

Section III – Items for the Information of the Board

TO: Chair and Members of the Executive Committee
Meeting #4/18, Friday, June 08, 2018

FROM: Carolyn Woodland, Senior Director, Planning and Development

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

KEY ISSUE

To inform the Authority of the jurisdiction-wide update to TRCA's Section 28 Regulation mapping based upon the most current information related to natural hazards and natural features.

RECOMMENDATION

IT IS RECOMMENDED THAT the staff report on the comprehensive update to the Section 28 Regulation mapping be received;

AND FURTHER THAT staff report back after the municipal and public consultation for endorsement of the updated mapping.

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 valleylands, 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 associated with natural hazards, wetlands and watercourses, collectively known as TRCA's Regulated Area. 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 area of 15 metres surrounding the valley;

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- Floodplains and areas subject to stream-related erosion (meander belts) where valleys are not clearly defined on the landscape, plus an area of 15 metres surrounding these areas;
- Lake Ontario Shoreline, including associated flooding, erosion, slope instability and dynamic beach erosion hazards, plus an area 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.

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](#), as amended. The mapping is best considered as a screening tool for TRCA, municipalities and the public that indicates where the Regulation likely applies rather than a rigid boundary (unlike, for example, a schedule in a Zoning By-law), thereby assisting with implementation of TRCA's regulatory permitting responsibilities.

The mapping does not indicate areas where development is prohibited, but rather areas where development will need to take into consideration certain 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 TRCA's roles and responsibilities for reviewing applications under the *Planning Act* and *Environmental Assessment Act*.

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Updated Regulation Mapping

TRCA has the ability to update the mapping as new information becomes available. Updates to the Regulation mapping help landowners considering or proposing development, and assist both TRCA and municipal staff in coordinating development and infrastructure review. The last jurisdiction-wide update was completed in 2006 as part of the Generic Regulation conformity exercise. Since that time, area specific updates have occurred, typically coordinated with municipal planning exercises (e.g. Nobleton Zoning By-law Update, Special Policy Area updates).

The current comprehensive update to the existing mapping has been undertaken to reflect new technical information on current aerial photography. Based on new studies and analyses, as well as an extensive internal consultation process involving meetings and workshops conducted with development and environmental assessment plan review staff and technical staff (engineers, planning ecologists, etc.), staff has prepared 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. Furthermore, there is no legal requirement for municipal council approval of the updated mapping.

Changes to the mapping include:

- Revised wetland and area of interference limits associated with new and updated wetland evaluations and mapping by Ministry of Natural Resources and Forestry and TRCA;
- Adjustments to flood hazard limits as a result of updated floodplain mapping;
- Changes to features and hazards resulting from as-built development approved by TRCA (e.g. watercourse channel realignments);
- 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).

Municipal Consultation and Public Information Sessions

Although the Regulation is not being modified, due to the comprehensive nature of the proposed mapping changes and potential impact on municipalities and landowners, TRCA staff will be consulting with member municipalities, the public and stakeholders over the coming months prior to finalizing the mapping update. Municipal consultation, which will occur prior to public consultation, will include a webinar at the end of June, the posting of a webpage providing access to review and comment on the draft mapping and in-person meetings with municipal staff (planning and building departments). Consultation on the mapping is also timely given the pending municipal comprehensive reviews and updates to planning documents, (official plans and zoning by-laws), in response to updated provincial policies and legislation. After evaluating and incorporating municipal feedback, staff will provide the public with further-refined mapping for comment. This will be done through public information sessions and a range of communications materials, including a webpage. This consultation anticipated to occur in the fall of this year will provide an opportunity to further educate the public on TRCA's Regulation, permitting and planning responsibilities. Furthermore, TRCA staff will also be updating and enhancing current permit streamlining protocols (e.g. Minor Works Protocol, Staff Delegated Permit Approvals).

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Tracking, Notification and Future Updates

Once finalized, staff will submit a report summarizing the outcome of the consultation process and containing the final mapping for endorsement by the Authority, after which the updated mapping will be circulated 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. The publicly-available Regulated Area search tool 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.

As part of this project, staff is establishing a protocol for conducting and tracking future incremental mapping updates in a consistent and timely manner. Moving forward, staff plans to undertake an update to the Regulation mapping once per year (alongside any large-scale updates resulting from municipal studies/reviews). In the case of an update that involves substantial changes, a report will be brought to the Authority.

Updated Regulation mapping will ensure that TRCA staff, municipalities, stakeholders and the public have the most accurate and current information to inform decision-making. It will also help improve TRCA's service delivery, for example in pre-consultation meetings and walk-in planning services, and enhance coordination between TRCA and municipal staff.

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

- TRCA staff to consult with partner municipal planning and building department staff on the draft Regulation limit, commencing in June with a webinar, followed by in-person meetings and make changes to the mapping as necessary based on feedback received.
- TRCA staff to consult with the public later this fall on the draft Regulation limit and make further changes to the mapping, as appropriate.
- TRCA staff to finalize mapping and report back at the end of this year to the Executive Committee for endorsement of the finalized mapping and the process for future updates.
- TRCA staff to distribute updated mapping to member municipalities, update the existing mapping search tool on TRCA's website, and notify parties as appropriate.
- TRCA staff to update and enhance current permit streamlining protocols.

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