Proposed Regulatory changes under the Ontario Endangered Species Act to improve implementation of the species at risk program in Ontario (ERO#019-8016)**

APPROVED BY C.A.O. 

Purpose:

This report provides an overview of a recent proposal by the Ontario Ministry of the Environment, Conservation and Parks (MECP) under the provincial Endangered Species Act and focuses on the proposed changes as they relate to Redside Dace. The proposal is posted on the Environmental Registry of Ontario and the consultation period closed on February 20th. CLOCA staff-level submitted comments within the required period in response to this proposal.

Background:

As outlined in the Five-Year Review of Progress Towards the Protection and Recovery of Ontario's Species at Risk (Province of Ontario, 2015), the Redside Dace is classified as endangered under the Endangered Species Act, 2007 (ESA). Prior to its transition to the ESA, Redside Dace was listed as threatened. It was reassessed by COSSARO as endangered, and its status was updated on the Species at Risk List in 2009. The species has been protected from being killed, harmed, harassed, captured or taken since 2008, and its habitat has been protected from damage or destruction since 2009.

Proposal Overview:

1. MECP consulted on "Regulatory changes under the Endangered Species Act to improve implementation of the species at risk program" (ERO#019-8016). The MECP proposal focuses on four key areas; however, this staff report focuses specifically on **Key Area No. 1: Regulatory amendments regarding habitat protections for Redside Dace.**

Key Area No. 1 proposes to:

- *amend O. Reg. 832/21 to shorten the timeframe from 20 to 10 years such that any part of a stream or other watercourse that was used by Redside Dace at any time during the previous 10 years would be considered to be 'occupied' habitat under the regulation*
- *amend the habitat regulation to change how 'recovery' habitat is determined under subparagraph 2 i so that recovery habitat is focused on:*
 - *streams or other watercourses directly adjacent to occupied habitat and¹*

¹ current legislation does not require recovery habitat to be adjacent to occupied habitat, so this proposal suggests that recovery habitat can not exist without occupied habitat being present.
 - *areas that are currently suitable for Redside Dace to carry out its life processes²*

² current legislation refers to "areas that would support Redside Dace...", versus the proposed language of "areas that are currently suitable for Redside Dace..."

CLOCA Staff Comments on the Proposal:

Background

Within the CLOCA jurisdiction, Redside Dace have been found in the Lynde Creek watershed, including Heber Down Conservation Area. CLOCA has a long history related to the conservation of Redside Dace dating back to 1984.

During this time, CLOCA has been involved with monitoring, habitat restoration, watershed and fisheries management planning, communication, and outreach, etc. related to this species. Significant habitat restoration works were completed on behalf of the Ontario government within Heber Down Conservation Area in 2021 as part of Overall Benefit requirements of Highway 407 East Phase 1. Most recently, CLOCA collaborated with the Ontario government and First Nation peoples to conduct e-DNA sampling within the Lynde Creek watershed. CLOCA was a member of the Recovery Team that prepared the Provincial 2010 Recovery Strategy for Redside Dace (*Clinostomus elongatus*) in Ontario. The Recovery Strategy provides the Ontario government (among others) with a framework for action. CLOCA continues to be a member of the Redside Dace Recovery Implementation Team.

Comments

Recovery efforts related to Redside Dace within the Lynde Creek watershed and Heber Down Conservation Area supports CLOCA's Strategic Plan, including:

- Vision - "*Healthy watersheds for today and tomorrow*"
- Mission - "*Advancing integrated watershed health through engagement, science and conservation*".

Specifically aligns with our core values, namely No. 1 compass direction:

- Conservation - "*We are committed to protecting, preserving, and enhancing the watershed in all our actions. We are conservation advocates, land stewards and trusted advisors, promoting science-based watershed management and working with others to improve watershed health and public safety.*"

Goal 3 "*Remain dedicated to the protection, management, and safety of Conservation Areas*"

- Key Objectives
 - "*Enhance ecological integrity of Conservation Areas*"

The proposed amendments to Redside Dace legislation are not consistent with nor support CLOCA's Strategic Plan; they do not align with the Province's commitment to establish complementary legislation and programs that provide for the protection of species at risk throughout Canada under the Accord for the Protection of Species at Risk (1996) as agreed to by the federal, provincial, and territorial government; and they compromise the collective journey to reconciliation by not honouring written and oral promises and agreements.

CLOCA staff are not supportive of the proposed amendments to the regulations under the ESA as they relate to Redside Dace. The proposal is not consistent with the governments committed recovery efforts to *protect and recover Ontario's species at risk* and therefore will not *deliver ESA protections where they are needed most*. Due to commenting deadlines, staff outlined these concerns with the proposed amendments in a staff-level comment letter that was submitted to the ERO on February 20th (attached) just before the comment period was closed. These staff-level comments can be updated and resubmitted pending the outcome of direction from the Board of Directors.

