

FULL AUTHORITY MEETING
Wednesday June 28, 2017 9:30 am
Ball's Falls Centre for Conservation – Glen Elgin Room
3292 Sixth Avenue, Jordan, ON

A G E N D A

Upcoming Events

- *July 1st Canada Day, 150th Celebration @
Binbrook Conservation Area; 8am – 8pm*
-

9:30 am

Public Session

- ◆ **DECLARATION OF CONFLICT OF INTEREST**
- ◆ **ADOPTION OF AGENDA**
- ◆ **DELEGATION / PRESENTATIONS**

1. *Pollinator Garden Legacy Project (5 min) Presented by K. Royer*

- ◆ **BUSINESS**

1. **A. Approval of Draft Minutes**

1. *Full Authority Meeting held May 17, 2017*
2. *Special Meeting of the Full Authority Board held June 22, 2017*

- B. Approval of Committee Minutes and Recommendations contained therein**

1. *Code of Conduct Review Committee held Jun 9*
Recommendation: That the Code of Conduct Review Committee recommend the Code of Conduct Appendix B; Regulation #2, Meeting Procedures as revised, to the Full Authority Board for approval, and that the Committee be dissolved.
2. *Audit Committee held Jun 12*
Recommendation: That the Audit Committee recommend the Draft RFP to the Full Authority Board for approval.
3. *Budget Committee held Jun 12*
Recommendation: That the Budget Steering Committee recommend to the Full Authority Board, a 2% total levy increase as budget guidance.*
**Which equates to approximately 1.6% budget increase as guidance*
4. *Strategic Planning Committee held June 12*
No recommendations – update only

Continued ...P2

2. Business Arising from Minutes
3. Correspondence – none.
4. Chairman's Remarks
5. Chief Administrative Officer Comments

Reports for Information

6. Financial & Reserves – Month ending May 31, 2017 ----- **Report No. 61-17**
7. Binbrook splash pad & Canada 150 update ----- **Report No. 62-17**
 - Presentation – Adam Christie
8. Binbrook reservoir Lake Niapenco – Dissolved oxygen update----- **Report No. 63-17**
9. Annual Water Quality Report----- **Report No. 64-17**
 - Presentation – J. Diamond
10. CA Act Review – Proposed amendments - Bill 139----- **Report No. 65-17**
 - Presentation – S. McInnes

Reports for Consideration

11. Virgil Dams, NOTL – Future Ownership & Management----- **Report No. 66-17**
12. NCDSB Lease Agreement for St. Johns Valley Centre ----- **Report No. 67-17**
 - Presentation – Marco Megazzeni NCSB
13. MNRF, WECI Agreement - St. John's Dam Safety Review----- **Report No. 68-17**
14. OPG Data Sharing Agreement ----- **Report No. 69-17**
15. Reforestation – Land Care Niagara Agreement ----- **Report No. 70-17**
16. Reforestation - Haldimand Stewardship Council Agreement ----- **Report No. 71-17**
17. DiFruscio Family Legacy - Pollinator Gardens Project ----- **Report No. 72-17**
18. Canada 150th Anniversary School Board Project ----- **Report No. 73-17**
19. Unsolicited Proposal-Burlington Beach Rentals Agreement----- **Report No. 74-17**
20. Other Business

Closed Session

1. Cave Springs----- Verbal
2. Legal update ----- Verbal

Public:

- ◆ Resolutions resulting from Closed Session
 - ◆ **ADJOURNMENT**
-



Mickey DiFruscio and Family Legacy Gardens Project

The Idea

- In the history of the NPCA there are several names that stand out as true stalwarts of the conservation ethic. These inspired individuals have given of themselves to support the efforts of staff and the communities they serve. Top of that list is Mr. Dominic DiFruscio.
- Mickey as he is known by his friends and colleagues has had a lifelong love of nature as an avid hunter and fisherman.
- He began his tenure with the NPCA back in 1993 and has attended countless community events and public meetings in those 24 years as an ambassador for the work of conservation.
- Mickey has gone a step further, leading by example, rolling up his sleeves and getting his hands dirty growing his famous milkweed plants every year in his home greenhouse.
- He donates these plants, the host plant for the iconic and majestic Monarch Butterfly to restoration projects undertaken by NPCA throughout our watershed.
- We would like to honour Mickey and his family for their tireless work by establishing a series of pollinator gardens on conservation land that will stand in tribute to our shared goal of improving habitat quality for wildlife.

The Plan

- Establish 2-3 pollinator gardens annually for the next 5 years.
- Each of the area municipalities will receive one on either Conservation Authority owned or publicly held land. In addition, a garden will be established in both Hamilton and Haldimand to cover NPCA's entire watershed jurisdiction.
- Each garden plot will be roughly 200 square meters in size. It will contain only native species of plants that serve as either host or nectar sources for native pollinator species. Each plot will contain some of "Mickey's milkweed".
- In addition to the planting, each plot will be complimented with an educational sign containing information on native pollinators and their associated habitat and information about Mr. DiFruscio and his family.

The Budget

- Each Site will cost between \$3,500 and \$4,000

Site preparation		\$1,000	In-kind NPCA
Woodchip mulch		\$200	In-kind NPCA
Native plants	1600/plot	\$2,000	cash
Educational sign		\$1,500-\$2,000	cash

The Concept Design



Site preparations



Partnerships

- General Motors of Canada – GM Green
- Niagara College
- District School Board of Niagara- DSBN Academy
- NPCA



Monday June 5, 2017

Lower Virgil Dam CA













Tuesday June 20, 2017

Mel Swart Park - Thorold















Thank you Mickey!

REPORTS FOR INFORMATION

- ❖ *Report No. 61-17 - Financial & Reserve month ending May, 2017*
 - ❖ *Report No. 62-17 – Canada 150 Celebration at Binbrook CA*
- ❖ *Report No. 63 – 17 Lake Niapenco Dissolved Oxygen Monitoring*
- ❖ *Report 64 – 17 NPCA Water Quality Monitoring Annual Report*
 - ❖ *Report 65 – 17 C. A. Act Review – Proposed Amendments*

Report To: Board of Directors

Subject: Financial and Reserve Report – Month Ending May 2017

Report No: 61-17

Date: June 28, 2017

RECOMMENDATION:

That Financial and Reserve Report No. 61-17 be **RECEIVED** for information.

DISCUSSION:

To provide the Board a summary of operations & capital expenditures versus revenues and to provide a comparison of actual results to the budget as approved by the Board.

The report confirms the general financial oversight and compliance with Public Sector Accounting Board standards.

FINANCIAL IMPLICATIONS:

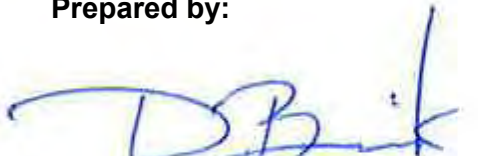
The lines of business are within budget allocations identified during the budget preparation and approval cycle.

RELATED REPORTS AND APPENDICES:

Appendix 1 – Budget Status Report: for month ending May 2017 (consolidated)

Appendix 2 - Statement of Reserves for month ending May 2017

Prepared by:



David Barrick
Director of Corporate Services

Submitted by:



Mark Brickell
Acting CAO/Secretary Treasurer

This report was prepared in consultation with John Wallace, Manager of Finance.

**NIAGARA PENINSULA CONSERVATION AUTHORITY
CONSOLIDATED NON CAPITAL
JANUARY 1, 2017 -MAY 31, 2017**

<u>REVENUES</u>	<u>YTD ACTUAL</u>	<u>ANNUAL BUDGET</u>	<u>% OF BUDGET</u>
MNR TRANSFER PAYMENTS	-	174,496.00	0.0%
PROVINCIAL GRANTS - MOE	3,538	99,500	3.6%
PROVINCIAL GRANTS - OTHER	171,372.76	212,000.00	80.8%
FEDERAL GRANTS	48,508	190,000	25.5%
MUNICIPAL LEVY - GENERAL	1,409,745	5,638,972	25.0%
LEVY - SPECIAL - NIAGARA	432,373	1,729,488	25.0%
LEVY - SPECIAL - HAMILTON	4,974	19,897	25.0%
ADMINISTRATION FEES	166,985	360,325	46.3%
USER FEES /OTHER REVENUES	808,065	1,612,279	50.1%
RESERVE FUNDS	-	-	0.0%
LAND OWNER CONTRIBUTION	7,639	-	100.0%
MISCELLANEOUS	30,766	106,435	28.9%
	<u>3,083,966</u>	<u>10,143,392</u>	<u>30.4%</u>

EXPENDITURES

CAO/BOARD & CORPORATE SERVICES	1,141,681	4,028,507	28.3%
WATERSHED	973,479	3,013,598	32.3%
OPERATIONS	1,039,189	3,101,287	33.5%
	<u>3,154,349</u>	<u>10,143,392</u>	<u>31.1%</u>

**NIAGARA PENINSULA CONSERVATION AUTHORITY
CAO/BOARD AND CORPORATE SERVICES
JANUARY 1, 2017 -MAY 31, 2017**

<u>REVENUES</u>	<u>YTD ACTUAL</u>	<u>ANNUAL BUDGET</u>	<u>% OF BUDGET</u>
MNR TRANSFER PAYMENTS	-	75,796	0.0%
PROVINCIAL GRANTS - OTHER	75,149	110,000	68.3%
MUNICIPAL LEVY - GENERAL	660,196	2,640,783	25.0%
LEVY - SPECIAL - NIAGARA	278,473	1,113,893	25.0%
INTEREST INCOME	10,140	60,000	16.9%
MISCELLANEOUS	6,626	-	100.0%
RESERVE FUNDS		-	-
CONSERVATION FOUNDATION		28,035	0.0%
	1,030,584	4,028,507	25.6%

EXPENDITURES

CAO & BOARD EXPENSES	59,795	365,723	16.3%
<u>CORPORATE SERVICES</u>			
CORPORATE MANAGEMENT	316,210	1,783,738	17.7%
OFFICE SERVICES	237,016	487,600	48.6%
FINANCIAL SERVICES	105,176	270,246	38.9%
HUMAN RESOURCES	57,423	114,120	50.3%
INFORMATION TECHNOLOGY	236,058	526,504	44.8%
CORPORATE COMMUNICATIONS	130,003	480,576	27.1%
	1,081,885	3,662,784	29.5%

**NIAGARA PENINSULA CONSERVATION AUTHORITY
WATERSHED
JANUARY 1, 2017 - MAY 31, 2017**

<u>REVENUES</u>	<u>YTD ACTUAL</u>	<u>ANNUAL BUDGET</u>	<u>% OF BUDGET</u>
MNR TRANSFER PAYMENTS	-	98,700	0.0%
PROVINCIAL GRANTS - MOE	3,538	99,500	3.6%
PROVINCIAL GRANTS - OTHER	96,224	102,000	94.3%
FEDERAL GRANTS	48,508	190,000	25.5%
MUNICIPAL LEVY - GENERAL	410,627	1,642,501	25.0%
LEVY - SPECIAL - NIAGARA	120,570	482,275	25.0%
LEVY - SPECIAL - HAMILTON	4,974	19,897	25.0%
ADMINISTRATION FEES	166,985	360,325	46.3%
RESERVE FUNDS	-	-	0.0%
LAND OWNER CONTRIBUTION	7,639	-	100.0%
MISCELLANEOUS	14,000	18,400	76.1%
	873,065	3,013,598	29.0%
<u>EXPENDITURES</u>			
WATERSHED MANAGEMENT	182,624	434,861	42.0%
PLAN REVIEW AND REGULATIONS	402,331	1,143,552	35.2%
WATERSHED PROJECTS	388,525	1,435,185	27.1%
	973,479	3,013,598	32.3%

**NIAGARA PENINSULA CONSERVATION AUTHORITY
OPERATIONS
JANUARY 1, 2017 -MAY 31, 2017**

<u>REVENUES</u>	<u>YTD ACTUAL</u>	<u>ANNUAL BUDGET</u>	<u>% OF BUDGET</u>
MUNICIPAL LEVY - GENERAL	338,922	1,355,688	25.0%
LEVY - SPECIAL - NIAGARA	33,330	133,320	25.0%
USER FEES/OTHER REVENUES	808,065	1,612,279	50.1%
RESERVE FUNDS	-	-	0.0%
	<u>1,180,317</u>	<u>3,101,287</u>	<u>38.1%</u>
 <u>EXPENDITURES</u>			
OPERATIONS MANAGEMENT	233,278	570,177	40.9%
STRATEGIC INITIATIVES	260,853	724,103	36.0%
LAND PROGRAMMING	501,634	1,648,507	30.4%
VEHICLES AND EQUIPMENT	43,424	158,500	27.4%
	<u>1,039,189</u>	<u>3,101,287</u>	<u>33.5%</u>

NIAGARA PENINSULA CONSERVATION AUTHORITY
CONSOLIDATED CAPITAL
JANUARY 1, 2017 - MAY 31 , 2017

<u>REVENUES</u>	<u>YTD ACTUAL</u>	<u>YTD BUDGET</u>	<u>% OF BUDGET</u>
FEDERAL GRANTS	-	-	0.0%
MUNICIPAL LEVY - GENERAL	107,935	431,744	25.0%
LEVY - SPECIAL - NIAGARA	242,717	970,871	25.0%
LEVY - SPECIAL - HAMILTON	25,000	100,000	25.0%
RESERVE FUNDS	-	-	0.0%
MISCELLANEOUS/OTHER	-	271,000	100.0%
	375,652	1,773,615	21.2%

EXPENDITURES

CORPORATE SERVICES	50,813	129,871	39.1%
WATERSHED	40,205	46,000	87.4%
LAND DEVELOPMENT	117,741	1,166,000	10.1%
NIAGARA DIFFERENTIAL (RESERVE)	-	431,744	0.0%
	208,759	1,773,615	11.8%

NIAGARA PENINSULA CONSERVATION AUTHORITY
CORPORATE SERVICES - CAPITAL
JANUARY 1, 2017 - MAY 31, 2017

<u>REVENUES</u>	<u>YTD ACTUAL</u>	<u>YTD BUDGET</u>	<u>% OF BUDGET</u>
LEVY - SPECIAL - NIAGARA	7,467	29,871	25.0%
MISCELLANEOUS/OTHER	-	100,000	0.0%
	7,467	129,871	5.7%

EXPENDITURES

GIS/CORPORATE SERVICE	50,813	129,871	39.1%
	50,813	129,871	39.1%

NIAGARA PENINSULA CONSERVATION AUTHORITY
WATERSHED CAPITAL
JANUARY 1, 2017 - MAY 31, 2017

<u>REVENUES</u>	<u>YTD ACTUAL</u>	<u>YTD BUDGET</u>	<u>% OF BUDGET</u>
LEVY - SPECIAL - NIAGARA	11,500	46,000	25.0%
	11,500	46,000	25.0%

<u>EXPENDITURES</u>			
FLOODPLAIN MAPPING	40,205	-	100.0%
STREAM GUAGE & MONITORING NETWORK	-	46,000	0.0%
	40,205	46,000	87.4%

NIAGARA PENINSULA CONSERVATION AUTHORITY
CONSERVATION LAND DEVELOPMENT - CAPITAL
JANUARY 1, 2017 - MAY 31, 2017

<u>REVENUES</u>	<u>YTD ACTUAL</u>	<u>YTD BUDGET</u>	<u>% OF BUDGET</u>
FEDERAL GRANTS	-	-	100.0%
MUNICIPAL LEVY - GENERAL	-	-	0.0%
LEVY - SPECIAL - NIAGARA	223,750	895,000	25.0%
LEVY - SPECIAL - HAMILTON	25,000	100,000	25.0%
RESERVE FUNDS	-	-	0.0%
MISCELLANEOUS/OTHER	-	171,000	100.0%
	248,750	1,166,000	21.3%

<u>EXPENDITURES</u>			
LAND ACQUISITION (RESERVE)	-	600,000	0.0%
BALL'S FALLS	5,082	120,000	4.2%
BINBROOK	38,247	-	100.0%
CHIPPAWA CREEK	-	-	0.0%
LONG BEACH	42,479	245,000	17.3%
ECOLOGICAL PROJECTS	-	21,000	100.0%
GAINSBOROUGH CENTRAL WORKSHOP	31,933	180,000	17.7%
	117,741	1,166,000	10.1%

**NIAGARA PENINSULA CONSERVATION AUTHORITY
STATEMENT OF CONTINUITY FOR CAPITAL & OPERATING RESERVES
FORECAST FOR 2017**

	Balance (Audited) 31-Dec <u>2016</u> \$	Authorized Appropriations <u>2017</u> \$	Forecasted Balance 31-Dec <u>2017</u> \$
Unexpended Capital Reserves			
Equipment	383,390	(102,582)	280,808
General Capital	1,283,542	(612,560)	670,982
Flood Protection Services	404,350	0	404,350
Niagara Levy Differential	774,469	431,744	1,206,213
Land acquisition-Hamilton	900,000	100,000	1,000,000
Land acquisition-Niagara	798,174	500,000	1,298,174
	4,160,535	419,184	4,579,719
	4,543,925	316,601.79	4,860,527
Operating Reserves			
General Operating Reserve	559,492	0	559,492
Tree Bylaw Agreement	82,371	0	82,371
	641,863	0	641,863
	641,863	0	641,863.00
Grand Total Reserves	5,185,788	316,602	5,502,390
Deferred Revenue - Ontario Power Generation Funding	1,736,981	(358,000.00)	1,378,981

Report To: Board of Directors

Subject: Canada 150 Celebration at Binbrook Conservation Area

Report No: 62-17

Date: June 28, 2017

RECOMMENDATION:

That Report No. 62-17 regarding the Canada 150 Celebration at Binbrook C. A. be **RECEIVED** for information.

PURPOSE:

To provide NPCA Board Members with an update on the Canada 150 Celebration plans/program, also known as “Party in the Park”, to take place at Binbrook Conservation Area on July 1st, 2017.

