

### Section I – Items for Board of Directors Action

**TO:** Chair and Members of the Board of Directors  
Friday, April 28, 2023 Meeting

**FROM:** Laurie Nelson, Director, Policy Planning

**RE:** **SECTION 28 REGULATION MAPPING**  
Annual Update

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#### KEY ISSUE

To seek Board of Directors' endorsement of the annual update to Toronto and Region Conservation Authority's (TRCA) Section 28 Regulation mapping based upon the most current information available related to regulated natural hazards and natural features.

#### RECOMMENDATION:

**WHEREAS** in 2019, TRCA staff undertook the first jurisdiction-wide update to TRCA's Section 28 Regulation mapping update since 2006 in consultation with member municipalities, the public, and the building industry;

**WHEREAS** at TRCA Board of Directors Meeting #6/19, held on Friday, June 21, 2019, Resolution #A116/19 was approved, stating that staff continue to make updates to the Regulation mapping on an annual basis;

**WHEREAS** staff have now updated the Section 28 Regulation mapping to reflect the most currently available information;

**THEREFORE LET IT BE RESOLVED THAT** the 2022 updates to TRCA's regulation mapping be endorsed by the TRCA Board of Directors for internal use, for municipal staff screening purposes, and for public viewing on TRCA's website;

**AND FURTHER THAT** the Clerk and Manager, Policy so advise the Ministry of Natural Resources and Forestry, TRCA municipal partners, Conservation Ontario, and the TRCA-BILD Working Group.

#### BACKGROUND

TRCA has a regulatory permitting responsibility to protect people, the environment and property from natural hazards associated with flooding, erosion and slope instability, and to conserve valley lands, wetlands, watercourses and the shoreline of Lake Ontario. Pursuant to Section 28 of the Conservation Authorities Act, TRCA administers a "Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation", (the Regulation), approved by the Minister of Natural Resources and Forestry and known as Ontario Regulation 166/06, as amended. Key objectives of the Regulation include preventing or reducing the risk to life and property; minimizing negative impacts on natural features, functions, and systems; and preventing the creation of new hazards or aggravation of existing hazards.

The Regulation enables TRCA to prohibit or regulate development in areas of land

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associated with natural hazards, wetlands and watercourses, collectively known as TRCA's Regulated Area.

In the Conservation Authorities Act, "development" is defined as:

- 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
- Temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere.

The Regulation also prohibits, in the absence of a permit from TRCA, alteration of the channel of a watercourse and interference with a wetland.

The areas of land where TRCA's Regulation applies are:

- **River and stream valleys**, including valleys with stable and unstable slopes, plus an allowance of 15 metres surrounding the valley;
- **Floodplains and areas subject to stream-related erosion** (meander belts) where valleys are not clearly defined on the landscape, plus an allowance of 15 metres surrounding these areas;
- **Lake Ontario Shoreline**, including associated flooding, erosion, slope instability and dynamic beach erosion hazards, plus an allowance of 15 metres inland from these areas;
- **Watercourses**;
- **Wetlands and areas surrounding wetlands**, where development could interfere with the hydrologic function of a wetland (areas of interference). This includes 120 metres surrounding Provincially Significant Wetlands, wetlands on the Oak Ridges Moraine and 30 metres surrounding all other wetlands; and
- **Hazardous lands**, which are lands that could be unsafe for development due to flooding, erosion, dynamic beaches or unstable soil or bedrock.

Each of these natural hazards and environmental features and the associated regulated areas are described in law through the text of the Regulation. However, given the specific geographic areas to which the Regulation applies, and the need to represent these areas visually, the Regulation also provides for the creation of Regulation mapping. This mapping can be updated by TRCA as new information becomes available.

TRCA Board of Directors Meeting #6/19, held on Friday, June 21, 2019, Resolution #A116/19 was approved as follows:

THAT staff continue to make updates to the Regulation mapping on an annual basis;

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TRCA staff have now completed the 2022 annual update to the Regulation mapping in consultation with TRCA development, infrastructure, enforcement, and technical review staff.