In brief, CLOCA staff comments included the recommendation to:

- strike out the proposed **Key Area No. 1 - Regulatory amendments regarding habitat protections for Redside Dace**, which proposes to amend *O. Reg. 832/21*. The amendments specifically propose to:
 - *amend O. Reg. 832/21 to shorten the timeframe from 20 to 10 years such that any part of a stream or other watercourse that was used by Redside Dace at any time during the previous 10 years would be considered to be 'occupied' habitat under the regulation*
 - *amend the habitat regulation to change how 'recovery' habitat is determined under subparagraph 2 i so that recovery habitat is focused on:*
 - *streams or other watercourses directly adjacent to occupied habitat and*
 - *areas that are currently suitable for Redside Dace to carry out its life processes.*

Conclusion:

It is the opinion of staff that the regulatory amendments proposed by the Ontario Government to *O. Reg. 832/21*, in particular those changes related to ***Key Area No. 1 - Regulatory amendments regarding habitat protections for Redside Dace*** will weaken the existing important protections provided to Redside Dace populations, to Redside Dace habitat, and to the recovery of this species. Furthermore, the proposed changes will likely weaken CLOCA and its partners' ability to secure grant funding for habitat restoration for Redside Dace.

RECOMMENDATION:

THAT the Board of Directors endorse the attached staff-level comments.

Attach.



Healthy watersheds for
today and tomorrow.

February 20, 2024

Hon. Andrea Khanjin (minister.mecp@ontario.ca)
Minister of Environment, Conservation and Parks
College Park, 5th Floor
777 Bay Street
Toronto, ON
M7A 2J3

Species at Risk Protection Policy Section (ESAREg@ontario.ca)
300 Water Street
5th Floor, North Tower
Peterborough, ON
K9J 3C7

RE: Regulatory changes under the Endangered Species Act to improve implementation of the species at risk program ERO# 019-8016

Dear Minister Khanjin and the Public Input Coordinator,

The Central Lake Ontario Conservation Authority (CLOCA) has a long history related to the conservation of Redside Dace dating back to 1984. During this time, CLOCA has been involved with monitoring, habitat restoration, watershed and fisheries management planning, communication, and outreach, etc.

CLOCA was a member of the Recovery Team that prepared the 2010 Recovery Strategy for Redside Dace (*Clinostomus elongatus*) in Ontario. CLOCA continues to be a member of the Redside Dace Recovery Implementation Team.

The Central Lake Ontario Conservation Authority reviewed the proposed amendments under **ERO# 019-8016 *Regulatory changes under the Endangered Species Act to improve implementation of the species at risk program***. The proposed regulation changes, which will remove habitat protection for Redside Dace in the Lynde Creek watershed, is not consistent with the goal of the Ontario Government Response Statement to the Redside Dace Recovery Strategy.

Further, the proposed regulation changes don't support overall recommendations provided by the Office of the Auditor General of Ontario to *improve the state of these species and their habitats*.

2023 Annual Follow-Up on Value-for-Money Audits (Office of the Auditor General of Ontario)

"Our audit found that the Ministry was failing in its mandate to protect species at risk. Its actions had not been sufficient to improve the state of these species and their habitats. The Ministry did not have a long-term plan to improve the state of species at risk and there were no performance measures to evaluate the effectiveness of the species at risk program. Additionally, some species at risk may not be protected in the future, as the Act's

classification criteria for species at risk was changed in 2019 and is now inconsistent with how species are assessed in other provinces across Canada.”

The proposed amendments to the Redside Dace regulations under the ESA, do not support the commitment to establish complementary legislation and programs that provide for the protection of species at risk throughout Canada under the Accord for the Protection of Species at Risk (1996) as agreed to by the federal, provincial, and territorial government. Some of the recognized statements included:

- governments have a leadership role in providing sound information and appropriate measures for the conservation and protection of species at risk, and the effective involvement of all Canadians is essential;
- species conservation initiatives will be met through complementary federal and provincial/territorial legislation, regulations, policies, and programs;

Some of the agreements included:

- Establish complementary legislation and programs that provide for effective protection of species at risk throughout Canada, and that will:
 - Provide protection for the habitat of threatened or endangered species.

Species at Risk recovery efforts form an important part of the Central Lake Ontario Conservation Authority’s commitment to reconciliation. CLOCA continues on a path to learn through ongoing Indigenous corporate education and collaboration. The proposed amendments to the Redside Dace regulations under the ESA, compromises the collective journey to reconciliation by not honouring written and oral promises and agreements.

In summary, it is our position that the proposed amendments to the regulations under the ESA are not consistent with the governments committed recovery efforts to *protect and recover Ontario’s species at risk* and therefore will not *deliver ESA protections where they are needed most*.

