

Section I – Items for the Board of Directors Action

TO: Chair and Members of the Executive Committee
Friday, January 15, 2021 Meeting

FROM: Laurie Nelson, Director, Policy Planning

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

KEY ISSUE

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

RECOMMENDATION

THE EXECUTIVE COMMITTEE RECOMMENDS THAT WHEREAS in 2019, Toronto and Region Conservation Authority (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;

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

AND WHEREAS staff have completed the annual regulation mapping updates for 2020 to reflect the most currently available information;

THEREFORE LET IT BE RESOLVED THAT the 2020 updates to TRCA's regulation mapping as set out in this report 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, Ministry of Environment, Conservation and Parks, the Ministry of Municipal Affairs and Housing, TRCA municipal partners, Conservation Ontario and the BILD TRCA 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 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

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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. (It should be noted that in 2019, TRCA implemented a permit streamlining measure to reduce the extent of the area of interference from 120 metres to 30 metres for mapped wetlands within the Province's Greater Golden Horseshoe Built Boundary, as updated by TRCA staff to include built urban areas since 2006); 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.

At Board of Directors Meeting #6/19, held on Friday, June 21, 2019, Resolution #A116/19 was approved as follows regarding the [staff report](#) on the jurisdiction-wide update Regulation mapping update:

WHEREAS Toronto and Region Conservation Authority (TRCA) staff have undertaken 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;

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WHEREAS TRCA staff are committed to working cooperatively with all of TRCA's municipal partners, landowners, the Building Industry and Land Development Association (BILD) and stakeholders regarding the implementation of TRCA's regulatory permitting responsibilities under Section 28 of the Conservation Authorities Act, including opportunities to streamline the approval process;

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

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

AND FURTHER THAT the Ministry of Natural Resources and Forestry, Ministry of Environment Conservation and Parks, Ministry of Municipal Affairs and Housing, TRCA municipal partners and Conservation Ontario be so advised.

TRCA staff have now completed the 2020 annual update to the Regulation mapping in consultation with TRCA development, infrastructure and technical review staff.

It should be noted that the amendments to the *Conservation Authorities Act* under schedule 6 of Bill 229, do not affect the Regulation mapping. 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 yet to be proclaimed amended section 28 provisions of the Act. TRCA Policy Planning staff will continue to monitor the ERO for provincial initiatives 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.

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The Regulated Area is not a Development Limit

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:

- Solicitor/Realtor Property Inquiries;
- TRCA's delegated responsibility to represent the provincial interest for natural hazards; and
- TRCA's review of applications under the *Planning Act* and *Environmental Assessment Act*, as described through Memorandums of Understanding for plan input and plan review with TRCA's municipal partners;
- Municipal Comprehensive Reviews including natural heritage systems mapping, including natural hazard mapping, and land needs assessment.
- Comprehensive Zoning By-law updates, including hazard land mapping

Improving the accuracy of the mapping through this comprehensive update and consultation is particularly timely given that municipalities are currently undertaking Municipal Comprehensive Reviews for conformity to recently amended provincial plans, such as "A Place to Grow: The Growth Plan for the Greater Golden Horseshoe". TRCA planning and GIS staff have been working with planning staff at the City of Toronto and at Durham, York and Peel Regions to provide data layers from the updated regulation mapping to inform their land needs assessment for municipal growth planning.

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 2019. Since that time, flood plain mapping updates have taken place which have been taken into account in the newly updated mapping for 2020. The September 25, 2020 Board of Directors meeting included a [report](#) from the TRCA Engineering Services business unit on the jurisdiction-wide, flood plain mapping update. This report was circulated to TRCA's municipal and government partners and stakeholders and the flood plain mapping was made publicly available on TRCA's website. Development and Infrastructure planning and permitting staff have been using this information since that time to inform their review of applications.

The current 2020 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 on annual updates to the Board.

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 and responsibilities. Staff established an internal consultation process involving an open call for update requests from development and environmental assessment plan review 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

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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 evaluations and mapping by Ministry of Natural Resources and Forestry and TRCA;
- Adjustments to flood hazard limits as a result of updated floodplain mapping, as referenced above;
- Changes to features and hazards resulting from as-built development approved by TRCA (e.g. watercourse channel realignments);
- Adjustments to wetland area of interference limits in urban areas (i.e., updates to the Greater Golden Horseshoe Built Boundary by TRCA staff to reflect current built developments/areas); 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.

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 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.

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. Updated mapping also contributes to TRCA’s service delivery improvement efforts, for example in pre-consultation meetings and walk-in/online planning services, and by providing updated information to help enhance 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 will not have to “re-start” the process based on being inside an area affected by the mapping updates.

Relationship to Building the Living City, the TRCA 2013-2022 Strategic Plan

This report supports the following strategies set forth in the TRCA 2013-2022 Strategic Plan:

Strategy 2 – Manage our regional water resources for current and future generations

Strategy 4 – Create complete communities that integrate nature and the built

environment

Strategy 8 – Gather and share the best sustainability knowledge

Strategy 12 – Facilitate a region-wide approach to sustainability

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 December 2020 draft mapping and distribute the final updated Regulated Area mapping to member municipalities
 - update the existing mapping search tool on TRCA's website with the final updated Regulated Area mapping and place notification on website
 - continue to monitor the mapping for future changes that will be compiled and implemented on an annual basis
 - continue to monitor the ERO for provincial initiatives that have implications for TRCA's Regulation and regulation mapping, and 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 Municipal Comprehensive Reviews, zoning by-law updates, etc., upon request
 - Continue to keep the building industry informed on mapping updates and other initiatives through the TRCA BILD Working Group and provide training upon request.

Summary

TRCA has completed an annual update of its regulation mapping across the jurisdiction with input from development and environmental assessment plan review and technical staff (planners, engineers and ecologists). The regulation limit shown on the mapping is not a development limit but rather a conceptual illustration of natural features and hazards development needs to take into account for possible constraints due to natural hazards or features, and for which a permit is required from TRCA prior to development activity commencing. The mapping is used by TRCA development and infrastructure review staff, policy planning staff and enforcement and compliance staff to inform our roles and responsibilities in planning, infrastructure and permit review processes, and supports municipalities in their comprehensive planning projects.

To ensure a smooth transition between the current and the updated regulation mapping, TRCA will ensure communication with our municipal partners, including training and education on the mapping and on TRCA roles where requested. The improved accuracy of the mapping achieved through this annual update will continue through ongoing and comprehensive annual updates and continuing dialogue with stakeholders such as BILD. Ultimately, these exercises help to increase certainty, effectiveness and efficiencies for all stakeholders in review and approval processes.

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Report prepared by: Jessica Murray, extension 6437 and Mary-Ann Burns, extension 5763

Emails: jessica.murray@trca.ca, maryann.burns@trca.ca

For Information contact: Laurie Nelson, extension 5281, Mary-Ann Burns, extension 5763

Emails: laurie.nelson@trca.ca, maryann.burns@trca.ca

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