DISCUSSION:

The Canada 150 Celebration is coming to Binbrook on Saturday, July 1st. The Party in the Park event will run from 11:00 a.m. – 11:00 p.m. Regular gate admission will apply to all patrons. The day will start with an Official Opening at 11:00 a.m. with remarks from City of Hamilton Councilor, Mrs. Brenda Johnson, local Member of Parliament, the Honourable David Sweet, as well as Members of the NPCA Board of Directors and our CAO.

This event will also serve as the official opening of the brand new splashpad, for which NPCA received matching funds from the Federal Government Canada 150 Grant Program. An official ribbon-cutting ceremony for the splashpad will take place at 12:30 p.m.



Canada

The event will feature live music and talented entertainment throughout the day. Featured artists include Practically Hip, Flat Broke, and The Rye it. There will also be various types of Buskers and Children’s entertainers on site. Additionally, there will be a “Mom to Mom” sale that will be operating within the park between 11:00 a.m. and 3:00 p.m. Finally, the movie “SING” will be shown starting around 9:00 p.m. on our large outdoor movie screen.

In addition to the live entertainment and events, our partner and tenant, BoarderPass Canada, will be doing cable wakeboarding demonstrations throughout the day. We will have watercraft rentals, beach volleyball, inflatables and lawn games. There will also be a licensed area for adults, food trucks, and overnight camping. It is going to be a very full day of activities.

Advertising has been initiated with the help of the NPCA Communications Team and Councilor Johnson's office, both in print, and digitally on our website and various social media sites.

FINANCIAL IMPLICATIONS:

This is a new special event that is anticipated to break even.

RELATED REPORTS AND APPENDICES:

- 1.) Event Advertisement
- 2.) Event Map

Prepared by: Adam Christie; Manager, Strategic Initiatives

Reviewed by:



Gregg Furtney
Acting Director of Operations &
Strategic Initiatives

Submitted by:



Mark Brickell
Acting C.A.O

PARTY IN THE PARK

Celebrating Canada's 150



SATURDAY, JULY 1ST, 2017 • 11am-11pm
BINBROOK CONSERVATION AREA



NIAGARA PENINSULA
CONSERVATION
AUTHORITY



Event Schedule

- 11:00am Official Opening
- 11:15am Children's Entertainment
- 12:00pm Dispatch Talent's Buskers
- 1:00pm Practically Hip
- 2:45pm Dispatch Talent's Buskers
- 4:00pm Flat Broke
- 5:45pm Dispatch Talent's Buskers
- 7:00pm The Rye It
- 9:00pm Thank you and Closing
- 9:15pm Outdoor Movie *Sing*

Onsite Extras!

- Boarderpass Cable Wakeboarding
- Watercraft Rentals
- Beach Volleyball
- Inflatables & Lawn Games
- Overnight Camping
Licenced Area
- Mom to Mom Sale 11am-3pm



To Watercraft Rentals



Food Trucks



Beach Volleyball

Beach



Water Activities



Beach



Entrance

To Parking



Movie Screen

Open Air Seating



Lawn Games

Main Stage



Bouncy Castles



Mom 2 Mom Sale

Washrooms



To Splash Pad

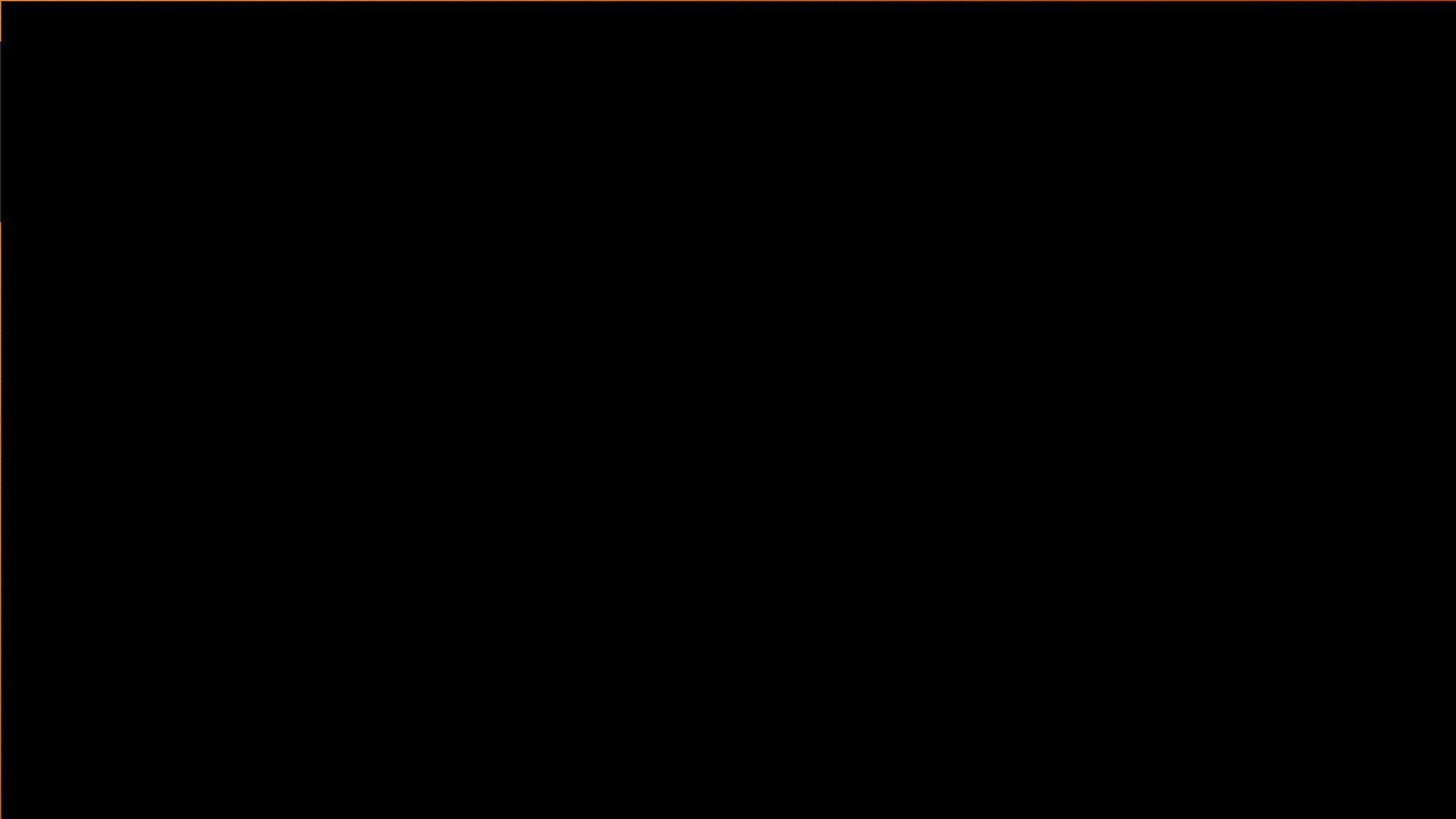


BINBROOK'S PARTY IN THE PARK

CELEBRATING CANADA'S 150TH



**NIAGARA PENINSULA
CONSERVATION**
AUTHORITY



Event Layout



Entertainment Lineup

Practically Hip

A TRIBUTE TO THE TRAGICALLY HIP



"Niagara's favourite party band." (Niagara This Week)

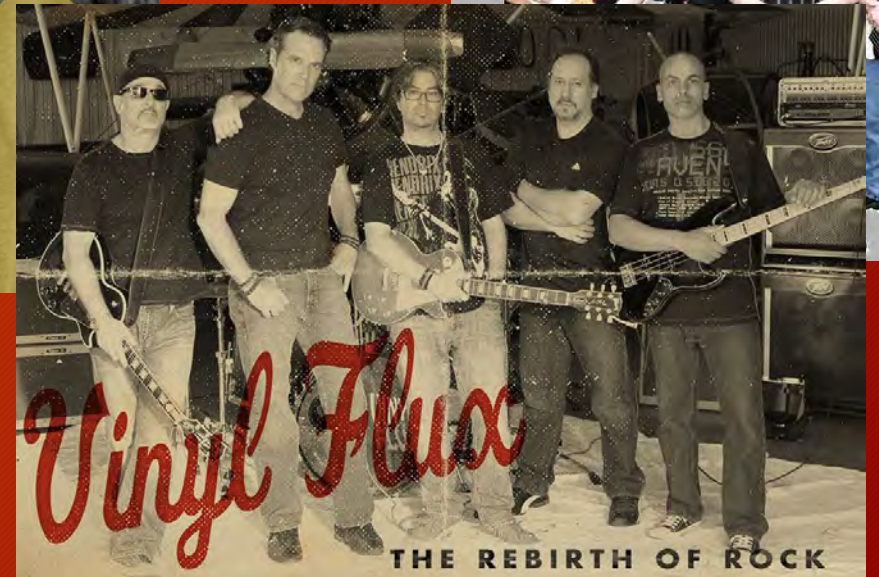
the
Figure Four



THE
RYE
IT



FLAT
BROKE



Children's Entertainment

Meet & Greet with Rapunzel

Rapunzel & Pascal will be onsite from 1pm to 3pm to meet guests, sing songs and take photos



Children's Entertainment



Sandcastle Building Competition



Event Schedule

11:00am Official Opening
11:00am Sandcastle Competition Opens
11:00am Mom 2 Mom sale begins
12:00pm Boarderpass Pro Demo
1:00pm Rapunzel Meet & Greet
1:00pm Practically Hip
2:30pm Figure Four
2:30pm Boarderpass Pro Demo
3:00pm Sandcastle Competition Judging
4:00pm Flat Broke
5:30pm Boarderpass Pro Demo
5:30pm Vinyl Flux
7:00pm The Rye It
9:00pm Thank you and Closing
9:15pm Outdoor Movie *Sing*



Food Trucks



Beverages



Mom 2 Mom Swap and Sell



Boarderpass Cable Wake Boarding Pro Demos



Outdoor Movie Night



Overnight Tent Camping



Marketing Plan



Digital

Broadcast

Print

Marketing Tactics

Tactics

- E-Blasts
- Social Media Calendar
- Promotion at other NPCA Events
- Lure cards 6-8 weeks prior to the event
- Press release to local and regional media 6 weeks prior to the
- NPCA website promotion
- Print and advertising should follow a similar geographic focus. The market segment targeting young families, with an interest in outdoor recreation, who are educated with moderate to higher income, aged 25-45.

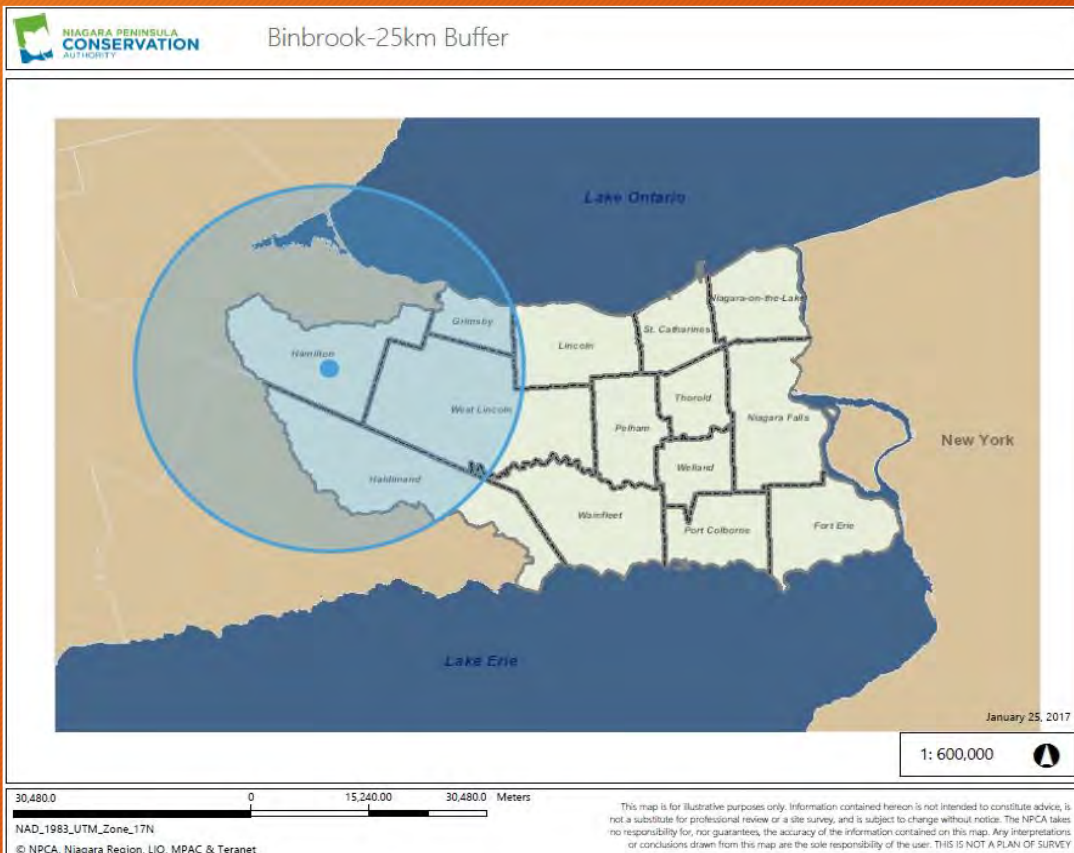
Print & Digital

- Local print in papers such as the sachem, spectator and Hamilton mountain news
- Participation in e-blasts to NPCA's current subscribers list.

Potential Television and Radio initiatives

- Y108
- 102.1TheEdge
- CHCH Event Listing
- Bell Media's reach is more than 2,000,000 listeners & online visitors.

Targeted Audience



- Residents within a 25KM radius
- Local community in Binbrook and surrounding area
- Social media followers (NPCA, Canada150, City of Hamilton)

Known Competing Events

- Other concurrent events that are free of charge that can potentially draw residents from the Binbrook Area, such as the following in the Hamilton area:
 - Binbrook Canada Day, Hendershot Road-Free Event
 - Celebrate Canada 150 Day @ Bayfront & Pier 4 Parks-Free Event
 - Tall Ships Return to Hamilton, Peir 8-Free Event
 - Vintage Wheels & Wings @ Warplane Heritage Museum-\$5 donation request
 - Canada Day Military Tattoo @ Dundurn Castle- Free event
 - Dunnville Canada Day Celebration- Free Event
 - Caladonia's Music in the Park-Free Event
 - Lynden Canada Day-Free Event
 - Stoney Creek Canada Day-Free Event
 - Oh Canada Waterdown Ribfest-Free Event
 - Westfeild Heritage Village-\$ Fees Apply
 - Canada Day Pancake Breakfast-Dundas-\$ Fees Apply
 - Greensville Optimist Club Canada Day Celebration-Webster Falls-Free Event
 - It's Your Festival-Gage Park-Free Event

Known Risks

- Long Holiday Weekend-As this Canada Day falls on a Saturday, consideration should be made that many folks will also have the Friday off of work and this could result in a long weekend spent out of this region.
- Extreme Weather- Weather conditions will play a significant toll on the attendance at the event. Weather monitoring will need to occur to ensure guest safety.
- Availability of vendors and suppliers as this is a Canada 150 event.
- Adequate staffing levels to ensure proper event operation and safety-At present, there is no budget dollars allocated for temporary event staffing.
- Event Safety-Ensure staff and guests are alert and attentive at all times. Be aware of the people, circumstances and terrain. Offer assistance where possible.
- Proximity to Water-Considerations to ensure safety of guests in and around the water features at Binbrook must be considered and mitigated.
- Medical Emergencies-Call 911 if urgent. Inform the **information** Tent. Defibrillators and First Aid Kits will be located in the information tent.
- Conflict Management. Listen to concerns, be polite and courteous. Let someone in the information tent know.
- Missing Child-Park goes into lock down mode. No one is to come or leave the park until the child is located.
- Impaired Visitors-Inform the on duty security ensure a safe ride home for that individual.
- Impaired Visitors in close proximity to water resources.



**NIAGARA PENINSULA
CONSERVATION
AUTHORITY**

Report To: Board of Directors

Subject: Lake Niapenco Winter 2016-2017 Dissolved Oxygen Monitoring Report

Report No: 63-17

Date: June 28, 2017

RECOMMENDATION:

That Report No. 63-17 regarding the Winter 2016-2017 Dissolved Oxygen concentrations in the NPCA's Lake Niapenco be RECEIVED for information.

PURPOSE:

The purpose of this report is to provide a summary of the 2016-2017 Dissolved Oxygen concentrations in the NPCA's Lake Niapenco.

BACKGROUND:

In the fall of 2015 the Glanbrook Conservation Committee requested that the NPCA monitor wintertime dissolved oxygen (DO) concentrations in Lake Niapenco. The Glanbrook Conservation Committee was concerned that recent declines in crappie fish populations were the result of low wintertime DO concentrations in Lake Niapenco. Both the winters of 2013-2014 and 2014-2015 were cold and caused significant ice cover on Lake Niapenco from January to April. It was hypothesized that ice cover was reducing DO levels within Lake Niapenco and negatively impacting the crappie populations. The NPCA monitored DO concentrations at a 2.0m depth during the winter of 2015-2016 and found sufficient DO concentrations for fish populations (**Figure 4**). The NPCA continued to monitor DO concentrations during the 2016-2017 winter and these results are summarized below.

DISCUSSION:

To assess winter dissolved oxygen (DO) concentrations in the Binbrook Reservoir, NPCA staff deployed two YSI 6600 Water Quality Loggers (**Figure 1**) near the Binbrook Dam in Lake Niapenco (**Figure 2**) on November 23, 2016. The loggers were deployed to a depth of 1.5m and 4.5m from surface of Lake Niapenco. The logger was suspended with buoys on a steel aircraft cable that was anchored to the bottom of the lake with a concrete slab. The logger was programed to take DO readings every 15 minutes. The loggers were retrieved on March 12, 2017.