### **Bill 23 and the Conservation Authorities Act**

It should be noted that as of the time of writing, the amendments to the Conservation Authorities Act and recently published regulations do not affect the 2022 regulation mapping update. TRCA's Ontario Regulation 166/06 remains in effect until such time as the Province establishes a new regulation for all conservation authorities under the new section 28 of the Act. TRCA Policy Planning staff will continue to monitor the ERO for provincial regulations that may affect TRCA's policies and procedures with respect to its Regulation and regulation mapping and will keep TRCA staff and the Board informed accordingly.

### **RATIONALE**

#### **Regulation Mapping: What it is and how it works**

TRCA's Regulation mapping is a tool that conceptually shows the area of land within TRCA's jurisdiction that is likely to be subject to the Regulation. The Regulation limit boundary is based on the best technical information available to TRCA at the time of the preparation of the map. The mapping represents spatial information for each of the regulated features and areas, which is integrated to form one conceptual boundary of the Regulation limit. TRCA's Reference Manual – Determination of Regulation Limits provides the standards and criteria used for the mapping of these features and areas.

Technical analysis that supports the mapping includes flood plain studies, provincial wetland mapping, ecological land classification mapping, digital elevation models, aerial photography, watercourse meander belt analysis, watercourse location mapping and Lake Ontario shoreline hazard assessment studies. Site-specific investigations and studies are required to precisely define the location of hazards and features and the legal extent of the Regulation, which typically occurs through consultation between landowners and TRCA staff during the review of a development application or proposal.

The mapping is not a "statutory map", which means that the mapping does not have the force of law. The actual regulatory requirements are found within the provisions of [Ontario Regulation 166/06](#). The mapping is best considered as a screening tool for TRCA, municipalities and the public that indicates where the Regulation likely applies, thereby assisting with implementation of TRCA's regulatory permitting responsibilities. This contrasts with a more rigid boundary such as a schedule of a municipal zoning by-law.

#### **The Regulated Area is not a Development Limit**

The mapping does not indicate areas where development is prohibited, but rather areas where development needs to consider potential constraints from natural hazards or features, and for which a permit is required from TRCA prior to development activity commencing.

In addition to facilitating TRCA's permitting responsibilities, the mapping is also used to inform:

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- Solicitor/Realtor Property Inquiries to TRCA;
- TRCA's delegated responsibility to represent the provincial interest for natural hazards;
- TRCA's review of applications under the [Planning Act](#) and [Environmental Assessment Act](#) (in accordance with the [Conservation Authorities Act](#) and [Mandatory Programs and Services Regulation Ontario Regulation 686/21](#));
- Municipal Comprehensive Reviews, including natural systems mapping
- Official Plan Reviews and Comprehensive Zoning By-law updates, including hazard land mapping.

### **Updated Regulation Mapping Protocol**

TRCA has the ability to update the mapping as new information becomes available. Updates to the Regulation mapping improve its accuracy with respect to what is likely regulated by TRCA, thereby enhancing certainty for landowners considering or proposing development. This also assists both TRCA and municipal staff conducting development and infrastructure reviews. The last jurisdiction-wide update was completed in 2021.

The current 2022 annual update to the existing regulation mapping has been undertaken to reflect new technical information on current aerial photography. In 2019, we committed to establishing a protocol for conducting and tracking future incremental mapping updates in a consistent and timely manner, and to report to the Board in the case of an update that involves substantial changes.

Coordination between the internal Policy Planning and Business and Data Analytics (BIDA) teams resulted in a codified workflow and protocols describing project scope, timeline, and staff roles. Staff established an internal consultation process involving an open call for update requests from development and infrastructure plan review staff, enforcement staff, and technical staff (engineers and ecologists), use of an internal online mapping platform for tracking and enabling staff review of proposed updates, and working sessions conducted with plan review and technical staff to review specific update requests. The product of this effort is updated draft Regulation mapping.

TRCA is following the guidance provided by Conservation Ontario for regulation mapping updates. It is important to note that only the mapping is being updated; there are no legislative changes to the text of the Regulation driving the mapping update. Furthermore, there is no legal requirement for municipal council approval of the updated mapping.