The Central Lake Ontario Conservation Authority respectfully request the Government of Ontario to:

- **Strike-out key area No. 1. - Regulatory amendments regarding habitat protections for Redside Dace**, which proposes to amend *O. Reg. 832/21*. The amendments specifically propose to:
 - amend *O. Reg. 832/21* to shorten the timeframe from 20 to 10 years such that any part of a stream or other watercourse that was used by Redside Dace at any time during the previous 10 years would be considered to be ‘occupied’ habitat under the regulation
 - amend the habitat regulation to change how ‘recovery’ habitat is determined under subparagraph 2 i so that recovery habitat is focused on:
 - streams or other watercourses directly adjacent to occupied habitat and
 - areas that are currently suitable for Redside Dace to carry out its life processes

Sincerely,



Ian Kelsey
Aquatic Ecologist
Central Lake Ontario Conservation Authority

REPORT

CENTRAL LAKE ONTARIO CONSERVATION AUTHORITY

DATE: March 19, 2024


FILE: PSSE92

S.R.: 5873-24

TO: Chair and Members, CLOCA Board of Directors

FROM: Jamie Davidson, Director, Watershed Planning and Natural Heritage

SUBJECT: **Proposed Federal Recovery Strategy and Action Plan for the Redside Dace (*Clinostomus elongatus*) in Canada**

APPROVED BY C.A.O. 

Purpose:

This report provides an overview of a recent proposal put forward by the Federal Department of Fisheries and Oceans (DFO) under the Federal Species at Risk Act (SARA). The proposal introduces a draft Recovery Strategy and Action Plan for the Redside Dace (*Clinostomus elongatus*) in Canada. The proposal is posted on the Species at Risk Public Registry and the consultation period closed on March 4th. CLOCA staff submitted staff-level comments within the required comment period in response to this proposal.

Background:

Redside Dace (*Clinostomus elongatus*) was assessed by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) in 2007 and again in 2017, and was listed as endangered under the Species at Risk Act (SARA) in 2017. Under this Act, the federal government must prepare a recovery strategy and an action plan in response to a species being listed as endangered within a specified period of time. Critical habitat for this species has been identified within the CLOCA jurisdiction in the Lynde Creek watershed.

Proposal Overview:

DFO recently consulted on the "Recovery Strategy and Action Plan for the Redside Dace (*Clinostomus elongatus*) in Canada". This draft document combines both a Recovery Strategy and an Action Plan. A recovery strategy identifies the objectives that are needed to recover a species, while an action plan sets out the detailed actions required to support the recovery.

Based on a scientific recovery feasibility assessment, it is believed DFO that the recovery of the Redside Dace is both biologically and technically feasible.

A significant part of the action plan involves identifying **Critical Habitat**, specifically:

"This recovery strategy and action plan identifies the features of critical habitat for Redside Dace as run, riffle, or pool areas in stream reaches with slow to moderate flow for juveniles and slow to fast flow for adults, within the entire bankfull channel width.

Additional features of critical habitat include the meander belt width, the riparian vegetation within it, and associated 30 m of vegetated area extending from the meander belt width. The exception to this is for critical habitat identified within municipal drains (as classified under Ontario's Drainage Act) that have been previously channelized. In these cases, critical habitat includes the entire bankfull channel stream width, as well as 30 m of riparian vegetation on each side of the bankfull channel. (meander belt is not included).

*The areas within which critical habitat can be found include the watersheds of Two Tree River, Saugeen River, Gully Creek, Unknown Stan J, Irvine Creek, Spencer Creek, Bronte Creek, Fourteen Mile Creek, Sixteen Mile Creek, Credit River, Humber River, Don River, Rouge River, Duffins Creek, Carruthers Creek, **Lynde Creek**, and the Holland River.*

Note that anthropogenic structures within the delineated areas that may be present within the riparian habitat are specifically excluded."

It should be noted that this Federally proposed definition of critical habitat for Redside Dace is complimentary to, and aligns very closely with the current definitions in Ontario regulations related to Redside Dace protection (*O. Reg. 832/21*.) As described in staff report (#5872-24) the Ontario Government is currently proposing to modify these regulations by amending the definitions of occupied and recovery habitat in a direction away from those proposed in this draft Federal document.

CLOCA Staff Comments on the Proposal:

Background

Within the CLOCA jurisdiction, Redside Dace have been found in the Lynde Creek watershed, including Heber Down Conservation Area. CLOCA has a long history related to the conservation of Redside Dace dating back to 1984. During this time, CLOCA has been involved with monitoring, habitat restoration, watershed and fisheries management planning, communication, and outreach, etc. for this species. Significant habitat restoration works were completed on behalf of the Ontario Government within Heber Down Conservation Area in 2021 as part of Overall Benefit requirements of Highway 407 East Phase 1. Most recently, CLOCA collaborated with the Ontario Government and First Nation peoples to conduct e-DNA sampling within the Lynde Creek watershed. CLOCA was a member of the Recovery Team that prepared the Provincial 2010 Recovery Strategy for Redside Dace (*Clinostomus elongatus*) in Ontario. The Provincial Recovery Strategy provides the Ontario government (among others) with a framework for action. CLOCA continues to be a member of the Redside Dace Recovery Implementation Team.

Comments

Recovery efforts related to Redside Dace within the Lynde Creek watershed and Heber Down Conservation Area supports CLOCA's Strategic Plan, including:

- Vision - *"Healthy watersheds for today and tomorrow"*
- Mission - *"Advancing integrated watershed health through engagement, science and conservation"*.