Figure 1. YSI 6600 Water Quality Logger



Figure 2. Logger Location at Lake Niapenco

The winter of 2016-2017 was mild compared to the 2013-2014 and 2014-2015 winters. NPCA staff observed very little ice cover in the 2016-2017 winter. DO concentrations from November 23, 2016 to March 12, 2017 are shown in **Figure 3**. At the 1.5m depth DO concentrations during this study period did not dip below the Ontario Ministry of Environment's Provincial Water Quality Objective (PWQO) of 4.0 mg/L typically required to sustain fish.

At the depth of 4.5m, there were some periods when DO concentrations dipped below the PWQO 4.0 mg/L threshold. However, fish could easily swim to shallower depths to obtain their required DO. Based on this data, NPCA staff have concluded that there were sufficient DO concentrations in Lake Niapenco to sustain warm water fish populations during the 2016-2017 wintertime. The NPCA intends to monitor DO concentrations for the 2017-2018 winter by redeploying the YSI logger at the same location and depths.

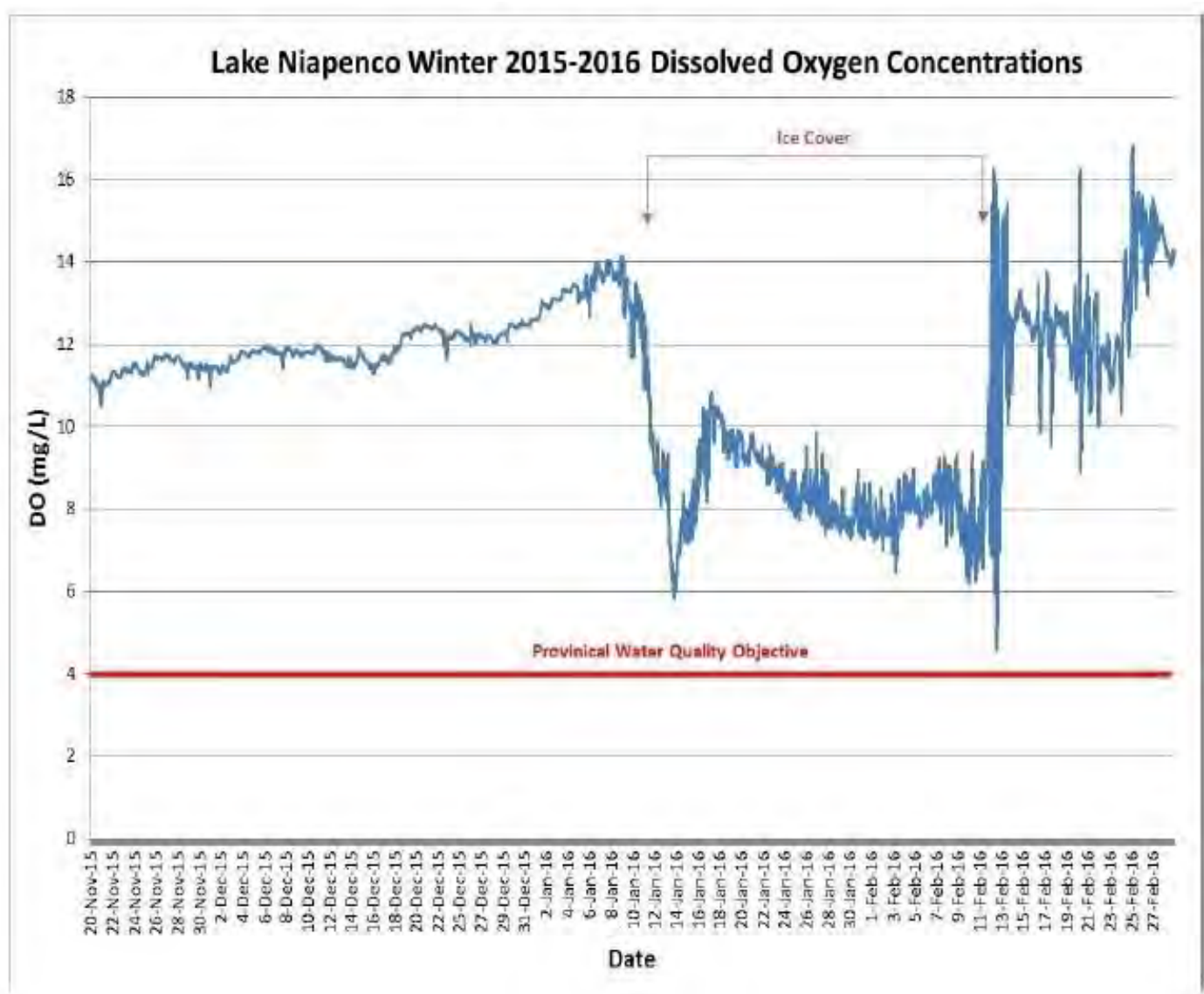


Figure 3. Dissolved Oxygen Concentrations in Lake Niapenco (Nov. 2016 - March 2017)

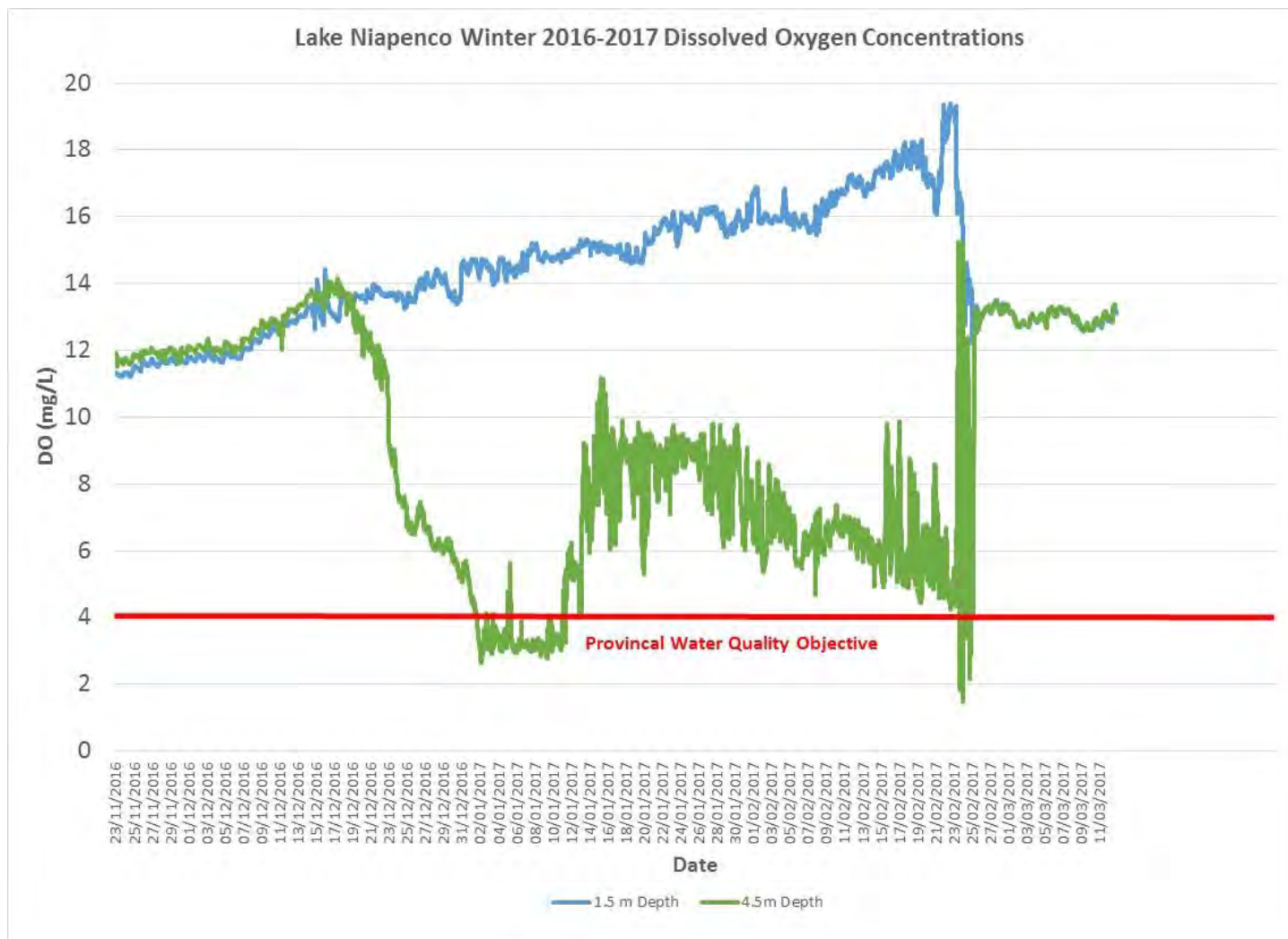


Figure 4. Dissolved Oxygen Concentrations in Lake Niapenco (Nov. 2015 – Feb. 2016)

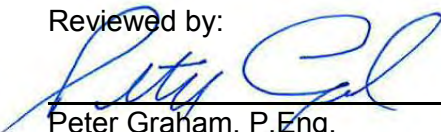
FINANCIAL IMPLICATIONS:

Funds to support the Lake Niapenco Dissolved Oxygen Monitoring Program are allocated in the annual NPCA operational budgets.

Prepared by:


Joshua Diamond, M.Sc.
Water Quality Specialist

Reviewed by:


Peter Graham, P.Eng.
Director, Watershed Management

Submitted by:


Mark Brickell; Acting CAO /Secretary Treasurer

Report To: Board of Directors

Subject: 2017 NPCA Water Quality Monitoring Annual Report

Report No: 64-17

Date: June 28, 2017

RECOMMENDATIONS:

- 1) That Report No. 64-17 regarding the 2017 NPCA Water Quality Monitoring Annual Report summary be RECEIVED for information.

Note: Following Board ratification, the full 2017 NPCA Water Quality Monitoring Annual Report will be placed on the NPCA website and distributed to all municipalities and Public Health Departments located within the NPCA geographical area including the local Ontario Ministry of Environment and Climate Change office.

PURPOSE:

The purpose of this report is to provide a summary of the 2017 NPCA Water Quality Monitoring Report and request Board approval for distribution.

BACKGROUND:

The NPCA Water Quality Monitoring Program was implemented in 2001. This is the most comprehensive water quality sampling and analysis program undertaken within the NPCA's jurisdiction. This monitoring program provides an indication of the overall health of the NPCA's watershed. The Region of Niagara, City of Hamilton, and the Ministry of the Environment and Climate Change (MOECC) lend assistance by offering lab analysis support.

The NPCA collects and analyzes hundreds of water samples each year from the streams, rivers and groundwater resources within its watershed. From this information, the NPCA can identify sources of pollution, track water quality trends, and help to assess and direct NPCA stewardship programs. As well, this long-term data set serves as a baseline by which to compare the success of all the various water quality improvement initiatives being undertaken within the watershed.

DISCUSSION:

The 2017 NPCA Water Quality Monitoring Report summarizes the results of surface water and groundwater monitoring undertaken by the NPCA within our watershed **during the 2016 calendar year**. The NPCA collects monthly surface water quality samples (from April to November) at 74 monitoring stations and analyses them using several indicator parameters including chloride,

nitrate, total phosphorus, total suspended solids, copper, lead, zinc, and *E. coli*. These indicator parameters were used to calculate the Canadian Water Quality Index (WQI) which provides a descriptive water quality rating for each station. Since 2003 the NPCA has also been collecting water quality data and water level data from 15 Provincial Groundwater Monitoring Network (PGMN) monitoring wells in partnership with the MOE. This data is important to assess the ambient conditions of several bedrock and overburden aquifers found in NPCA watershed.

In general, water quality monitoring data collected between 2001 and 2016 is summarized as follows:

- Based on the results of the 2012 to 2016 WQI, 64% of the NPCA surface water monitoring stations are rated as poor, 23% are rated as marginal, 10% are rated as fair and 3% are rated as good. None of the stations achieved a WQI rating of excellent.
- Generally, the WQI ratings at water quality surface water stations were relatively stable when compared to historic NPCA data.
- Water quality improvements were observed in Beaver Dams Creek (Port Colborne), Beaver Creek (Fort Erie), Grassy Brook (Grassy Brook), Low Banks Drain (Haldimand), a tributary in the upper Twenty Mile Creek watershed (Hamilton), a tributary of the upper Welland River and the lower Welland River (Niagara Falls) when comparing to previous water quality assessments.
- The Effingham tributary of upper Twelve Mile Creek, the lower section of Twelve Mile Creek in Port Dalhousie, the Welland Canal, Frenchman Creek (Fort Erie), Beaver Creek (Fort Erie) and the Welland River downstream of Binbrook Conservation Area continue to achieve the highest water quality ratings in the NPCA watershed.
- WQI ratings decreased in Bayer Creek (Niagara Falls), Coyle Creek (Welland), Drapers Creek (Welland), Elsie Creek (West Lincoln), Lyons Creek (Niagara Falls), Shriners Creek (Niagara Falls), because of increased exceedances of water quality parameters.
- The NPCA watershed has total phosphorous and *E. coli* exceedances of the Provincial Water Quality Objectives at virtually all monitoring stations owing to higher population densities, and large concentration of agriculture and industry. Based on the data collected to date, elevated concentrations of total phosphorus and *E. coli* are the most frequent and widespread cause of water quality impairment in the NPCA watershed. The relative high frequency and magnitude of these exceedances are the driving factors in lowering the WQI at all stations.
- The NPCA is observing statistically significant decreases of total phosphorus concentrations in approximately 20% of NPCA's long-term monitoring stations while only 2% of stations are showing a statistical increase. It is reasonable to deduce that this decrease is due, at least in part, to focused restoration/stewardship initiatives.
- NPCA is also observing statistically significant increases of chloride concentrations in approximately 25% of NPCA's long-term monitoring stations likely due to road salts. The NPCA will work with its partners to identify chloride sources, assessing seasonal trends and reduce impacts.
- The water quality at most Provincial Groundwater Monitoring Network (PGMN) wells meets the Ontario Drinking Water Standards and therefore can be characterized as good

water quality. Some of the wells were found to have exceedances in boron, fluoride and sodium that were attributed to natural conditions of the groundwater. Nitrate exceedances found in two PGMN wells were attributed to agricultural land use near the monitoring well. Follow-up monitoring by the NPCA and Niagara Public Health determined that these nitrate exceedances were site specific to the PGMN monitoring well only.

RECOMMENDED ACTIONS:

Recommended actions from the NPCA Water Quality Monitoring Program 2017 Annual Report are summarized as follows:

1. It is recommended that the NPCA continue to collect up-to-date and reliable water quality data and continue to make this information freely accessible to the public.
2. It is recommended that the NPCA continue to analyze all collected water quality data with the intent to identify significant trends or abnormalities.
3. It is recommended that the NPCA continue to work with our partner municipalities and the MOECC to mitigate abnormally high sources of water pollution as they are identified through the Water Quality Monitoring field sampling program.
4. It is recommended that the NPCA continue to monitor summer water temperatures within streams that have been identified as being cool or cold water systems which are sensitive to temperature change.
5. It is recommended that the NPCA continue to undertake annual water quality assessments for the Hamilton International Airport and the City of Hamilton's Glanbrook Landfill (both presently commissioned and funded by the City of Hamilton).
6. It is recommended that the NPCA continue to implement the 'Water Quality & Habitat Improvement Program'. This landowner stewardship program can help to reduce the levels of total phosphorus and *E. coli* which have been identified to be major contributors to the impairment of water quality within the NPCA watershed.
7. It is recommended that the NPCA continue to offer the 'Water Well Decommissioning Program' to the public with the objective of removing old and abandoned wells, thereby reducing the risk of groundwater contamination.
8. As it is no longer typical to have watercourses completely frozen from December to March, it is recommended that the NPCA pursue opportunities to expand the surface water quality monitoring program outside of the months of April to November in order to address water quality data gaps which presently exist for the winter months.


FINANCIAL IMPLICATIONS:

Funds to support the NPCA Water Quality Monitoring Program are allocated in the annual NPCA operational budgets. There were no additional financial implications in the generation of the 2017 NPCA Water Quality Monitoring Report.