### **Regulation Mapping Update Results**

Changes to the mapping include:

- Revised wetland and area of interference limits associated with new and updated wetland mapping by Ministry of Natural Resources and Forestry and TRCA;
- Adjustments to flood hazard limits as a result of updated floodplain mapping; TRCA staff work with municipal staff to ensure awareness of these updates.
- Changes to features and hazards resulting from as-built development approved

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by TRCA (e.g., watercourse channel realignments);

- Adjustments to wetland area of interference limits associated with changes in as-built development approved by TRCA (e.g., Greater Golden Horseshoe Built Boundary updates); and
- General refinement of regulated features resulting from detailed site examination and field verification of properties through the development and infrastructure review processes (e.g., top of bank staking) and/or site visits.
- Adjustments to shoreline hazard limits as a result of updated shoreline hazard mapping – In 2021, TRCA’s Engineering Services staff, using National Disaster Mitigation Funding, retained professional engineering consultants to undertake a study to update shoreline hazard mapping along the Lake Ontario shoreline across TRCA’s jurisdiction. The [Board report on the Lake Ontario Shoreline Hazard Mapping Project](#) was received at the October 28, 2022 TRCA Board of Directors meeting and the completed [study](#) (November 2022) is posted on the TRCA Flood Risk Management webpages. TRCA planning staff have been working with City of Toronto planning staff on informing landowners to ensure awareness of the updated mapping, particularly where the shoreline hazard mapping captures existing residential area. Both City and TRCA staff have been using the updated shoreline hazard limits since the Shoreline Hazard Mapping Project was published, to inform their review of development applications in these areas.

### **Tracking, Notification, and Future Updates**

Once endorsed, staff will distribute the updated mapping to TRCA municipalities for their use. TRCA will notify Conservation Ontario and the Ministry of Natural Resources and Forestry, as well as neighbouring conservation authorities and stakeholders, of the update. In addition, the publicly available “Regulated Area Search” page on TRCA’s website will be updated to include the new mapping. Changes to the Regulation mapping are tracked in TRCA’s Geographic Information System (GIS) databases and will be recorded on each of TRCA’s 132 Regulation maps that span the jurisdiction.

Regularly updated regulation mapping will continue to ensure that TRCA staff, municipalities, stakeholders, and the public have the most accurate and current information to inform decision-making. It also contributes to TRCA’s service delivery, for example in pre-consultation meetings and walk-in counter service, and enhances coordination between TRCA and municipal staff.

### **Implementation and Transition**

The implementation of the updated mapping will not result in any changes to the day-to-day functions and procedures for TRCA’s roles. It is important to reiterate that the Regulation mapping does not undermine the decisions made through the development review process and applications in progress do not have to “re-start” the process based on being inside an area affected by the mapping updates.

### **Relationship to TRCA’s 2022-2034 Strategic Plan**

This report supports the following Pillars and Outcomes set forth in TRCA’s 2023-2034 Strategic Plan:

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### **Pillar 1 Environmental Protection and Hazard Management:**

- 1.1 Deliver provincially mandated services pertaining to flood and erosion hazards

### **Pillar 1 Environmental Protection and Hazard Management:**

- 1.4 Balance development and growth to protect the natural environment ensuring safe sustainable development

### **Pillar 2 Knowledge Economy:**

- 2.4 Integrate environmental considerations and science into decision making

### **FINANCIAL DETAILS**

Funding to support policy and planning input and GIS services for the mapping products was provided by capital funding from TRCA's participating municipalities in account 120-12.

### **DETAILS OF WORK TO BE DONE**

Following Board endorsement, TRCA staff will:

- Conduct a quality control check on the draft updated mapping;
- Update the Regulated Area Search tool on TRCA's website with the final updated Regulated Area mapping and place notification on website;
- Distribute the final updated Regulated Area mapping to member municipalities;
- Continue to monitor the mapping for future changes that will be compiled and implemented on an annual basis;
- Continue to monitor the Environmental Registry of Ontario (ERO) for provincial initiatives or regulations that have implications for TRCA's Regulation and regulation mapping, and will keep TRCA staff and the Board informed accordingly;
- Training with municipal staff on the regulation mapping or the regulation upon request;
- Continue to provide regulation mapping criteria data layers to municipalities for comprehensive official plan and zoning by-law updates, etc., upon request; and
- Continue to keep the building industry informed on mapping updates and other initiatives through the BILD Working Group and provide training upon request.

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