Specifically aligns with our core values, namely No. 1 compass direction:

- Conservation - *"We are committed to protecting, preserving, and enhancing the watershed in all our actions. We are conservation advocates, land stewards and trusted advisors, promoting science-based watershed management and working with others to improve watershed health and public safety."*

Goal 3 *"Remain dedicated to the protection, management, and safety of Conservation Areas"*

- Key Objectives
 - *"Enhance ecological integrity of Conservation Areas"*

The proposal is consistent with the commitment to establish complementary legislation and programs that provide for the protection of species at risk throughout Canada under the Accord for the Protection of Species at Risk (1996) as agreed to by the federal, provincial, and territorial government. The proposal supports CLOCA's Strategic Plan, including the collective journey to reconciliation by honouring written and oral promises and agreements.

CLOCA staff are supportive of the proposed Federal Recovery Strategy and Action Plan for Redside Dace in Canada. Due to commenting deadline, staff outlined support for this proposal in a staff-level comment letter that was submitted to the Species at Risk Public Registry on March 4th (attached) just before the comment period was closed. These staff-level comments can be updated and resubmitted pending the outcome of direction from the Board of Directors.

RECOMMENDATION:

THAT the Board of Directors endorse the attached staff-level comments.

Attach.



Healthy watersheds for
today and tomorrow.

March 4, 2024

Director
SARA Directorate
Department of Fisheries and Oceans
200 Kent St.
Ottawa, ON
K1A 0E6
dfo.ncrsara-leprcn.mpo@dfo-mpo.gc.ca

RE: Proposed Recovery Strategy and Action Plan for the Redside Dace (*Clinostomus elongatus*) in Canada (Species at Risk Public Registry)

Dear Director,

The Central Lake Ontario Conservation Authority (CLOCA) has a long history related to the conservation of Redside Dace dating back to 1984. During this time, CLOCA has been involved with monitoring, habitat restoration, watershed and fisheries management planning, communication, and outreach, etc.

CLOCA was a member of the Recovery Team that prepared the 2010 Recovery Strategy for Redside Dace (*Clinostomus elongatus*) in Ontario. CLOCA continues to be a member of the Redside Dace Recovery Implementation Team as indicated in the acknowledgements of the proposed document.

The proposed Recovery Strategy and Action Plan for the Redside Dace in Canada under the Species at Risk Act (SARA), supports the commitment to establish complementary legislation and programs that provide for the protection of species at risk throughout Canada under the Accord for the Protection of Species at Risk (1996) as agreed to by the federal, provincial, and territorial government.

Species at Risk recovery efforts form an important part of the Central Lake Ontario Conservation Authority's commitment to reconciliation. CLOCA continues on a path to learn through ongoing Indigenous corporate education and collaboration. The proposed Recovery Strategy and Action Plan under the SARA, compliments the collective journey to reconciliation by working to honour written and oral promises and agreements.

In summary, it is CLOCA staff's position that the proposed Recovery Strategy and Action Plan for the Redside Dace in Canada under the Species at Risk Act is a positive step in the long journey to fully recovering Redside Dace populations including their habitat.

Sincerely,

Healthy watersheds for
today and tomorrow.

A handwritten signature in black ink that reads "Ian Kelsey". The signature is written in a cursive, slightly slanted style.

Ian Kelsey
Aquatic Ecologist
Central Lake Ontario Conservation Authority

REPORT

CENTRAL LAKE ONTARIO CONSERVATION AUTHORITY

DATE: March 19, 2024

FILE: APJB8

S.R.: 5874-24

TO: Chair and Members, CLOCA Board of Directors

FROM: Jamie Davidson, Director, Watershed Planning and Natural Heritage
Roy Mosher, Restoration Coordinator

APPROVED BY C.A.O. 

SUBJECT: Restoration and Stewardship Program – 2023 In Review

Background

CLOCA's Restoration and Stewardship Program helps to turn watershed planning and management recommendations into action by implementing ecological enhancement and restoration projects across the jurisdiction on conservation authority lands, public lands, and private lands. CLOCA has continued to build its capacity to design and implement projects on its own Conservation Area lands; provide a wide range of technical supports to interested landowners; develop strong relationships with a range of funding partners to help incentivize project uptake; and actively reach out and engage with landowners and stakeholders to find appropriate sites to implement projects that help achieve key watershed health objectives.

This report reviews the alignment of the Restoration and Stewardship Program with corporate priorities, highlights some of the key program building blocks that are in place or being developed, and provides a brief update on work completed during 2023.

Strategic Plan, Watershed Planning and Restoration Program Alignment

Strategic Plan: The Restoration and Stewardship Program is helping CLOCA deliver directly or indirectly on all of its five strategic plan goals, including restoring and enhance natural resources in our watersheds, supporting healthy communities, managing our conservation areas, engaging and educating our watershed community, and demonstrating excellence through customer service and data analysis.