RELATED REPORTS AND APPENDICES:

1. Map showing Water Quality Ratings in NPCA
2. 2017 NPCA Water Quality Report (not appended)
(will be posted on website and Office 365)

Prepared by:



Joshua Diamond, M.Sc.
Water Quality Specialist

Reviewed by:

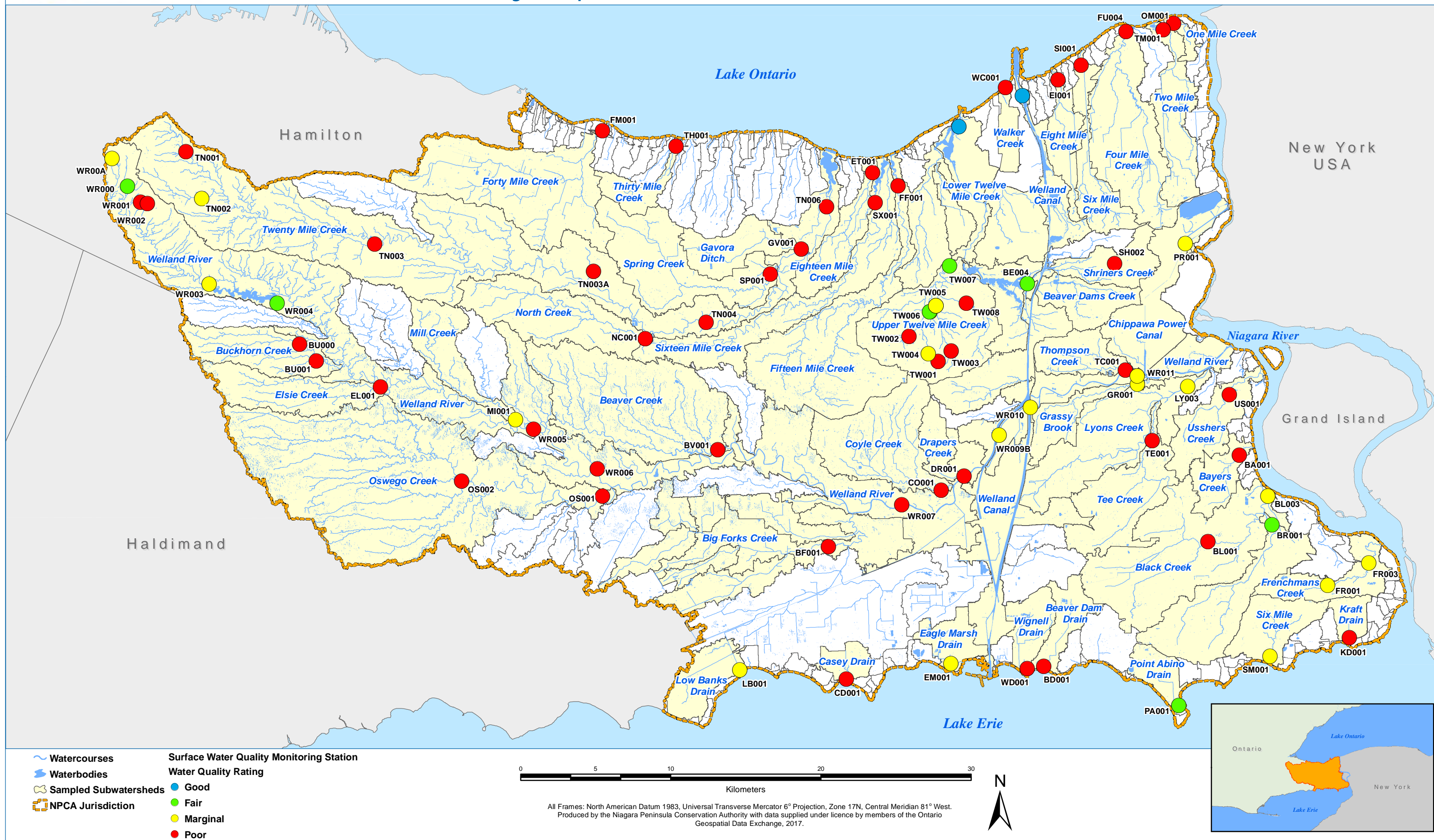


Peter Graham, P.Eng.
Director, Watershed Management

Submitted by:



Mark Brickell
Acting Chief Administrative Officer /
Secretary Treasurer



2017 Water Quality Report



NPCA Board of Directors Meeting

June 28 2017

NPCA Water Quality Monitoring Program implemented in 2001 with a mandate to:

1) Assess water quality in local watersheds

- Surface water quality
- Groundwater quality

2) Report water quality information to stakeholders

- Water quality reports
- Data Sharing



What does the NPCA look at in our water?

Indicator	Sources	Impacts
Chloride	Road salt, sewage	Ecological toxicity
Phosphorus	Fertilizers, sewage	Excess algae growth
Nitrate	Septic systems, fertilizers	Human health
Suspended Solids	Erosion, urban and agricultural runoff	Loss of habitat
<i>E. coli</i>	Sewage, manure	Beach closures, boil water advisories
Metals	Industrial effluents, pesticides, storm water runoff	Ecological toxicity
Benthic Animals	Both rural and urban pollutants	Ecological toxicity Loss of habitat



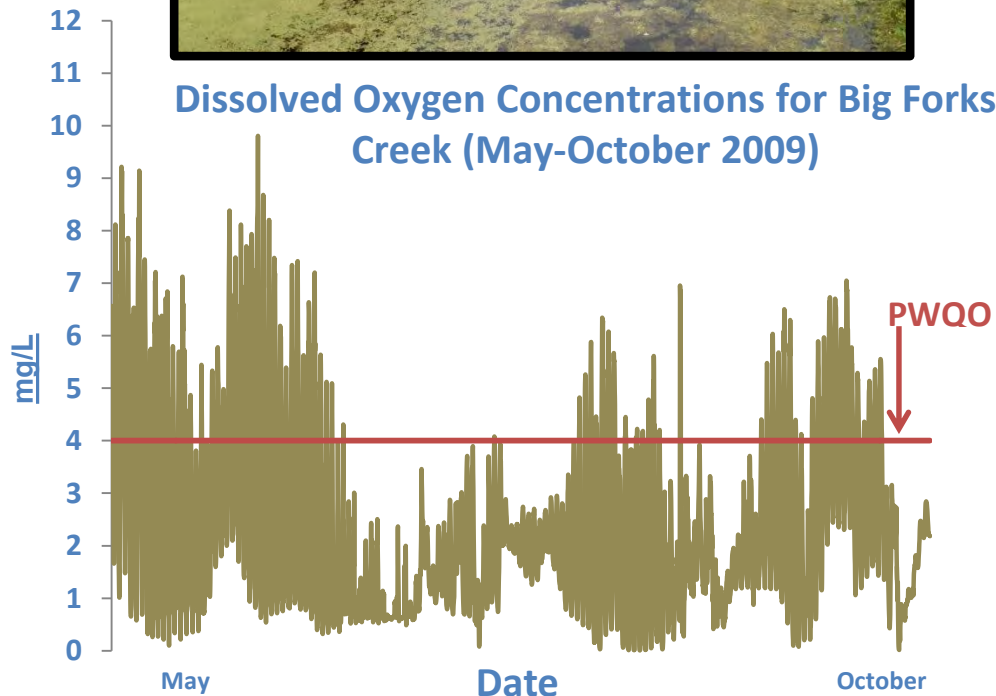
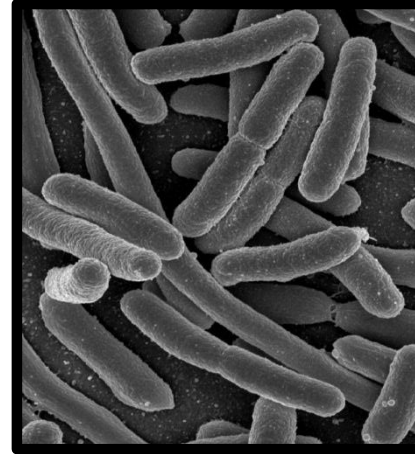
There are three chronic water quality issues in NPCA watersheds

Total Phosphorus



Algae & Duckweed

E. coli



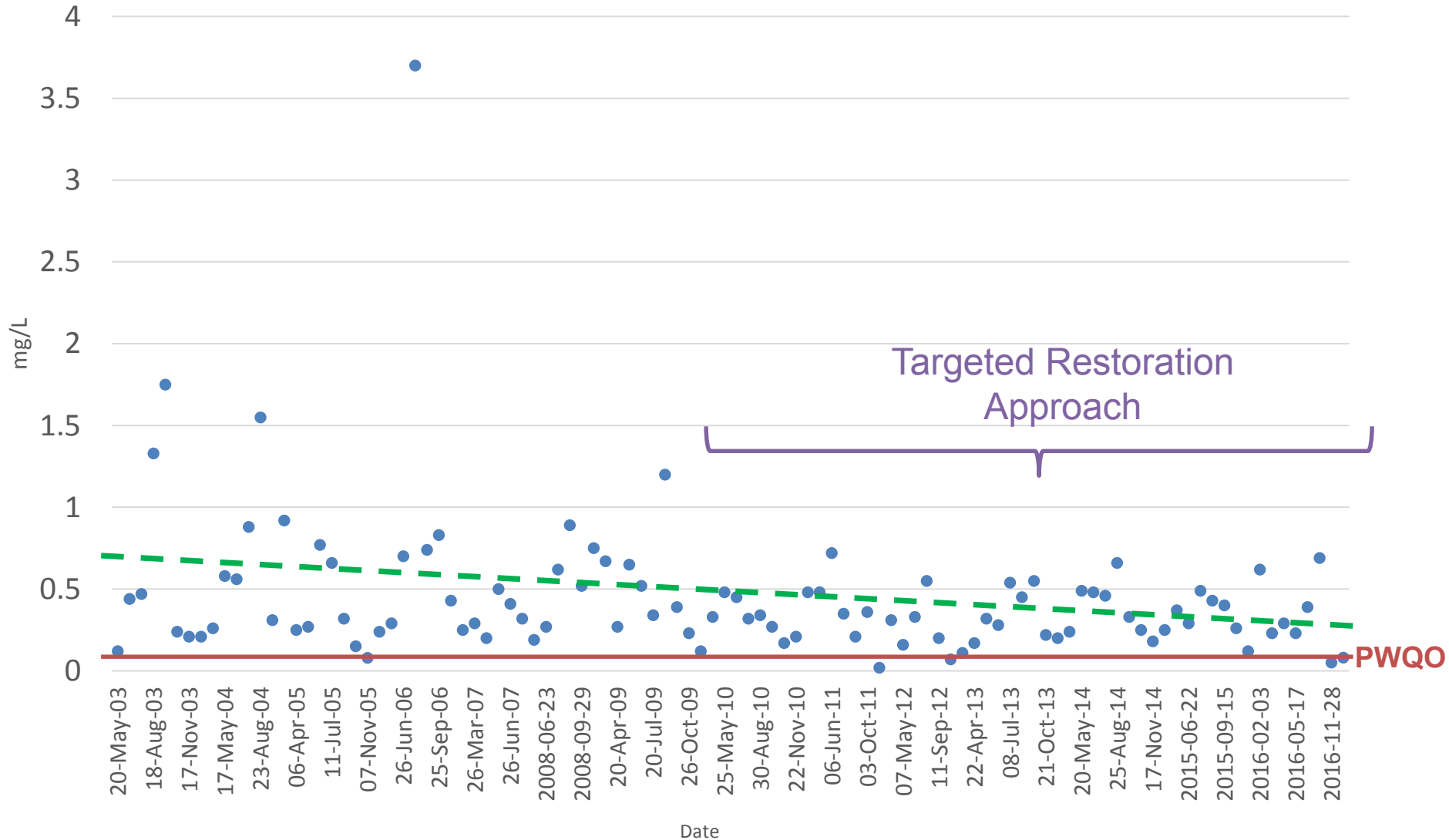
Chloride



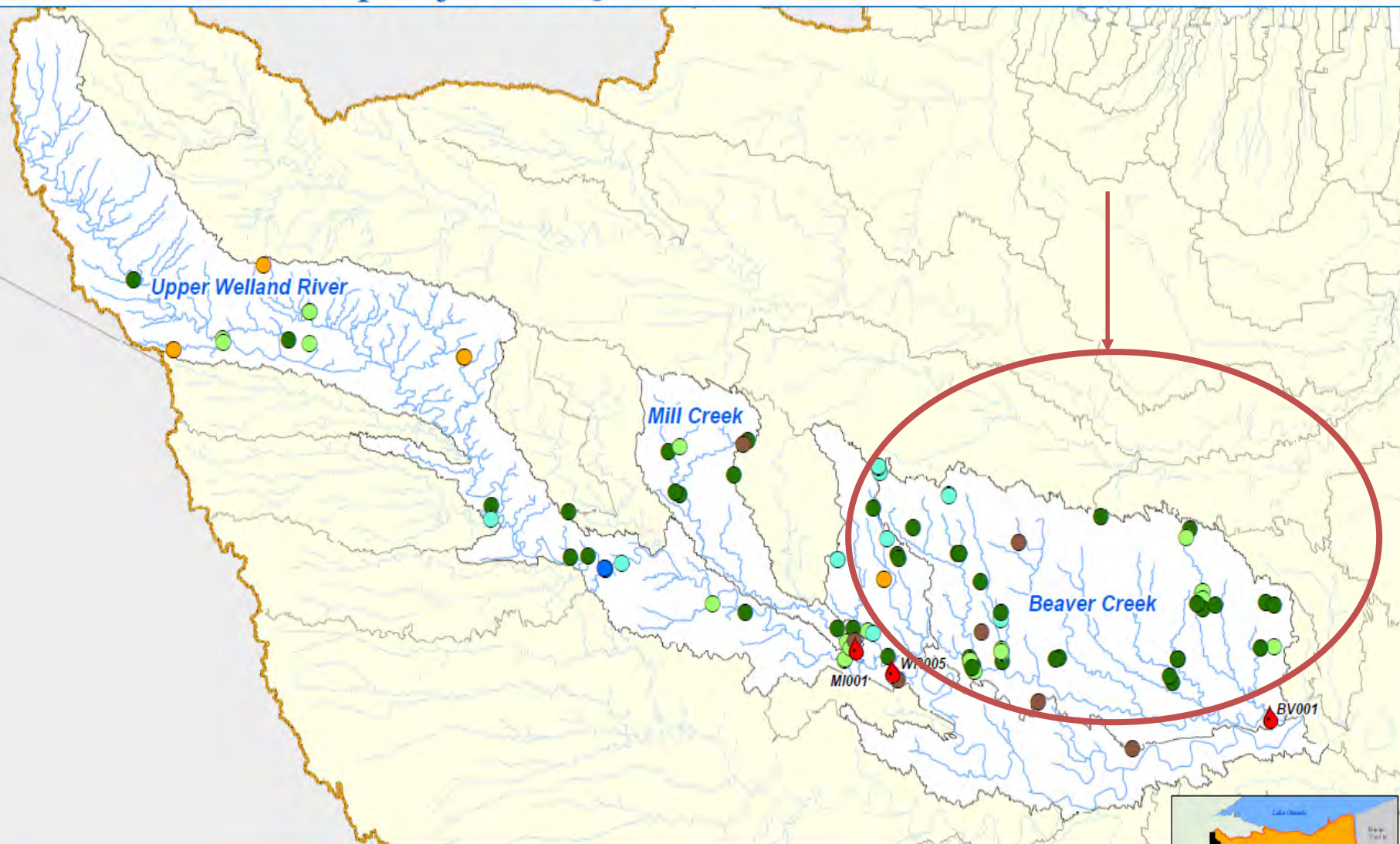
Some good news!!





Beaver Creek-Total Phosphorus Concentrations 2003-2016





Niagara Peninsula Conservation Authority Stewardship Projects: 2003 to 2016




 Surface Water Quality Monitoring Station


 Watercourses


 Waterbodies


 Subwatershed


 NPCA Jurisdiction


Stewardship Project


 Channel Alteration

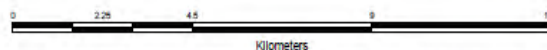
 Conservation Farming Practices

 Nutrient Management

 Reforestation

 Riparian Enhancement

 Wetland Creation / Enhancement

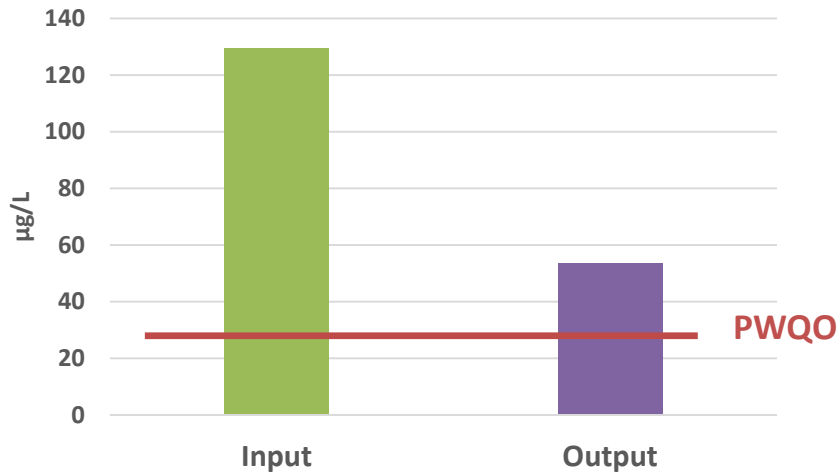


All Frames: North American Datum 1983, Universal Transverse Mercator 6° Projection, Zone 17N, Central Meridian 81° West.
 Produced by the Niagara Peninsula Conservation Authority with data supplied under licence by members of the Ontario Geospatial Data Exchange, 2017.