Watershed Planning: CLOCA is a leader in watershed management and has ambitious strategies, goals, and objectives that demonstrate its commitment to “conserve, enhance and restore ecosystems of the watershed”. CLOCA intends to continue to make progress toward achieving the objectives outlined in its Watershed Plans in part through this program, including:

- Restoring forest cover in the watersheds through reforestation and natural succession,
- Restoring wetland cover in the watersheds,
- Restoring riparian cover and stream morphology in the watersheds,
- Removing instream barriers,
- Restoring natural cover within 1km of Lake Ontario,
- Restoring natural cover in the wildlife corridor system.

Highlighting Key Program Building Block

Staff Capacity:

Dedicated staff resources are a critical building block for the Restoration and Stewardship Program, as it requires staff with a range of technical field skills, it requires constant engagement with funders, private landowners, and other partners and stakeholders, and requires constant adjustments to adapt the program to changes in scientific knowledge, political changes that alter the funding landscape, and the changing needs and interests of clients and partners.

Consistent annual funding support from Durham Region for this program has made it possible to allocate appropriate staff resources to this important work. With this critical building block in place, CLOCA has been able to capitalize on opportunities with partnership building, accessing external funding, educating, and engaging with landowners and other stakeholders. Being able to engage in all of these activities contributes to the ultimate goal of implementing restoration and enhancement projects around the jurisdiction.

Technical Expertise:

Another key program building block is the technical expertise of restoration staff. Restoration and enhancement work requires staff with a broad understanding of ecological processes and a range of technical skills given the diversity of projects that get implemented. To that end, CLOCA's Restoration Coordinator is a Certified Managed Forest Plan Approver for the Managed Forest Tax Incentive Program (MFTIP) that is administered by the Ministry of Natural Resources and Forestry (MNRF). As a result, CLOCA offers a **managed forest planning service** to eligible landowners within its jurisdiction. Eligible landowners who have at least 4 hectares of forested area and have a Managed Forest Plan prepared by CLOCA and approved by MRNF, will benefit from a 75% tax rebate on their property taxes. CLOCA's MFTIP Approver will consult with eligible landowners about their objectives for their forest and ensure that they use "Good Forestry Practices" when managing their woodlot, conduct an inventory of the forest, prepare a custom plan, and submit the plan to MNRF for approval and enrollment in the program. In addition to implementing CLOCA's own Managed Forest Plan for eligible conservation area lands, CLOCA has completed many renewals and new plans for private landowners in the last 4 years, some of which have come because of CLOCA implementing tree planting projects on their properties.

The Restoration Coordinator administers these tree planting projects through the **Durham Trees Afforestation Program**, which assists rural landowners who wish to plant trees on their property. Through this program, landowners can plant a minimum of 500 trees to increase forest cover on their property. The Coordinator assists the landowners by conducting a consultation site visit, preparing a planting prescription, procuring tree seedlings, contracting and managing a tree planting service provider to plant and tend the trees, conducting follow-up survival monitoring and securing funding through Forest Ontario's 50 Million Tree Program or other funding agencies.

The Restoration Coordinator holds Pesticide Exterminator certificates in both the Forestry and Agricultural categories. This allows CLOCA to actively engage in **invasive species management** on CLOCA owned lands and allows them to confidently educate and instruct private landowners on how to manage invasive species on their own lands. The Forestry License allows the CLOCA staff to conduct work within forested areas to treat invasive species that can compromise woodlot health. Examples of species that have been treated to date include Dog-strangling Vine, Common Buckthorn, Autumn Olive, and Garlic Mustard. Using the Agricultural License, CLOCA is qualified to treat areas using farming practices. An example of this is the use of farming implements such as boom sprayers to treat areas that will be converted to Native Grassland. CLOCA staff are working towards acquiring the Aquatic Pesticide License that will allow them to conduct work in water to address aggressive invasive aquatic species such as Common Reed.

With experience managing a native tree and shrub nursery, the Coordinator has a thorough **understanding of dendrology and tree tending practices**. Practical expertise includes the ability to prescribe and conduct activities such as propagation, irrigation, potting, pruning, fertilizing, weeding, and pest control. An example of these skills in practice has been undertaken when tending to the trees that were planted at Lynde Shores Conservation Area in 2021.

The Restoration Coordinator has experience in the administration of **Grassland Restoration Programs**. Having conducted numerous projects on Conservation Authority lands, practical applications have included restoration prescriptions and activities. These activities include site preparation such as mowing, spraying and woody stem removal, site establishment such as seed sowing, harrowing, and soil packing, and site maintenance such as herbicide spot treatment and follow-up mowing.

CLOCA has also recently started to build capacity to **assess, enhance and restore stream habitats**. The newly funded Lynde Creek Watershed Stream Habitat Assessment, Enhancement and Restoration project will further build this capacity over the next two years. The same is true for **wetland habitat creation, enhancement and restoration**. CLOCA has recently developed a number of wetland restoration opportunity plans for some of the coastal wetland areas within the jurisdiction.

Partnership Building, Accessing External Project Funding, and Engagement:

Restoration staff work tirelessly to build and maintain relationships with private landowners, municipal partners and other stakeholders. This ongoing effort helps to build confidence and trust, secure project sites, and often results in access to limited external funding or technical support. Projects can sometimes take years to come to fruition, so fostering these relationships is a critical building block to a successful program. An example of this ongoing collaboration was the successful launch of the Durham Tree Program in 2022 in partnership with Durham Region and its five conservation authorities. One way that CLOCA supports its work through the Durham Trees Program is through its designation as a Planting Delivery Agent with Forests Ontario. This designation allows CLOCA to access funding and technical support provided through their 50 Million Tree Program. Also, this partnership allows CLOCA to access significant financial assistance for private landowners wishing to plant trees on their property in addition to CLOCA's technical support to implement the projects on the ground. CLOCA conducts site visits with interested landowners, prepares planting plans that meet landowner and watershed restoration objectives, coordinates with nursery growers to procure seedling stock, and oversees the installation of the trees by a private contractor. Under this program, CLOCA also conducts 5-year survival monitoring of the trees and provides ongoing technical advice to landowners for the care and management of their trees.

Ongoing municipal partnerships include CLOCA restoration staff supporting the Municipality of Clarington in the delivery of their Trees for Rural Roads Program. This program encourages landowners with property frontage along a rural road to plant trees along their road frontage. Participation in this program has accounted for the planting of over 500 trees through rural Clarington in the last 2 years alone.

Other partnerships that have been nurtured through the years include those with Scouts Canada, Ontario Power Generation, TD Bank, Tree Canada, the Invasive Species Centre, the Ontario Soil and Crop Improvement Association, as well as all Municipal level governments within CLOCA jurisdiction. Other partners such as the Highway of Heroes Campaign (Trees for Life), the Canadian Wildlife Federation, Environment and Climate Change Canada, and others have been, and will continue to be, fostered on an ad hoc basis as opportunities becomes available.

Project Design, Coordination, Implementation:

In 2023, CLOCA continued to successfully administer the Environmental Restoration Project. While 2023 was largely spent in the continued administration of the newly developed programming from the previous 3 years, having these core programs well-established will allow CLOCA to focus on expanding its suite of Restoration Services going forward.

Progress Update - 2023

Building off of the previous year's successes in putting the key program building block in place for the Restoration and Stewardship Program, restoration staff implemented and supported a wide range of projects across the jurisdiction. The following is a brief overview of the main accomplishments achieved through 2023:

Private Lands:

- Continued to develop and modify the CLOCA Private Landowner Stewardship Program.
- Continued work as a Planting Delivery Agent with Forests Ontario and helped to implement their 50 Million Tree Program in Durham Region.
- Completed private landowner outreach and stewardship project planning services across the jurisdiction.

- Coordinated the planting, tending, and monitoring of 20,000 tree seedlings in 2023 on private lands through the 50 Million Tree Program in partnership with Forests Ontario.
- Conducted ongoing monitoring of tree survival on plantings from previous years.
- Coordinated Managed Forest Planning service to help private landowners apply to the Provincial Managed Forest Tax Incentive Program (MFTIP) and completed 4 new plans and plan renewals for landowners.
- Worked closely with Durham Region and the other four Conservation Authorities within the Region to develop and fund a Durham Region wide tree planting initiative – Durham Trees.
- Coordinated CLOCA's portion of the Municipality of Clarington's Trees for Rural Roads Program accounting for the planting of 110 trees along Clarington's rural roads within the CLOCA jurisdiction.

CLOCA Conservation Areas:

- Monitored and actively managed invasive species in some of CLOCA's conservation areas including Dog-Strangling Vine, Common Buckthorn, Phragmites, Garlic Mustard, and Autumn Olive.
- Performed maintenance activities at Lynde Shores Conservation Area, pruning and watering trees and cleaning up irrigation lines.
- Coordinated the planting 4,330 tree seedlings to restore approximately 5.8 acres at the Craig Tract at Long Sault Conservation Area
- Coordinated the planting of 3,750 tree seedlings to restore the understory of the forest at Long Sault Conservation Area after the dericho storm damage caused in spring 2022.
- Coordinated the treatment of a large patch of Garlic Mustard at Purple Woods Conservation Area.
- Performed maintenance activities of an approximately 1-acre Native Meadow Restoration project at Heber Down Conservation Area.

Funding and Partnerships:

- Coordinated the planting of 300 trees at Enniskillen Conservation Area, engaging volunteers from Scouts Canada. Engaged approximately 30 volunteers at this event.
- Contributed to CLOCA's Earth Day event at Bowmanville Westside CA, coordinating the planting of 200 trees with volunteer visitors on the day of the event.

GIS

- Worked with GIS to develop a Restoration Tracking Tool. This tool can now be used to input past and current Restoration projects and can be further enhanced to include potential future projects within its scope.