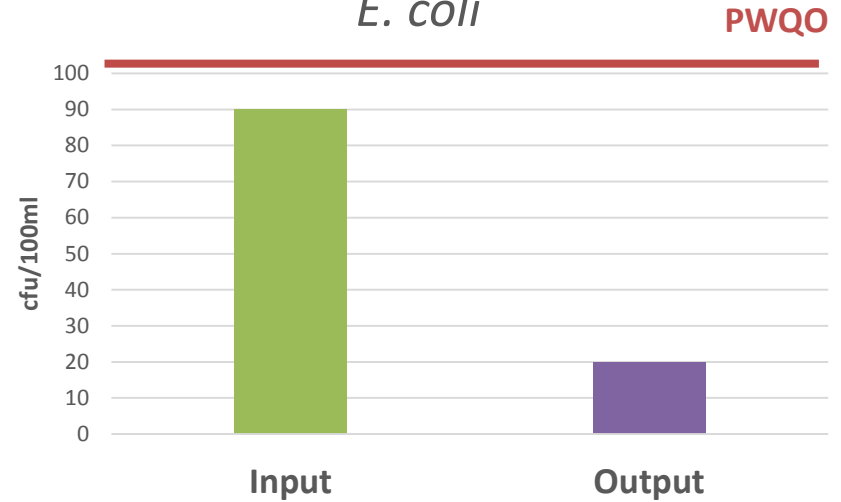


Binbrook Reservoir improves the water quality of the Welland River

Total Phosphorus



E. coli



Legend

Conservation Area Boundary

Site Structures

Walleye Spawning Bed

Restored Habitat- Evergreen trees

Restored Habitat-Plantings

fish habitat-rock structures

Sandy Loam Soils

Silty Clay Loam Soil

Silty Loam Soils

Waterbody

Wood Duck and Mallard

Nest Boxes

Constructed Bass Spawning Bed 2006

Habitat Structures

Rock Pile and V Timber Shore Erosion Protection 2004-5

Fish Trap Location 2002

Fish Trap Locations 1994

Fish Trap Location 2003

Underwater Wooden/Rock Cribs

Constructed Walleye Spawning Bed

Evaluated Wetland

Woodlot

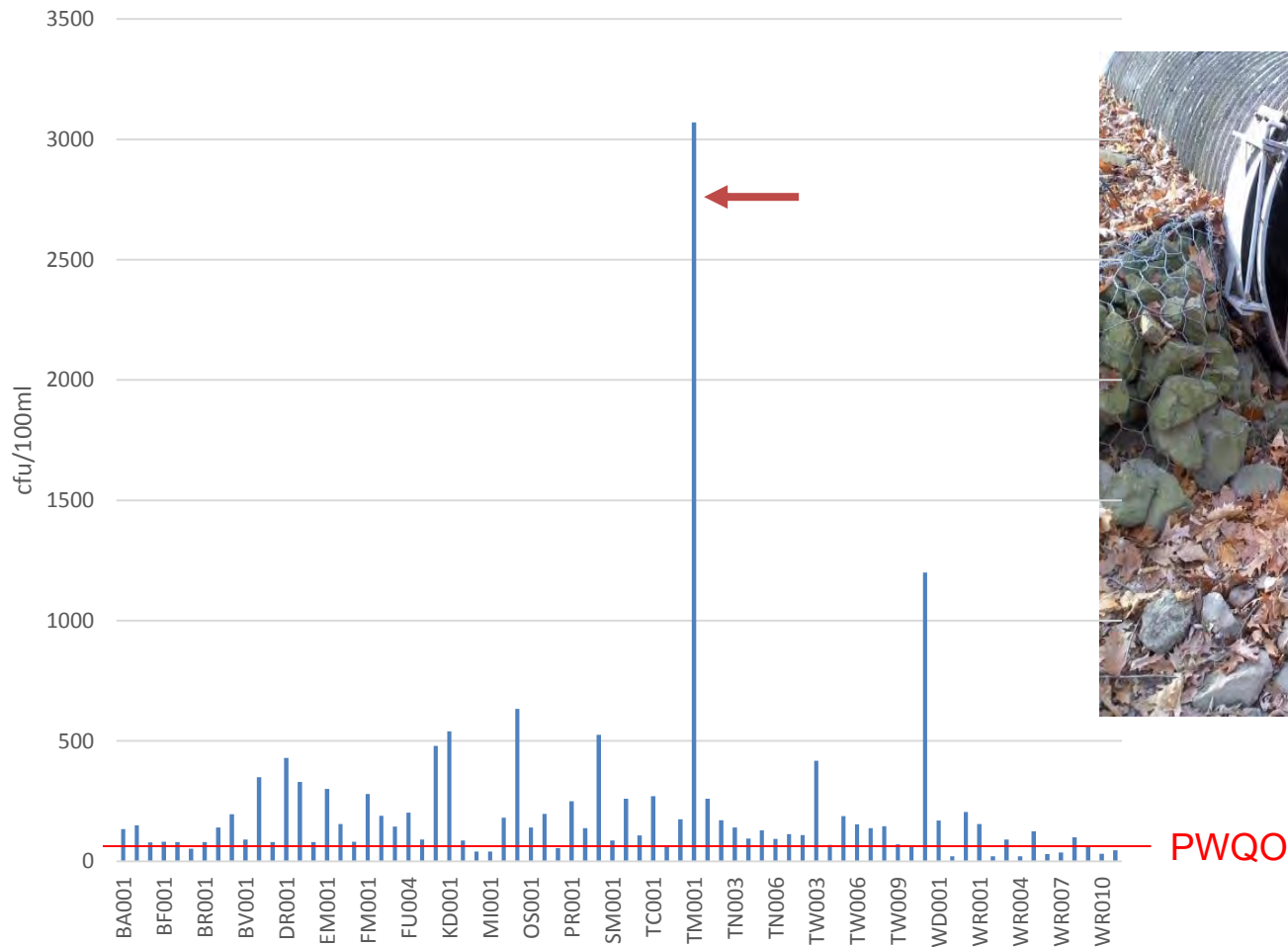
0 0.25 0.5 1 Kilometers



July 2013:KF

Two Mile Creek- *E.coli* Trackdown

Median *E.coli* Concentrations 2012-2016



Decew: Blue-green Algae Bloom July 2016

Region boosts testing at Decew for algae



By Don Fraser, St. Catharines Standard
Saturday, July 23, 2016 10:40:41 EDT AM



Decew Water Treatment Plant in St. Catharines Special to The Standard

Recommend 21

Tweet

0

SHARE



[Report an error](#)

Niagara Region is putting the spotlight on little turquoise critters.

The municipality said it's taking steps to address the presence of blue-green algae, detected in very small quantities, upstream from the water treatment plant intake at Decew Water Treatment Plant in St. Catharines.

Blue-green algae occurs naturally during periods of prolonged hot weather in fresh water lakes, ponds, rivers and streams in summer and early fall.

While the algae itself is harmless, it has the potential to produce toxins that are harmful at high concentrations.

Tests conducted have shown that there is no toxin in the water at the treatment plant, nor upstream from it.



NPCA Groundwater Monitoring



NPCA Water Well Decommissioning Grant Program

WATER WELL DECOMMISSIONING GRANT PROGRAM



For more information phone 905.788.3135
or visit www.npca.ca

PROJECT ELIGIBILITY

- » Grants are available for projects on qualifying lands located within the NPCA jurisdiction for the decommissioning of unused water wells.
- » Limit of two (2) wells per property (landowner).
- » Oil wells, gas wells and cisterns are not eligible under this program.
- » All work must be completed by a water well contractor licensed by the Ministry of the Environment (MOE) as set out in Ontario Regulation 903.
- » All work must comply with MOE procedures for plugging or abandoning water wells according to Ontario Regulation 903.
- » Applicants must apply and be approved prior to initiating their project. Projects already underway or completed without NPCA approval will not be eligible.

5 STEPS FOR INTERESTED PROPERTY OWNERS

1. Contact NPCA for an application and program information.
2. Fill out the application and submit to NPCA with two (2) quotes from licensed water well contractors for proposed work.
3. Obtain pre-approval from NPCA to proceed with proposed work.
4. Complete proposed work and submit all receipts, invoices, and water well decommissioning record(s) to NPCA for review.
5. Receive final approval and grant funding from NPCA.



250 Thorold Road West 3rd Floor, Welland, ON L3C 3W2
phone 905.788.3135 • fax 905.788.1121

Project Funding Provided By:  

Recent Projects

Before

After

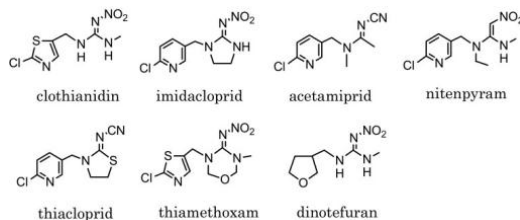




Spill Investigations



Neonicotinoid Insecticides



COA Climate Change Monitoring Networks Review Project

*An Assessment of the PWQMN and PGMN in the Niagara
Peninsula Conservation Authority Watershed for Climate Change
Detection and Adaptation*

REVISED VERSION



Prepared for:
Conservation Ontario

ENVIRONMENT

Prepared by:

The Niagara Peninsula Conservation Authority

July 2010



Consultants

UNIVERSITY OF WATERLOO

Assessing the level of correlation amongst biological indices and
water chemistry parameters from 2005-2013 in the Effingham
Tributary of Twelve Mile Creek, Pelham, Ontario

ERS 411 Senior Honours Thesis

Jaclyn Hart 20388605

Thank You!



Eric Augustino
Water Quality Technician



Ryan Kitchen
Water Resources Technician

Key Partnerships



MOECC



Hamilton



Report To: Board of Directors

Subject: *Conservation Authorities Act Review – Proposed Amendments*

Report No: 65-17

Date: June 28, 2017

RECOMMENDATION:

That the NPCA Board RECEIVE Report No. 65-17 for information.

PURPOSE:

To provide the NPCA Board with an update of relevant proposed changes to the *Conservation Authorities Act* included in Bill 139 – *Building Better Communities and Conserving Watersheds Act* (2017).

BACKGROUND:

In 2015, as a first step in the review of the *Conservation Authorities Act*, the Ministry of Natural Resources and Forestry (MNRF) posted a discussion paper to the Environmental Registry (No. 012-4509) for public consultation and held over 20 stakeholder and indigenous engagement sessions along with targeted meetings across the province to gain feedback on the governance, funding mechanisms, and roles and responsibilities of Conservation Authorities (CA's).

Based on the responses from the first round of consultation, in Spring 2016 the MNRF released a second Discussion Paper and posted the document on the Environmental Registry (No. 012-7583). Once again, the public was invited to provide feedback until September 9, 2016. Along with feedback from staff, the NPCA ensured that the discussion paper and draft comments were shared with the Board, Community Liaison Advisory Committee (CLAC), and Niagara Area Planners. Staff also participated in the provincial multi-stakeholder meetings and discussions with Conservation Ontario (CO) and the 36 CA's.

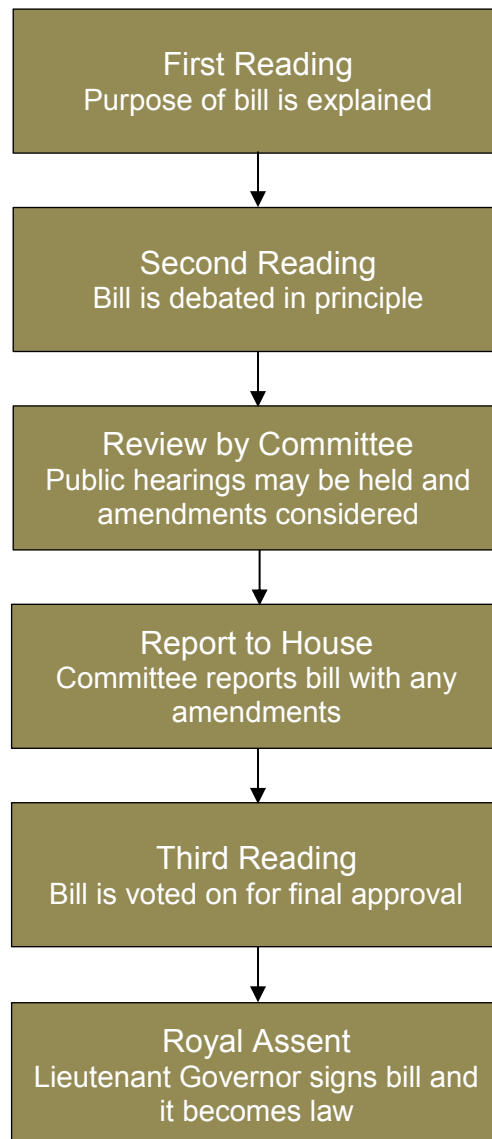
On May 30, 2017 Bill 139, the *Building Better Communities and Conserving Watersheds Act, 2017* was introduced into the legislature and passed First Reading. The Bill includes proposed amendments to the *Conservation Authorities Act* (it can be viewed at http://www.ontla.on.ca/bills/bills-files/41_Parliament/Session2/b139_e.pdf - Attachment #1).

Bill 139 is an 'omnibus bill' which groups various Acts to be amended. In addition to the *Conservation Authorities Act*, this Bill also encompasses changes to the *Planning Act* and proposes replacing the Ontario Municipal Board with a new Local Planning Review Tribunal.

This report is focused on providing a review of **Schedule 4** of Bill 139 which refers specifically to the *Conservation Authorities Act*.

As a reminder, passing bills into law must follow a process and can take time. Exhibit 1 below outlines the process of how a bill becomes law. An Act becomes law when it comes into force, which may happen immediately or at a later date (specified in the Act or by proclamation).

Exhibit 1 – How a Bill Becomes Law



REPORT:

Schedule 4 makes numerous amendments to the *Conservation Authorities Act*. In addition to many housekeeping amendments, the Schedule includes the following changes:

1. A new Purpose and Interpretation section (Part I)

From the proposed amended CA Act: “The purpose of this 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.”

Definitions for “administration costs” and “maintenance costs” were repealed and essentially replaced with “operating expenses”.

2. Enlargement of the area of jurisdiction of an authority, the amalgamation of authorities and dissolution of an authority (Part III)

Various amendments are made in relation to the enlargement of the area of jurisdiction of an authority, the amalgamation of two or more authorities and the dissolution of an authority (sections 10, 11 and 13.1), including amendments relating to notification that is required before some of these events can occur. Also, amendments to section 11 add a requirement for the Minister’s approval of any amalgamation of two or more authorities.

3. Membership and governance of authorities (Part IV)

Some amendments are made in relation to the membership and governance of authorities (sections 14 to 19.1).

CA Board Members

- Section 4(1) was revised to reflect Upper Tier governments not just Regional government who does appointments. Previous language about appointment by local municipalities was removed.
- Board composition and member qualifications may be prescribed by regulation.
- The maximum term of office of a member is increased from three to four years.
- A member is eligible to be reappointed.
- A requirement that meetings of the authority be open to the public is added, subject to exceptions that may be provided in an authority’s by-laws.

Advisory Boards:

- Authorities are also required to establish advisory boards in accordance with the regulations. Regulation may prescribe composition, functions, power, duties activities and procedures.
- The Board can still establish other advisory boards as considered appropriate.

CA By-Laws:

- A new section 19.1 is enacted setting out the power of an authority to make by-laws in relation to its governance, including its meetings, employees, officers and its executive committee.
- They must be in place one year from the day the new CA Act comes into force.
- The Minister of Natural Resources may give a CA written direction to make or amend by-laws. If the CA fails to follow the direction, the Minister may make regulations that will prevail over conflicting CA adopted by-laws.

4. Objects, powers and duties of authorities (Part V)

Amendments are made to the objects, powers and duties of authorities (sections 20 to 27.1), more specifically relating to their powers in relation to programs, services and projects that they undertake.

Powers of Authorities:

- Section 21 was updated to reflect programs and services. New abilities to enter agreements with individuals (existing legislation only refers to agencies and groups). This is important for agreements made with landowners in NPCA's restoration programs. It also includes a broad reference to enter into agreements for things that further the authority's objects and to cause research to be done.

Types of Programs:

- New section 21.1 sets out the three types of programs and services that an authority is required or permitted to provide:
 - 1) Mandatory programs and services that are required by regulation
 - 2) Municipal programs and services that it provides on behalf of municipalities, and
 - 3) Other programs and services that it determines to provide to further its objects.

Fees:

- New section 21.2 sets out the rules for when an authority may charge fees for the programs and services it provides and the rules for determining the amount of the fees charged. Authorities are required to maintain a fee schedule that sets out the programs and services for which it charges a fee and the amount of the fees.
- The fee schedule is to be set out in a written fee policy that is available to the public and is to include a process for carrying out a review of the fee policy and circumstances in which a person may request that the authority reconsider a fee.

Capital Cost Recovery / Apportionment:

- Sections 24 to 27 of the Act are repealed and replaced with new sections allowing authorities to recover their capital costs with respect to projects that they undertake along with their operating expenses from their participating municipalities. Currently the apportionment of those costs and expenses is based on a determination of the benefit each participating municipality receives from a project or from the authority.
- The amendments provide that the apportionment will be determined in accordance with the regulations.

5. Regulation of areas over which Authorities have jurisdiction (Part VI)

The provisions regulating activities that may be carried out in the areas over which authorities have jurisdiction are substantively amended (sections 28 and 29). Section 28 of the Act is repealed. That section currently gives authorities certain regulation-making powers, including the power to regulate the straightening, changing and diverting of watercourses and development in their areas of jurisdiction and to prohibit or require the permission of the authority for such activities. The re-enacted section 28 prohibits such activities so that the previous regulation-making power is no longer required.

- CA regulations don't apply to certain types of activities or areas that will be prescribed in regulation.

- This section would no longer include definitions; they will be defined in regulation.
- Conservation of Land is not identified as one of the items to be defined in regulation, but pollution is included.
- Regulation will specify the permit process and the required supporting information.
- CA's shall not refuse a permit or attach conditions to a permit unless the applicant has been given an opportunity to be heard by the Authority.
- Section 28.5 introduces a new option for the Lieutenant Governor in Council to make regulations with respect to activities that may impact conservation, restoration, development or management of natural resources that may be carried out within CA jurisdiction.

Power to Issue/Cancel Permits:

New section 28.1 gives the authorities the power to issue permits allowing persons to engage in the prohibited activities and section 28.3 allows authorities to cancel the permits in specified circumstances. New regulation-making powers are set out in section 28.5 in respect of activities that impact the conservation, restoration, development or management of natural resources.

Regulations for CA Property:

- New Section 29 - The Minister may make regulations with respect to land and other property owned by authorities. The current CA Act allows CA's to regulate its CA land and property.

6. Enforcement of the Act and offences (Part VII)

Sections 30 and 30.1 are repealed and sections 30 to 30.4 are enacted in relation to the enforcement of the Act and offences. Authorities are given the power to appoint officers who may enter lands to ensure compliance with the Act, the regulations and with permit conditions.

Stop Orders:

The officers are given the power to issue stop work orders in specified circumstances.

Offences for contraventions of the Act, the regulations, permit conditions and stop orders are set out in section 30.4 and the maximum fines under the Act are increased from \$10,000 to \$50,000 in the case of an individual and to \$1,000,000 in the case of a corporation. An additional fine of \$10,000 a day for individuals and \$200,000 a day for corporations may be imposed for each day the offence continues after the conviction.

Section 30.6 expands the existing powers of the court when ordering persons convicted of an offence to repair or rehabilitate any damage resulting from the commission of the offence.

Next Steps

Bill 139 is currently being reviewed by a Conservation Ontario CA Act Working Group comprised of several CA General Managers and CO staff. A report to the broader membership is scheduled for the June 26, 2017 CO Council meeting. NPCA staff will respond and provide any additional comments as directed by the Board.

Bill 139 is on the 'Orders and Notices Paper' for the next session of Parliament scheduled to commence Monday, September 11, 2017. It accompanies approximately 72 other Bills that will start at the Second Reading stage.