Project Goals for 2024

In 2024, CLOCA will continue to implement what have now become the core Restoration and Stewardship Services in addition to further program development. Program development includes new services related to Naturalization projects (small area plantings that do not meet other tree funding program criteria), Grassland Restoration, Wetland and Stream Restoration, Invasive Species Management, among others. Private landowner stewardship will continue with enhanced technical advice and services to affect engagement and action on the landscape. Projects within our Conservation Areas will continue to be advanced. Some specific projects include:

Private Lands:

- Continue the development and implementation of the CLOCA Private Landowner Stewardship Program, with a focus on adding additional stewardship services, including naturalization, stream/riparian, wetland, and grassland restoration/enhancement. Technical guidance on invasive species management and agricultural best management practices will also be explored through this program development.
- Continue to implement the Durham Tree Program, and secure new tree planting projects in partnership with private landowners. Based on current project planning discussions landowners, CLOCA is aiming to plant an additional 28,000 new trees in 2024.

CLOCA Conservation Areas:

- Grassland restoration at Long Sault CA.
- Treatment will continue on Dog-strangling Vine on over 7 acres at the Rogers Tract, Common Reed (*Phragmites*) at Heber Down CA, and Autumn Olive at the Bowmanville Westside CA.
- Efforts will be taken to prioritize and undertake invasive *Phragmites* control as appropriate.

Urban Stewardship:

- Continue to support Durham Region's work on the Durham Meadoway project.
- Collaborate with municipalities to protect and enhance urban forests and natural spaces.

Funding and Partnerships:

- Continue to identify funding opportunities for the work that CLOCA does and prepare funding applications to secure much needed financial resources.
- Continue to work with both community and municipal partners to implement mutually beneficial stewardship projects throughout the jurisdiction.

Conclusion

CLOCA has made a commitment through its Strategic Plan, Watershed Plans, and Conservation Areas Management Plans, to "conserve, enhance, and restore" the ecosystems within its watersheds. To achieve this goal, active restoration and enhancement work must take place across the jurisdiction. To this end, CLOCA continues to develop its Restoration and Stewardship Program in a way that ensures CLOCA "walks the talk" by implementing projects on its own conservation area lands. However, CLOCA cannot achieve watershed plan goals on its own, and has been putting the key building blocks in place to ensure municipal partners, private landowners, and other stakeholders feel supported and empowered to contribute to achieving healthy watersheds. Leading by example, CLOCA will continue to improve and adapt its restoration programming to improve watershed health, improve ecosystem resiliency to climate change, and reduce risk to life and property through a watershed wide management approach.


RECOMMENDATION:

THAT Staff Report #5874-24 be received for information.

REPORT

CENTRAL LAKE ONTARIO CONSERVATION AUTHORITY

DATE: March 19, 2024
FILE: ACAD19
S.R.: 5875-24
TO: Chair and Members, CLOCA Board of Directors
FROM: Chris Darling, Chief Administrative Officer
SUBJECT: **Delegation of Permit Approvals, Cancellations and Administrative Reviews**

APPROVED BY C.A.O. 

The purpose of this report is to seek the Board's endorsement to re-delegate the approval of non-complex permits to staff and to delegate new power for the cancellation of permits and administrative reviews.

Permit Approvals

On April 1, 2024, new provisions of the *Conservation Authorities Act (CA Act)* will come into effect. Some of the new provisions and associated new Ont. Regulation 41/24 allow for the delegation of certain powers related to the issuance of permits, administrative reviews and cancellation of permits. The *CA Act* had previously allowed for the delegation of non-complex permits and in 2012, the Authority Board approved such a delegation to CLOCA staff. Non-complex permits are defined as:

- Permissions that are consistent with the approved CLOCA Policy and Procedural Document for Regulation and Plan Review;
- Permissions that are for a time period of 2 years or less;
- Permissions for extensions, provided the extension does not extend the timeframe beyond 2 years; and
- Permissions where the applicant agrees to the conditions.

The re-delegation of staff delegation for non-complex permits is required to reference the new sections in the *CA Act* and the new Regulation 41/24 and to recognize the ability to issue permits having a period of validity to 60 months (previously the maximum was 24 months).

Permit Cancellation

The new delegation provisions under Section 28.4 of the *CA Act* allows for the delegation of the cancellation of permits or the holding of hearings in relation to a refusal of a permit, to the Authority's executive committee or to any other person or body. A permit may be cancelled if conditions have not been met. An Authority must provide notice and opportunity for hearing. If hearing results in cancellation, applicant may appeal decision to OLT (90 days).

Permit cancellations are a rare occurrence and generally only used if the permit holder agrees to the cancellation. There are other tools available to address non-compliance to conditions such as prosecution. Given that permit cancellations are administrative in nature, is recommended that the Board delegate this authority to the Chief Administrative Officer.

Request for Administrative Review

Under the new regulatory framework (Section 8 of O. Reg. 41/24), permit applicants may request a review by the authority if (a) the applicant has not received notice from the authority within 21 days regarding the completeness of an application, (b) the applicant disagrees with the authority's determination that the application for a permit is incomplete; or (c) the applicant is of the view that a request by the authority for other information, studies or plans is not reasonable.