FINANCIAL IMPLICATIONS:

None

RELATED REPORTS AND APPENDICES:

1. Bill 139 - http://www.ontla.on.ca/bills/bills-files/41_Parliament/Session2/b139_e.pdf)
2. Report 82-16 Stage 2 Response – CA Act Review (Referenced only)
3. Report 97-15 Stage 1 Response – CA Act Review (Referenced only)

Prepared by:



Peter Graham, P.Eng. MBA
Director, Watershed Management

Submitted by:



Mark Brickell
Acting CAO / Secretary Treasurer

This report was prepared with consultative input from Suzanne McInnes, MCIP, RPP – Manager, Plan Review and Regulations.

Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

2ND SESSION, 41ST LEGISLATURE, ONTARIO
66 ELIZABETH II, 2017

Bill 139

**An Act to enact the Local Planning Appeal Tribunal Act, 2017 and the
Local Planning Appeal Support Centre Act, 2017 and to amend the
Planning Act, the Conservation Authorities Act and various other Acts**

The Hon. B. Mauro
Minister of Municipal Affairs

Government Bill

1st Reading May 30, 2017

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

SCHEDULE 1 LOCAL PLANNING APPEAL TRIBUNAL ACT, 2017

The *Local Planning Appeal Tribunal Act, 2017* is enacted. The new Act continues the Ontario Municipal Board under the name the Local Planning Appeal Tribunal and repeals the *Ontario Municipal Board Act*.

Many provisions in the new Act and the old Act are substantively the same. Changes are made to the practices and procedures applicable to proceedings before the Tribunal. The new Act lists types of rules that the Tribunal may make regarding its practices and procedures and specifies certain powers of the Tribunal regarding proceedings. For example, the Tribunal may require a case management conference to be held for any proceeding for purposes such as identifying the issues raised by the proceeding, discussing opportunities for settlement and determining administrative details of the conduct of hearings.

The new Act includes provisions applicable to certain appeals of decisions regarding official plans, zoning by-laws or plans of subdivision made under the *Planning Act*. It provides that a case management conference is mandatory in all such appeals, addresses how a person other than a party to the appeal may participate in the proceeding and sets out requirements applicable if an oral hearing is held in the appeal.

Related regulation-making powers are added, including the authority to prescribe timelines applicable to proceedings on appeals to the Tribunal under the *Planning Act*. The new Act also updates language that was used in the old Act, eliminates obsolete provisions and revokes regulations made under the *Ontario Municipal Board Act*.

SCHEDULE 2 LOCAL PLANNING APPEAL SUPPORT CENTRE ACT, 2017

The Schedule enacts the *Local Planning Appeal Support Centre Act, 2017*, which establishes the Local Planning Appeal Support Centre. The Centre is a non-share corporation, the objects of which are,

- (a) to establish and administer a cost-effective and efficient system for providing support services to eligible persons respecting matters governed by the *Planning Act* that are under the jurisdiction of the Local Planning Appeal Tribunal; and
- (b) to establish policies and priorities for the provision of the support services based on its financial resources.

The Centre is not an agent of the Crown nor a Crown agency. It is independent from, but accountable to, the Government of Ontario. (Sections 2 and 3).

Section 4 of the Schedule sets out the support services the Centre is required to provide. Support services must be available throughout Ontario (section 6). Section 5 provides authority for the Centre to establish eligibility criteria for the receipt of support services, subject to regulations made under the Act.

The remaining sections set out the Centre's governance structure and reporting requirements (sections 7 to 11), liability immunity provisions (sections 12 and 13), by-law making authority for the Centre (section 14), and related regulation-making powers of the Lieutenant Governor in Council (section 15).

SCHEDULE 3 AMENDMENTS TO THE PLANNING ACT, THE CITY OF TORONTO ACT, 2006 AND THE ONTARIO PLANNING AND DEVELOPMENT ACT, 1994

The Schedule amends the *Planning Act*, the *City of Toronto Act, 2006* and the *Ontario Planning and Development Act, 1994*. Here are highlights of some of those amendments:

The Schedule includes consequential amendments to reflect the enactment of the *Local Planning Appeal Tribunal Act, 2017*. These include changing the references to the *Ontario Municipal Board Act* so they refer to the *Local Planning Appeal Tribunal Act, 2017* and references to the Ontario Municipal Board so they refer to the Local Planning Appeal Tribunal. Other similar consequential amendments to various Acts are set out in Schedule 5.

The definition of "provincial plan" in subsection 1 (1) of the *Planning Act* is amended to include certain policies referred to in the *Lake Simcoe Protection Act, 2008*, the *Great Lakes Protection Act, 2015* and the *Clean Water Act, 2006*.

Section 2.1 of the *Planning Act* currently requires approval authorities and the Ontario Municipal Board, when they make decisions relating to planning matters, to "have regard to" decisions of municipal councils and approval authorities relating to the same planning matter, and to any supporting information and material that was before a municipal council or approval authority relating to the same planning matter. The section is amended to limit its application to specified planning matters relating to official plans, zoning by-laws, interim control by-laws, site plan control, plans of subdivision and consents.

Section 3 of the *Planning Act* currently governs the issuance of policy statements on matters relating to municipal planning. The section is amended to authorize policy statements to require approvals or determinations by one or more ministers for any of the matters provided for in the policy statement. The section is also amended to deem policy statements issued under

the *Metrolinx Act, 2006*, the *Resource Recovery and Circular Economy Act, 2016* and other prescribed policies or statements to be policy statements issued under section 3 of the *Planning Act*.

Section 8.1 of the *Planning Act* currently provides for the establishment of a local appeal body which can deal with appeals of certain planning matters. Amendments are made to expand those matters to include appeals and motions for directions related to site plan control and motions for directions related to consents. Amendments are also made to the transitional rules associated with the empowerment of local appeal bodies. Similar amendments are made to section 115 of the *City of Toronto Act, 2006*.

Section 16 of the *Planning Act* currently governs the content of official plans. A new subsection 16 (14) requires official plans to contain policies relating to climate change. The section is also amended to allow official plans to include policies relating to development around higher order transit stations and stops. These policies would require approval by an approval authority. Decisions on these policies cannot be appealed except by the Minister and requests to amend the policies can only be made with council approval (see subsections 17 (36.1.4) to (36.1.7) and 22 (2.1.3)). When these policies are in place, zoning by-laws that establish permitted uses, minimum and maximum densities and, except in certain circumstances, minimum and maximum heights cannot be appealed except by the Minister (see subsections 34 (19.5) to (19.8)).

New subsections 17 (24.0.1) and (36.0.1) of the *Planning Act* provide that an appeal concerning the adoption or approval of an official plan is restricted to issues of consistency or conformity with provincial plans and policy statements and, as applicable, conformity with official plan policies of upper-tier municipalities. New subsections 17 (49.1) to (49.5) provide rules concerning the Tribunal's powers in connection with such appeals. The authority of the Tribunal to allow such appeals is limited, but where an appeal is allowed, the municipality has a second opportunity to make a decision. If that decision is appealed and the Tribunal again determines that it did not meet the new standard of review, the Tribunal would make another decision. Similar amendments are made to section 22 with respect to appeals of refusals and non-decisions on requests to amend official plans and to section 34 with respect to appeals related to zoning by-laws. Certain rules in section 17, as they read before being amended by the Schedule, are incorporated by reference in section 28 for the purposes of the process, including the appeal process, related to community improvement plans. Similarly, certain rules in section 34, as they read before being amended by the Schedule, are incorporated by reference in sections 38 and 45 for the purposes of the process, including the appeal process, related to interim control by-laws and by-laws establishing municipal criteria for minor variances.

Currently, subsections 17 (51), 22 (11.1) and 34 (27) of the *Planning Act* allow the Minister to advise the Ontario Municipal Board that a matter of provincial interest is, or is likely to be, adversely affected by an official plan or zoning matter appealed to the Board. When the Minister so advises the Board, its decision is not final unless confirmed by the Lieutenant Governor in Council. Currently the Minister must advise the Board not later than 30 days before the hearing of the matter. Amendments are made to require the Minister to advise the Local Planning Appeal Tribunal not later than 30 days after the Tribunal gives notice of a hearing. When the Tribunal is so advised by the Minister, the new limits to the Tribunal's powers on appeal described in the above paragraph would not apply; however, the Tribunal's decision would not be final unless confirmed by the Lieutenant Governor in Council.

New subsections 17 (36.5) and 21 (3) of the *Planning Act* provide that there is no appeal in respect of an official plan or an official plan amendment adopted in accordance with section 26, if the approval authority is the Minister.

Timelines for making decisions related to official plans and zoning by-laws are extended by 30 days (see amendments to sections 17, 22, 34 and 36 of the *Planning Act*). For applications to amend zoning by-laws submitted concurrently with requests to amend a local municipality's official plans, the timeline is extended to 210 days (see subsection 34 (11.0.0.1)).

A new subsection 22 (2.1.1) of the *Planning Act* provides that during the two-year period following the adoption of a new secondary plan, applications for amendment are permitted only with council approval. Subsection 22 (2.1.2) describes a secondary plan as a part of an official plan added by amendment that provides more detailed policies and land use designations applicable to part of a municipality.

Currently, subsection 22 (11) of the *Planning Act* incorporates by reference various rules from section 17 concerning appeals to the Ontario Municipal Board. Amendments are made to remove the incorporation by reference and to add those rules as new subsections 22 (11) to (11.0.7), with the corresponding changes that are made to the rules in section 17.

Currently, under subsection 38 (4) of the *Planning Act*, anyone who is given notice of the passing of an interim control by-law may appeal the by-law within 60 days after the by-law is passed. Amendments are made to allow only the Minister to appeal an interim control by-law when it is first passed. Any person or public body who is given notice of the extension of the by-law can appeal the extension.

Section 41 of the *Planning Act* is amended to make technical changes relating to appeals to the Tribunal concerning site plan control, including a requirement that the clerk forward specified things shortly after the notice of appeal is filed.

Subsection 41 (16) of the *Planning Act* currently provides that section 41 does not apply to the City of Toronto, except for certain subsections. Subsection 14 (16) is amended to remove the references to those excepted subsections. Section 114 of the *City of Toronto Act, 2006* is amended to reflect the rules that were contained in those excepted subsections.

Currently, under section 47 of the *Planning Act*, the Minister may make orders exercising zoning powers or deeming plans of subdivision not to be registered for the purposes of section 50. The rules governing amendments and revocations of such orders are amended. The Minister may refer a request from a person or public body to amend or revoke an order to the Tribunal. If the Tribunal conducts a hearing, the Tribunal must make a written recommendation to the Minister. The Minister may decide to amend or revoke the order and must forward a copy of his or her decision to the specified persons. A new rule also provides that a proponent of an undertaking shall not give notice under the *Consolidated Hearings Act* in respect of a request to amend a Minister's order unless Minister has referred the matter to the Local Planning Appeal Tribunal. A similar rule is added to section 6 of the *Ontario Planning and Development Act, 1994*, which governs the process for amending development plans.

Subsection 51 (52.4) of the *Planning Act* currently allows the Ontario Municipal Board to consider whether information and material that is presented at a hearing of certain appeals related to plans of subdivision and was not provided to the approval authority could have materially affected the approval authority's decision. If the Board determines that it could have done so, the Board is required to give the approval authority an opportunity to reconsider its decision. The subsection is repealed and replaced to prevent information and material that was not provided to the approval authority in the first instance from being admitted into evidence if the approval authority requests to be given an opportunity to reconsider its decision and to make a written recommendation.

New section 70.8 of the *Planning Act* authorizes the Minister to make regulations providing for transitional matters.

Various technical amendments are also made to the *Planning Act*.

SCHEDULE 4 AMENDMENTS TO THE CONSERVATION AUTHORITIES ACT

The Schedule makes numerous amendments to the *Conservation Authorities Act*. In addition to many housekeeping amendments, the Schedule makes more significant amendments as follows:

A new purpose section (section 0.1) is added to the Act.

Various amendments are made in relation to the enlargement of the area of jurisdiction of an authority, the amalgamation of two or more authorities and the dissolution of an authority (sections 10, 11 and 13.1), including amendments relating to the notice that is required before some of these events can occur. Also, the amendments to section 11 add a requirement for the Minister's approval of any amalgamation of two or more authorities.

Some amendments are made in relation to the membership and governance of authorities (sections 14 to 19.1). The rules relating to the appointment and term of office of members of an authority are clarified. The maximum term of office of a member is increased from three to four years. A requirement that meetings of the authority be open to the public is added, subject to exceptions that may be provided in an authority's by-laws. Authorities are required to establish advisory boards in accordance with the regulations. A new section 19.1 is enacted setting out the power of an authority to make by-laws in relation to its governance, including its meetings, employees, officers and its executive committee. Many of these powers were previously regulation-making powers that the authorities held under section 30 of the Act. The Minister may direct an authority to make or amend a by-law within a specified time. If the authority fails to do so, the Minister has the power to make a regulation that has the same effect as the by-law was intended to have.

Amendments are made to the objects, powers and duties of authorities (sections 20 to 27.1) in particular their powers in relation to programs and services and in relation to projects that they undertake. New section 21.1 sets out the three types of programs and services that an authority is required or permitted to provide: the mandatory programs and services that are required by regulation, the municipal programs and services that it provides on behalf of municipalities and other programs and services that it determines to provide to further its objects. New section 21.2 sets out the rules for when an authority may charge fees for the programs and services it provides and the rules for determining the amount of the fees charged. Authorities are required to maintain a fee schedule that sets out the programs and services in respect of which it charges a fee and the amount of the fees. The fee schedule is set out in a written fee policy that is available to the public. Persons who are charged a fee by an authority may apply to the authority to reconsider the charging of the fee or the amount of the fee. Sections 24 to 27 of the Act are repealed and replaced with new sections allowing authorities to recover their capital costs with respect to projects that they undertake and their operating expenses from their participating municipalities. Currently the apportionment of those costs and expenses is based on a determination of the benefit each participating municipality receives from a project or from the authority. The amendments provide that the apportionment will be determined in accordance with the regulations.

The provisions regulating activities that may be carried out in the areas over which authorities have jurisdiction are substantively amended (sections 28 and 29). Section 28 of the Act is repealed. That section currently gives authorities certain regulation-making powers, including the power to regulate the straightening, changing and diverting of watercourses and development in their areas of jurisdiction and to prohibit or require the permission of the authority for such activities. The re-enacted section 28 prohibits such activities so that the previous regulation-making power is no longer required. Furthermore, new section 28.1 gives the authorities the power to issue permits allowing persons to engage in the prohibited activities and section 28.3 allows authorities to cancel the permits in specified circumstances. New regulation-making powers are set out in

section 28.5 in respect of activities that impact the conservation, restoration, development or management of natural resources.

Sections 30 and 30.1 are repealed and sections 30 to 30.4 are enacted in relation to the enforcement of the Act and offences. Authorities are given the power to appoint officers who may enter lands to ensure compliance with the Act, the regulations and with permit conditions. The officers are also given the power to issue stop orders in specified circumstances. Offences for contraventions of the Act, the regulations, permit conditions and stop orders are set out in section 30.4 and the maximum fines under the Act are increased from \$10,000 to \$50,000 in the case of an individual and to \$1,000,000 in the case of a corporation. An additional fine of \$10,000 a day for individuals and \$200,000 a day for corporations may be imposed for each day the offence continues after the conviction. Section 30.6 expands the existing powers of the court when ordering persons convicted of an offence to repair or rehabilitate any damage resulting from the commission of the offence.

Various regulation-making powers are enacted.

SCHEDULE 5

AMENDMENTS TO VARIOUS ACTS CONSEQUENTIAL TO THE ENACTMENT OF THE LOCAL PLANNING APPEAL TRIBUNAL ACT, 2017

Consequential amendments are made to various Acts to change references to the *Ontario Municipal Board Act* so they refer to the *Local Planning Appeal Tribunal Act, 2017* and to change references to the Ontario Municipal Board so they refer to the Local Planning Appeal Tribunal.

**An Act to enact the Local Planning Appeal Tribunal Act, 2017 and the
Local Planning Appeal Support Centre Act, 2017 and to amend the Planning Act,
the Conservation Authorities Act and various other Acts**

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Schedule 5	Amendments to Various Acts Consequential to the Enactment of the Local Planning Appeal Tribunal Act, 2017

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Contents of this Act

1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.

Commencement

2 (1) Subject to subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.

(2) The Schedules to this Act come into force as provided in each Schedule.

(3) If a Schedule to this Act provides that any provisions are to come into force on a day to be named by proclamation of the Lieutenant Governor, a proclamation may apply to one or more of those provisions, and proclamations may be issued at different times with respect to any of those provisions.

Short title

3 The short title of this Act is the *Building Better Communities and Conserving Watersheds Act, 2017*.

SCHEDULE 1
LOCAL PLANNING APPEAL TRIBUNAL ACT, 2017

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**PART I
INTERPRETATION**

Definitions

1 In this Act,

“approval authority” means an approval authority under section 17 of the *Planning Act*; (“autorité approbatrice”)

“local board” means any board, commission, committee, body or local authority established under or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of a municipality or part of a municipality, and includes the following:

1. A school board.
2. A public utility commission.
3. A transportation commission.
4. A public library board.
5. A board of park management.
6. A board of health.
7. A police services board.
8. A planning board; (“conseil local”)

“municipality” includes a local board of a municipality and a board, commission or other local authority exercising any power with respect to municipal affairs or purposes, including school purposes, in an unorganized township or unsurveyed territory; (“municipalité”)

“rules” means the rules made by the Tribunal under section 32; (“règles”)

“Tribunal” means the *Local Planning Appeal Tribunal* established under this Act. (“Tribunal”)

**PART II
CONSTITUTION OF THE TRIBUNAL**

Ontario Municipal Board continued as the Tribunal

2 (1) The Ontario Municipal Board is continued under the name Local Planning Appeal Tribunal in English and Tribunal d’appel de l’aménagement local in French.

References to Ontario Municipal Board

(2) A reference to the Ontario Municipal Board or to that board under any other name in any general or special Act or in any regulation is deemed to be a reference to the Tribunal.

Composition of Tribunal

3 (1) The Tribunal shall be composed of members appointed by the Lieutenant Governor in Council.

Chair, vice chair

(2) The Lieutenant Governor in Council shall appoint a chair and may appoint one or more vice-chairs from among the members of the Tribunal.

Alternate chair

(3) The Lieutenant Governor in Council shall designate one of the members of the Tribunal to be the alternate chair.

Same

(4) If the chair is unable to act, the alternate chair shall perform the duties of the chair and, for this purpose, has all the powers of the chair.

Duties of chair

(5) The chair shall have general supervision and direction over the conduct of the affairs of the Tribunal and shall arrange the sittings of the Tribunal and assign members of the Tribunal to the sittings as necessary.

Quorum

4 One member of the Tribunal constitutes a quorum and is sufficient for the exercise of all of the jurisdiction and powers of the Tribunal.

More than two members presiding

5 If more than two members of the Tribunal preside over a hearing, the number of members shall be uneven.

Term of office

6 (1) A member of the Tribunal shall be appointed for the term specified by the Lieutenant Governor in Council.

Term expires

(2) If the term of office of a member of the Tribunal who has participated in a proceeding expires before the proceeding is disposed of, the term shall be deemed to continue, but only for the purpose of disposing of the proceeding, and for no other purpose.

Employees

7 The Tribunal may appoint such employees as it considers necessary for the conduct of its affairs and the employees shall be appointed under Part III of the *Public Service of Ontario Act, 2006*.

Protection from being called as witness

8 A member or employee of the Tribunal shall not be required to give testimony in a civil suit or any proceeding with regard to information obtained by the member or employee in the discharge of their duties.

Protection from personal liability

9 (1) No action or other proceeding may be instituted against the Tribunal or a member or employee of the Tribunal for any act done or omitted in good faith in the performance or intended performance of any duty under any general or special Act or in the exercise or intended exercise of any power under any general or special Act.

Crown liability

(2) Despite subsections 5 (2) to (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which the Crown would otherwise be subject.

Use of meeting facility

10 If the Tribunal holds a sitting in a municipality in which there is an appropriate meeting facility belonging to the municipality, the municipality shall, upon request, allow the sitting to be held in the facility and shall make all necessary arrangements for the sitting.

PART III GENERAL JURISDICTION AND POWERS

Exclusive jurisdiction

11 (1) The Tribunal has exclusive jurisdiction in all cases and in respect of all matters in which jurisdiction is conferred on it by this Act or by any other general or special Act.

Power to determine law and fact

(2) The Tribunal has authority to hear and determine all questions of law or of fact with respect to all matters within its jurisdiction, unless limited by this Act or any other general or special Act.

Power to make orders

12 (1) The Tribunal has authority to make orders or give directions as may be necessary or incidental to the exercise of the powers conferred upon the Tribunal under this Act or any other general or special Act.

Conditions in orders

(2) The Tribunal may include in an order conditions that it considers fair in the circumstances, including a condition that the order comes into force at a future fixed time or upon the performance of terms imposed by the Tribunal.

Interim orders without notice

(3) The Tribunal may make an interim order without notice, if it is of the opinion that it is necessary to do so, but no such order shall be made for any longer time than the Tribunal may consider necessary to enable the matter to be heard and determined.

Partial or other relief than that applied for

(4) Unless any general or special Act specifies otherwise in respect of a proceeding before the Tribunal, the Tribunal may, as it considers to be just and proper,

- (a) make an order granting all or part of the application; or
- (b) make an order granting relief that is additional to or different from the relief applied for.

Extension of time specified in order

(5) When an order or decision of the Tribunal requires anything to be done within a specified time, the Tribunal may, upon notice and hearing, extend the specified time.

Same

(6) Despite subsection (5), the Tribunal may extend a specified time without notice if the Tribunal is of the opinion that it is necessary to do so.

Power to enter, inspect

13 (1) A member or employee of the Tribunal may, without warrant, enter into and inspect at any reasonable time any place, other than a dwelling, where the member or employee has reason to believe there may be evidence relevant to a proceeding before the Tribunal.

Identification

(2) On the request of an owner or occupier of the place, a person who exercises a power conferred under subsection (1) shall identify himself or herself and shall explain the purpose of the entry and inspection.

Power to set, charge fees

14 (1) The Tribunal may, subject to the approval of the Attorney General, set and charge fees,

- (a) in respect of proceedings brought before the Tribunal;
- (b) for furnishing copies of forms, notices or documents filed with or issued by the Tribunal or otherwise in the possession of the Tribunal; and
- (c) for other services provided by the Tribunal.

Same

(2) The Tribunal may treat different kinds of proceedings differently in setting fees.

Make fees public

(3) The Tribunal shall ensure that its fee structure is available to the public.

Where fees may be waived

(4) The Tribunal may waive all or any portion of fees for individuals who are determined, in accordance with the rules, to be low-income individuals.

PART IV GENERAL MUNICIPAL JURISDICTION

General municipal jurisdiction of the Tribunal

15 (1) The Tribunal has jurisdiction and power in relation to municipal affairs,

- (a) to approve the exercise in whole or in part of any of the powers by a municipality under any general or special Act that may or will involve or require the borrowing of money by the issue of debentures, or the incurring of any debt or the issuing of any debentures, which approval the municipality voluntarily applies for or is required by law to obtain;
- (b) to approve any by-law or proposed by-law of a municipality, which approval the municipality voluntarily applies for or is required by law to obtain;
- (c) to authorize the issue by a municipality, without the assent of the electors, of debentures to pay any floating indebtedness that it may have incurred, upon such terms, in such manner and at such times as the Tribunal may approve, or to direct that the floating indebtedness be paid in such other manner and within such time as the Tribunal may require;
- (d) to authorize the issue by a municipality, without the assent of the electors, of debentures to retire debentures that are redeemable before maturity, and the raising of the sum required for payment of the new debentures in the same manner as the sum required for payment of the retired debentures;
- (e) to certify to the validity of debentures issued under the authority of any by-law of a municipality that the Tribunal has approved;

- (f) to direct that before any approval is given by the Tribunal to the exercise of any powers by a municipality or to any by-law passed by it, or before any authorization is given by the Tribunal to the issue by a municipality of debentures to pay any floating indebtedness, the assent of the electors of the municipality or those who are qualified to vote on money by-laws first be obtained, even though the assent is not otherwise required;
- (g) to supervise, where considered necessary, the expenditure of any money borrowed by a municipality with the approval of the Tribunal;
- (h) to require and obtain from any municipality, at any time and for any definite period, statements in detail of any of its affairs, financial and otherwise;
- (i) to inquire at any time into any or all of the affairs, financial and otherwise, of a municipality and hold hearings and make investigations respecting those affairs as may appear necessary to be made in the interest of the municipality, its ratepayers, inhabitants and creditors and particularly to make and hold inquiries, hearings and investigations for the purpose of avoiding any default or recurrence of a default by any municipality in meeting its obligations;
- (j) when authorized by an agreement entered into by two or more municipalities in which the municipalities agree to be bound by the decision of the Tribunal, to hear and determine disputes in relation to the agreement; and
- (k) where water or sewage service is supplied or to be supplied by one municipality to another municipality, to hear and determine the application of either municipality to confirm, vary or fix rates charged or to be charged in connection with the water or sewage service.

Same

(2) Clauses (1) (c) and (d) have effect despite any general or special Act.

Voluntary application for approval of by-laws

16 A municipality may apply to the Tribunal for its approval of any by-law, the passing of which has been authorized by an order of the Tribunal made under section 25.

Application to Tribunal for approval of by-law authorizing borrowing

17 (1) A person may apply to the Tribunal for approval of a by-law of a municipality authorizing a debenture, borrowing or other debt if the person is,

- (a) the holder of the debenture or entitled to receive the debenture or the proceeds of its sale;
- (b) the person to whom the borrowing is owed by the municipality; or
- (c) the person to whom the other debt is owed by the municipality.

Tribunal may approve

(2) The Tribunal may approve a by-law in respect of which an application is made under this section.

Approval to be withheld where litigation pending

18 The Tribunal shall not grant or issue any approval or certificate under this or any other general or special Act in respect of any municipal matter if there is any pending action or proceeding relating to the matter, including an application to quash any by-law of a municipality relating to the matter.

Time for certifying validity of debentures

19 (1) The Tribunal shall not certify the validity of any debenture issued under any by-law of a municipality until thirty days after the final passing of the by-law, unless notice of the application for certification has been otherwise published or given as directed by the Tribunal.

Exception

(2) This section does not apply to any debenture authorized under clause 15 (1) (d) or to a consolidating by-law if every by-law consolidated was finally passed at least thirty days before certification.

Validation of by-laws and debentures

20 (1) An application may be made to the Tribunal for approval of a municipal by-law authorizing the issue of any debentures, and of the debentures, either before the debentures are issued by the municipality or after the issue and sale of any debentures by the municipality.

Same

(2) In respect of an application made under subsection (1), the Tribunal may approve the by-law and certify the validity of the debentures despite any omission, illegality, invalidity or irregularity in the by-law or the debentures or in any proceedings relating to or incidental to them occurring before or after the final passing of the by-law or the issuing of the debentures.

No approval if by-law quashed, etc.

(3) The Tribunal shall not approve any by-law of a municipality or certify the validity of any debentures issued under a by-law if the validity of the by-law or debenture is being questioned in any pending litigation or the by-law has been set aside, quashed or declared to be invalid by any court.

Debentures to be certified

21 If the validity of a debenture is certified by the Tribunal, it shall bear the certificate of the Tribunal in the form approved by the Tribunal establishing that the by-law under the authority of which the debenture is issued has been approved by the Tribunal and that the debenture is issued in conformity with the approval.

Validity of certified debentures

22 Despite any general or special Act, every by-law of a municipality approved by the Tribunal and every debenture issued under a by-law bearing the certificate of the Tribunal is for all purposes valid and binding upon the corporation of the municipality and its ratepayers and upon the property liable for any rate imposed under the by-law, and the validity of the by-law and the debenture shall not be contested or questioned in any manner.

Scope of Tribunal inquiry

23 (1) The Tribunal may, before approving an application by a municipality for any of the following, make inquiries into the matters described in subsection (2):

1. Approval of the exercise by a municipality of any of its powers.
2. Approval of the incurring of any debt.
3. Approval of the issue of any debentures.
4. Approval of a by-law.

Same

(2) For the purposes of subsection (1), the matters are the following:

1. The nature of the power sought to be exercised or undertaking that is proposed to be or has been proceeded with.
2. The financial position and obligations of the municipality.
3. The burden of taxation upon the ratepayers.
4. Any other matter that the Tribunal considers to be relevant.

When electors' assent may be dispensed with

24 (1) This section applies if, under any general or special Act, the assent of the electors of a municipality or of those qualified to vote on money by-laws is required before the municipality may exercise a power, incur a debt, issue a debenture or pass a by-law.

Same

(2) The Tribunal shall not approve the exercise of the power, incurring of the debt, issue of the debentures or the by-law until the assent has been obtained, unless the Tribunal, after due inquiry, is satisfied that the assent may under all the circumstances properly be dispensed with.

Same

(3) If the Tribunal is satisfied for the purposes of subsection (2), it may by order declare and direct that the assent of the electors or the qualified electors shall not be required to be obtained despite the provisions of the general or special Act.

Hearing

(4) Before making any order under subsection (3) and subject to subsections (5), (6) and (7), the Tribunal shall hold a hearing for the purpose of inquiring into the merits of the matter and hearing any objections that any person may desire to bring to the attention of the Tribunal.

Notice to provide for filing of objections

(5) The Tribunal shall provide notice of the hearing as the Tribunal considers appropriate and may direct that the notice include a statement that anyone objecting to dispensing with the assent of the electors may, within the time specified by the Tribunal, file with the clerk of the municipality or, in the case of a local board, with the secretary of the local board, the objection to dispensing with the assent of the electors.

Where no objections

(6) Where notice has been given under subsection (5), the Tribunal may, when no notice of objection has been filed within the time specified in the notice, dispense with the assent of the electors without holding a hearing.

Where objections filed

(7) If one or more objections have been filed within the time specified in the notice, the Tribunal shall hold a hearing unless, under all the circumstances affecting the matter, the Tribunal considers the objection or, if more than one, all the objections to be insufficient to require a hearing.

Hearing not required where additional expenditure approved

(8) Despite subsection (4), where the Tribunal has approved an expenditure for any purpose, it may, without holding a hearing, dispense with the assent of the electors of a municipality or of those qualified to vote on money by-laws and approve additional expenditures for the same purpose not in excess of 25 per cent of the original expenditure approved.

Conditions in dispensing with vote

(9) The Tribunal, in making any order under subsection (3) dispensing with the necessity for obtaining the assent of the electors or qualified electors, may impose such terms, conditions and restrictions not only in respect of the matter in which such order is made, but as to any further or subsequent exercise of any of the powers of the municipality or incurring of any other debt or issue of any other debentures or passing of any other by-law by such municipality as may appear necessary to the Tribunal.

Limitation re undertaking debt

25 (1) Despite any general or special Act, a municipality or board to which this subsection applies shall not authorize, exercise any of its powers to proceed with or provide money for any work or class of work if the cost or any portion of the cost of the work is to be or may be raised after the term for which the council or board was elected.

Application of subs. (1)

(2) Subsection (1) applies to a local board, other than a board as defined in subsection 1 (1) of the *Education Act*, that is entitled to apply to the council of a municipality to have money provided by the issue of debentures of the municipality.

Matters not requiring Tribunal approval

(3) Subsection (1) does not apply to,

- (a) anything done with the approval of the Tribunal, if the approval is,
 - (i) provided for by another Act or by another provision of this Act, and
 - (ii) obtained in advance;
- (b) a by-law of a municipality containing a provision to the effect that it shall not come into force until the approval of the Tribunal has been obtained;
- (c) the appointment of an engineer, land surveyor or commissioner under the *Drainage Act*;
- (d) anything done by a municipality that does not cause it to exceed the limit prescribed under subsection 401 (4) of the *Municipal Act, 2001*; or
- (e) a by-law or resolution of a local board mentioned in subsection (2) containing a provision to the effect that it shall not come into force until the approval of the municipality has been obtained.

Approval of Tribunal

(4) The approval of the Tribunal mentioned in clause (3) (a) means and, despite the decision of any court, shall be deemed always to have meant the approval of the work mentioned in subsection (1).

Definition

(5) In this section,

“work” includes any undertaking, project, scheme, act, matter or thing.

Non-application

(6) This section does not apply to the City of Toronto.

Inquiry by the Tribunal

26 Upon an application being made to the Tribunal for the approval required by section 25, the Tribunal shall proceed to deal with the application in the manner provided by and shall have regard to the matters mentioned in section 23, and may hold such hearings as may appear necessary to the Tribunal.

Tribunal may impose conditions on giving approval

27 The Tribunal may impose, as it considers necessary and as a condition of giving its approval as required by section 25, restrictions, limitations and conditions upon the municipality with respect to the matter before the Tribunal or with respect to

the current annual or future annual expenditures of the municipality for any purpose or with respect to further issues of debentures by the municipality.

PART V RAILWAY AND UTILITIES JURISDICTION

Interpretation

28 In this Part,

“company” means a railway, street railway or incline railway company, and includes every such company and any person or municipal corporation having authority to construct or operate a railway or street railway or incline railway; (“compagnie”)

“public utility” means a waterworks, gasworks (including works for the production, transmission, distribution and supply of natural gas), electric heat, light and power works, telephone lines, or any works supplying the general public with necessities or conveniences; (“service public”)

“railway” means any railway that the company has authority to construct or operate, and includes all associated branches, sidings, stations, depots, wharfs, rolling stock, equipment, stores, real or personal property and works, and also any railway bridge, tunnel or other structure that the company is authorized to construct; (“chemin de fer”)

“street railway” means a railway constructed or operated along and upon a highway under an agreement with or by-law of a city or town, although it may at some point or points deviate from the highway to a right-of-way owned by the company, and includes all portions of the railway within the city or town and for a distance of not more than 2.4 kilometres beyond the limits of the city or town, and any part of an electric railway that lies within the limits of a city or town and that is constructed or operated along and upon a highway and includes buses and other vehicular means of transportation operated as part of or in connection with a street railway. (“tramway”)

Application of Part to all railways

29 The provisions of this Part relating to railways apply to all railways, including street railways.

Jurisdiction and powers of Tribunal

30 (1) The Tribunal has jurisdiction and power,

- (a) to hear and determine any application with respect to any railway or public utility, its construction, maintenance or operation by reason of the contravening of or failure to comply on the part of any person, firm, company, corporation or municipality with the requirements of this or any other general or special Act, or of any regulation, rule, by-law or order made thereunder, or of any agreement entered into in relation to such railway or public utility, its construction, maintenance or operation; and
- (b) to hear and determine any application with respect to any tolls charged by any person, firm, company, corporation or municipality operating a railway or public utility in excess of those approved or prescribed by lawful authority, or which are otherwise unlawful.

Jurisdiction over receivers, liquidators, etc.

(2) A manager or other official or the liquidator or receiver of a railway or public utility shall manage, operate or liquidate the railway or public utility in accordance with this Act and under the orders and directions of the Tribunal, whether general or referring particularly to the railway or public utility.

Same

(3) The fact that the person is managing or operating or liquidating the railway or public utility under the authority of a court is not a bar to the exercise by the Tribunal of any jurisdiction or power conferred by this or any other general or special Act.

PART VI PRACTICE AND PROCEDURE

GENERAL

Disposition of proceedings

31 (1) The Tribunal shall dispose of proceedings before it in accordance with any practices and procedures that are required under,

- (a) this Act or a regulation made under this Act;
- (b) the *Statutory Powers Procedure Act*, unless that Act conflicts with this Act, a regulation made under this Act or the Tribunal’s rules; or
- (c) any other general or special Act.