Such a review shall be completed by the authority no later than 30 days after it is requested and the authority shall, as the case may be, (a) confirm that the application meets the requirements of subsection 7 (1) and is complete or provide reasons why the application is incomplete; or (b) provide reasons why a request for other information, studies or plans under clause 7 (1) (i) is reasonable or withdraw the request for all or some of the information, studies or plans.

As this review is administrative in nature, it is recommended that such a review be delegated to the Director of Planning and Regulation.

Requests for reconsideration of Fees Charged

Under the new legislative framework, new provisions related fee appeals will come into effect April 1, 2024. The new provision states that if an authority receives a request for reconsideration of a fee charged for an application for a permit made under subsection 28.1 (2), the authority shall make its decision within 30 days after receiving the request. Further, that if an authority fails to reconsider a fee within 30 days of receiving the request, the person who made the request may appeal the amount of the fee directly to the Ontario Land Tribunal.

Also, if after reconsideration of a fee charged for an application for a permit made under subsection 28.1 (2), an authority orders a person to pay the fee, the person shall pay the fee in accordance with the order. A person who pays a fee may,

- (a) when paying the fee, indicate to the authority in writing that the fee is being paid under protest; and
- (b) within 30 days after payment of the fee, appeal the amount charged by the authority upon reconsideration to the Ontario Land Tribunal.

The CLOCA Board of Directors approved a Fee policy in 2022 that provides for requests for reconsideration of a fee charged. The fee policy should be updated to add the new provision coming into effect April 1, 2024 as noted above.

RECOMMENDATION:

THAT the CLOCA Board of Directors delegate the authority to approve permissions under Ontario Regulation 41/24 to staff for permit applications which:

- ***are not a significant departure from the approved CLOCA Policy and Procedural Document for Regulation and Plan Review;***
- ***are for a time period of 60 months or less; and***
- ***are for permit extensions that do not extend the timeframe beyond 60 months;***
- ***the applicant agrees to the conditions of the permit.***

THAT the delegation of permissions be granted to Authority staff appointed as Enforcement Officers under Ontario Regulation 41/24;

THAT the delegation to cancel a permit issued under Ontario Regulation 41/24 be granted to the Chief Administrative Officer;

THAT the delegation to conduct an administrative review under Section 8 of Ontario Regulation 41/24 be delegated to the Director of Planning and Regulation; and

THAT CLOCAs Fee policy as approved by Board of Directors on November 22, 2022 be amended to include the following provisions: if an authority receives a request for reconsideration of a fee charged for an application for a permit, the authority shall make its decision within 30 days after receiving the request. Further, that if a decision is not made within 30 days of receiving the request, the person who made the request may appeal the amount of the fee directly to the Ontario Land Tribunal.


If after reconsideration of a fee charged for an application for a permit, an authority orders a person to pay the fee, the person shall pay the fee in accordance with the order. A person who pays a fee may,

- (a) when paying the fee, indicate to the authority in writing that the fee is being paid under protest; and***
- (b) within 30 days after payment of the fee, appeal the amount charged by the authority upon reconsideration to the Local Planning Appeal Tribunal.***

REPORT

CENTRAL LAKE ONTARIO CONSERVATION AUTHORITY

DATE: March 19, 2024
FILE: ACAD19
S.R.: 5876-24
TO: Chair and Members, CLOCA Board of Directors
FROM: Chris Darling, Chief Administrative Officer
SUBJECT: Re-appointment officers under Part VII (Enforcement and Offences) of the CA Act

APPROVED BY C.A.O. 

On April 1, 2024, amendments to Part VII Enforcement and Offences of the *CA Act* will be proclaimed, including Section 30.1, resulting in a need to re-appoint all existing Conservation Authority Provincial Offences Officers consistent with the updated legislation. Traditionally, the appointment of enforcement officers was designated to Section 28 Permit Regulations and/or Section 29 Conservation Lands Regulations. The upcoming changes to the *CA Act* require that officers be appointed under Section 30.1 as opposed to Section 28 and Section 29. This is an administrative change to be in compliance with the *CA Act* and its regulations that will take effect on April 1, 2024.

Part VII of the *CA Act* also includes new and improved enforcement and compliance provisions will come into effect April 1, 2024. New provisions include:

- In specific circumstances, CA's may now issue stop work orders;
- Penalties for offences have been increased;
- Expands powers of the court when ordering persons convicted of an offence to repair and / or rehabilitate damage resulting from the commission of the offence.

RECOMMENDATION:

THAT in accordance with Section 30.1 of the Conservation Authorities Act following staff be reappointed as Enforcement Officers under the Prohibited Activities, Exemptions and Permits regulation, Ontario Regulation 41/24, and the Provincial Offences Act L. Bulford, E. Cameron, D. Cheng, C. Jones, S. Nejad, P. Sisson, S. Sivarajah and J. Tisdale; and

THAT in accordance with Section 30.1 of the Conservation Authorities Act following staff be reappointed as Enforcement Officers under the Rules of Conduct in Conservation Areas O. Reg. 688/21 and the Provincial Offences Act T. Backus, A. Cooper, B. De Waal, D. Hope, J. Maas, and M. Murphy.