Tribunal's practices and procedures

(2) The Tribunal shall, in respect of each proceeding before it, adopt any practices and procedures provided for in its rules or that are otherwise available to the Tribunal that in its opinion offer the best opportunity for a fair, just and expeditious resolution of the merits of the proceedings.

Statutory Powers Procedure Act

(3) Despite section 32 of the *Statutory Powers Procedure Act*, this Act, regulations made under this Act and the Tribunal's rules prevail over the provisions of that Act with which they conflict.

Rules

32 (1) The Tribunal may make rules governing its practices and procedures.

General or particular

(2) The rules may be of general or particular application.

Other rules

(3) Without limiting the generality of subsection (1), the rules may,

- (a) provide for and require the use of hearings or of practices and procedures that are alternatives to traditional adjudicative or adversarial procedures;
- (b) provide for and require notice to be provided in a particular manner;
- (c) authorize the Tribunal to hold hearings or other proceedings in writing or by any electronic or automated means;
- (d) authorize the Tribunal to combine two or more proceedings or any part of them, or hear two or more proceedings at the same time;
- (e) authorize the Tribunal to appoint a person from among a class of parties to a proceeding to represent the class where, in the opinion of the Tribunal, the parties have a common interest; and
- (f) provide for when and how the Tribunal may hear from a person other than a party.

Legislation Act, 2006

(4) Part III (Regulations) of the *Legislation Act, 2006* does not apply to the rules.

Failure to comply with rules

(5) Unless the Tribunal's failure to comply with the rules or its exercise of discretion under the rules in a particular manner caused a substantial wrong that affected the final disposition of a matter, neither the failure nor the exercise of discretion is a ground for setting aside a decision of the Tribunal on an application for judicial review or an appeal.

Powers of Tribunal re proceedings

Power to require case management conference

33 (1) The Tribunal may direct the parties to a proceeding before it to participate in a case management conference prior to a hearing, for the following purposes:

- 1. To identify additional parties to the proceeding.
- 2. To identify, define or narrow the issues raised by the proceeding.
- 3. To identify facts or evidence that may be agreed upon by the parties.
- 4. To provide directions for disclosure of information.
- 5. To discuss opportunities for settlement, including the possible use of mediation or other dispute resolution processes.
- 6. To establish dates by which any steps in the proceeding are to be taken or begun.
- 7. To determine the length, schedule and location of a hearing, if any.
- 8. To determine the order of presentation of submissions.
- 9. To deal with any other matter that may assist in the fair, just and expeditious resolution of the issues.

Power to examine

(2) At any stage of a proceeding, the Tribunal may,

- (a) examine a party to the proceeding;
- (b) examine a person other than a party who makes a submission to the Tribunal in respect of the proceeding;

- (c) require a party to the proceeding or a person other than a party who makes a submission to the Tribunal in respect of the proceeding to produce evidence for examination by the Tribunal; and
- (d) require a party to the proceeding to produce a witness for examination by the Tribunal.

Power to make confidentiality orders

- (3) The Tribunal may order that any document filed in a proceeding before it be treated as confidential and not be disclosed to the public, where the Tribunal is of the opinion that,
- (a) matters involving public security may be disclosed; or
 - (b) the document contains information regarding intimate financial or personal matters or other matters that are of such a nature that the public interest or the interest of a person affected would be better served by avoiding disclosure, despite the desirability of adhering to the principle that documents filed in a proceeding be available to the public.

Power to fix costs

- (4) Subject to any general or special Act, the Tribunal may fix the costs of and incidental to any proceeding in accordance with the rules.

Decisions of Tribunal to be final

34 Except as provided for in sections 35 and 37, a decision or order of the Tribunal is final and binding.

Review of Tribunal decision

35 The Tribunal may review, rescind or vary any decision or order made by it in accordance with the rules.

Stating case for opinion of Divisional Court

36 (1) The Tribunal may, of its own motion or upon the application of a party, state a case in writing for the opinion of the Divisional Court upon a question of law.

Submissions by the Tribunal

- (2) The Divisional Court may hear submissions from the Tribunal on the stated case.

Court's opinion

- (3) The Divisional Court shall hear and determine the stated case and remit it to the Tribunal with the court's opinion.

No stay

- (4) Unless otherwise ordered by the Tribunal or the Divisional Court, the stating of a case to the Divisional Court under subsection (1) does not operate as a stay of a final decision or order of the Tribunal.

Application for review

- (5) Within 30 days of receipt of the decision of the Divisional Court, a party to the stated case proceeding may apply to the Tribunal for a review of its original decision or order in accordance with section 35.

Appeal

37 (1) Subject to any general or special Act, an appeal lies from the Tribunal to the Divisional Court, with leave of the Divisional Court, on a question of law, except in respect of matters arising under Part IV.

Tribunal to receive notice

- (2) A person appealing a decision or order under this section shall give to the Tribunal notice of the motion for leave to appeal.

Tribunal may be heard by counsel

- (3) The Tribunal is entitled to be heard upon the argument of the appeal, including on a motion for leave to appeal.

No liability for costs

- (4) Neither the Tribunal nor any member of the Tribunal is liable to any costs by reason or in respect of an appeal under this section.

PLANNING ACT APPEALS

Application of section

38 (1) The practices and procedures set out in sections 39, 40 and 42 apply with respect to appeals to the Tribunal under subsections 17 (24) and (36), 22 (7) and 34 (11) and (19) of the *Planning Act* of a decision made by a municipality or approval authority in respect of an official plan or zoning by-law or the failure of a municipality to make a decision in respect of an official plan or zoning by-law, except for an appeal,

- (a) that is in respect of a new decision that the municipality or approval authority was given an opportunity by the Tribunal to make, where the Tribunal determined that the decision is inconsistent with a policy statement issued under subsection 3 (1) of the *Planning Act*, fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan;
- (b) where the Tribunal has received a notice from the Minister responsible for the *Planning Act*, in accordance with the *Planning Act*, that a matter of provincial interest is, or is likely to be, adversely affected by the plan or by-law or the parts of the plan or by-law in respect of which the appeal is made; or
- (c) that is an appeal under subsection 22 (7) or 34 (11) of the *Planning Act* in respect of the failure of a municipality to make a new decision that it was given an opportunity by the Tribunal to make.

Same

(2) The practices and procedures set out in sections 39, 41 and 42 apply with respect to appeals to the Tribunal under subsections 17 (40) and 51 (34) of the *Planning Act* of the failure of an approval authority to make a decision in respect of an official plan or plan of subdivision.

Timelines

(3) An appeal referred to in this section must adhere to any timelines prescribed by the regulations made under this Act.

Mandatory case management conference

39 (1) The Tribunal shall, upon receipt of the record of appeal, direct the appellant and the municipality or approval authority whose decision or failure to make a decision is being appealed to participate in a case management conference under subsection 33 (1).

Same

(2) A case management conference required under subsection (1) shall include discussion of opportunities for settlement, including the possible use of mediation or other dispute resolution processes.

Participation by other persons, subs. 38 (1)

40 (1) If a person other than the appellant or the municipality or approval authority whose decision or failure to make a decision is being appealed wishes to participate in an appeal described in subsection 38 (1), the person must make a written submission to the Tribunal respecting whether the decision or failure to make a decision,

- (a) was inconsistent with a policy statement issued under subsection 3 (1) of the *Planning Act*;
- (b) fails to conform with or conflicts with a provincial plan; or
- (c) fails to conform with an applicable official plan.

Time for submission

(2) The submission must be made to the Tribunal at least 30 days before the date of the case management conference.

Copy, certificate

(3) The person must serve a copy of the submission on the municipality or approval authority whose decision or failure to make a decision is being appealed and file a certificate of service with the Tribunal in the form approved by the Tribunal.

Additional parties

(4) The Tribunal may determine, from among the persons who provide written submissions, whether a person may participate in the appeal as an additional party or otherwise participate in the appeal on such terms as the Tribunal may determine.

Participation by other persons; subs. 38 (2)

41 (1) If a person other than the appellant or approval authority whose failure to make a decision is being appealed wishes to participate in an appeal described in subsection 38 (2), the person must make a written submission to the Tribunal.

Time for submission, service

(2) The time for submission and the requirements for service of the submission, if any, shall be as provided in the Tribunal's rules.

Additional parties

(3) The Tribunal may determine, from among the persons who provide written submissions, whether a person may participate in the appeal as an additional party or otherwise participate in the appeal on such terms as the Tribunal may determine.

Oral hearings

Appeals under subs. 38 (1)

42 (1) If the Tribunal holds an oral hearing of an appeal described in subsection 38 (1), the only persons who may participate in the oral hearing are the parties.

Appeals under subs. 38 (2)

(2) If the Tribunal holds an oral hearing of an appeal described in subsection 38 (2), the only persons who may participate in the oral hearing are,

- (a) the parties; and
- (b) such persons identified by the Tribunal under section 41 (3) as persons who may participate in the oral hearing.

Same

(3) At an oral hearing of an appeal described in subsection 38 (1) or (2),

- (a) each party or person may make an oral submission that does not exceed the time provided under the regulations; and
- (b) no party or person may adduce evidence or call or examine witnesses.

REGULATIONS

Regulations

43 (1) The Minister may make regulations,

- (a) governing the practices and procedures of the Tribunal, including prescribing the conduct and format of hearings, practices regarding the admission of evidence and the format of decisions;
- (b) providing for multi-member panels to hear proceedings before the Tribunal and governing the composition of such panels; and
- (c) prescribing timelines applicable to proceedings on appeals to the Tribunal under the *Planning Act*.

Transitional

(2) The Minister may make regulations providing for transitional matters respecting matters and proceedings that were commenced before or after the effective date.

Same

(3) A regulation made under subsection (2) may, without limitation,

- (a) determine which matters and proceedings may be continued and disposed of under the *Ontario Municipal Board Act*, as it read on the day before the effective date, and which matters and proceedings must be continued and disposed of under this Act, as it read on the effective date;
- (b) deem a matter or proceeding to have been commenced on the date or in the circumstances specified in the regulation.

Conflict

(4) A regulation made under subsection (2) prevails over any provision of this Act specifically mentioned in the regulation.

Definition

(5) In this section,

“effective date” means the date on which section 1 of the *Local Planning Appeal Tribunal Act, 2017* comes into force.

PART VII

REPEAL, REVOCATIONS, COMMENCEMENT AND SHORT TITLE

Repeal

44 The *Ontario Municipal Board Act* is repealed.

Revocations

45 (1) Ontario Regulation 189/16 (Fees) made under the *Ontario Municipal Board Act* is revoked.

(2) Ontario Regulation 30/02 (Consolidating Matters or Hearing Them Together) made under the *Ontario Municipal Board Act* is revoked.

Commencement

46 The Act set out in this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short Title

47 The short title of the Act set out in this Schedule is the *Local Planning Appeal Tribunal Act, 2017*.

SCHEDULE 2
LOCAL PLANNING APPEAL SUPPORT CENTRE ACT, 2017

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13.	Crown immunity
14.	By-laws
15.	Regulations
16.	Amendments to this Act
17.	Commencement
18.	Short Title

Definitions

1 In this Act,

“by-laws” means the by-laws authorized under section 14; (“règlements administratifs”)

“Centre” means the Local Planning Appeal Support Centre established under section 2; (“Centre”)

“Minister” means the member of the Executive Council to whom the powers and duties of the Minister under this Act are assigned by the Lieutenant Governor in Council; (“ministre”)

“regulations” means the regulations made under this Act; (“règlements”)

“Tribunal” means the Local Planning Appeal Tribunal; (“Tribunal”)

Centre established

2 (1) A corporation without share capital is established under the name “Local Planning Appeal Support Centre” in English and “Centre d’assistance pour les appels en matière d’aménagement local” in French.

Composition

(2) The Centre is composed of the members of its board of directors.

Not a Crown agency

(3) The Centre is not an agent of Her Majesty nor a Crown agency for the purposes of the *Crown Agency Act*.

Centre’s money not part of Consolidated Revenue Fund

(4) The Centre’s money and investments do not form part of the Consolidated Revenue Fund.

Independent from but accountable to Ontario

(5) The Centre shall be independent from, but accountable to, the Government of Ontario as set out in this Act.

Natural person powers

(6) The Centre has the capacity and the rights, powers and privileges of a natural person, subject to the limitations set out in this Act and the regulations.

Application of corporate statutes

(7) The *Corporations Act* and the *Corporations Information Act* do not apply to the Centre, except as provided for by the regulations.

Objects

3 The objects of the Centre are,

- (a) to establish and administer a cost-effective and efficient system for providing support services to persons determined to be eligible under this Act respecting matters governed by the *Planning Act* that are under the jurisdiction of the Tribunal; and
- (b) to establish policies and priorities for the provision of the support services based on its financial resources.

Provision of support services

4 The Centre shall provide the following support services in order to achieve its objects:

- 1. Information on land use planning.
- 2. Guidance on Tribunal procedures.
- 3. Advice or representation.
- 4. Any other services prescribed by the regulations.

Eligibility for support services

5 (1) The Centre shall, subject to any rules prescribed in the regulations, establish criteria for determining the eligibility of persons to receive support services from the Centre.

Classes

(2) Criteria established under subsection (1) may be general or specific, and may set out different criteria for different classes of persons.

Public availability

(3) The Centre shall ensure that the criteria established under subsection (1) are available to the public.

Criteria not regulations

(4) Part III of the *Legislation Act, 2006* does not apply to criteria established under this section.

Availability of support services

6 The Centre shall ensure that the support services it establishes are available throughout the Province, using such methods of delivering the services as the Centre considers to be appropriate.

Board of directors

7 (1) The affairs of the Centre shall be governed and managed by its board of directors, who shall be responsible for furthering the Centre's objects.

Composition, appointment

(2) The board of directors of the Centre shall consist of up to seven members, all of whom shall be appointed by the Lieutenant Governor in Council.

Quorum

(3) Subject to the by-laws, a majority of the directors constitutes a quorum for the transaction of business.

Chair, vice-chair

(4) The Lieutenant Governor in Council shall designate a director as chair, and may designate another director as vice-chair.

Acting chair

(5) If the chair is absent or unable to act, or if the office of chair is vacant, the vice-chair, if any, shall act as and have all the powers of the chair.

Same

(6) If the chair and any vice-chair are absent from a board meeting, the directors present at the meeting shall appoint an acting chair from among themselves to act as, and to have all the powers of, the chair during the meeting.

Remuneration

(7) The members of the board may be paid remuneration and expenses as determined by the Lieutenant Governor in Council.

Board to act responsibly

(8) The board shall act in a financially responsible and accountable manner in exercising its powers and performing its duties.

Standard of care

(9) The members of the board shall act in good faith with a view to the objects of the Centre and shall exercise the care, diligence and skill of a reasonably prudent person.

Delegation by board

8 (1) Subject to subsection (2), the board of directors may, in accordance with the by-laws, delegate any of its powers or duties to a committee of the board, to one or more directors, or to one or more officers or employees of the Centre.

Restriction

(2) The board may not delegate its powers or duties respecting the passage of by-laws or resolutions, or the approval of the financial statements or the annual report of the Centre.

Delegation

(3) A delegation under subsection (1),

- (a) shall be in writing; and
- (b) may be general or specific, and include any terms, conditions or restrictions that the board of directors considers advisable.

Annual budget

9 The Centre shall submit its annual budget to the Minister for approval every year in the manner and form, and at the time, the Minister specifies.

Annual report

10 (1) The Centre shall submit an annual report to the Minister no later than four months after the end of its fiscal year.

Fiscal year

(2) The fiscal year of the Centre shall be from April 1 of a year to March 31 of the following year.

Auditing

11 (1) The Centre shall ensure that its books of financial account are audited annually in accordance with generally accepted accounting principles, and that a copy of the audit is given to the Minister.

Audit by Minister

(2) The Minister has the right to audit the Centre at any time that the Minister chooses.

Immunity

12 (1) No action or other civil proceeding shall be commenced against a director, officer, employee or agent of the Centre for an act done in good faith in the exercise or performance or intended exercise or performance of a power or duty under this Act, the regulations or the by-laws, or for neglect or default in the exercise or performance in good faith of the power or duty.

Same

(2) Subsection (1) does not relieve the Centre of any liability to which it would otherwise be subject with respect to a cause of action arising from any act, neglect or default mentioned in subsection (1).

Crown immunity

13 No action or other civil proceeding shall be commenced against the Crown for any act, neglect or default by a person referred to in subsection 12 (1) or for any act, neglect or default by the Centre.

By-laws

14 The Centre may pass by-laws and resolutions regulating its proceedings, and generally for the conduct and management of its business and affairs.

Regulations

15 The Lieutenant Governor in Council may make regulations,

- (a) prescribing limitations for the purposes of subsection 2 (6);
- (b) prescribing provisions of the Acts referred to in subsection 2 (7) that apply to the Centre;
- (c) prescribing services for the purposes of paragraph 4 of subsection 4 (1);
- (d) governing the eligibility of persons to receive support services from the Centre;
- (e) providing for such other matters as the Lieutenant Governor in Council considers advisable to carry out the purpose of this Act.

Amendments to this Act

16 Subsection 2 (7) of the Act is amended by striking out “*Corporations Act*” and substituting “*Not-for-Profit Corporations Act, 2010*”.

Commencement

17 (1) Subject to subsection (2), the Act set out in this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

(2) Section 16 comes into force on the later of the day subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010* comes into force and the day section 1 of the Act set out in this Schedule comes into force.

Short Title

18 The short title of the Act set out in this Schedule is the *Local Planning Appeal Support Centre Act, 2017*.

**SCHEDULE 3
AMENDMENTS TO THE PLANNING ACT, THE CITY OF TORONTO ACT, 2006 AND THE ONTARIO
PLANNING AND DEVELOPMENT ACT, 1994**

PLANNING ACT

1 (1) Subsection 1 (1) of the *Planning Act* is amended by adding the following definition:

“higher order transit” means transit that operates in whole or in part in a dedicated right of way, including heavy rail, light rail and buses; (“transport en commun d’un niveau supérieur”)

(2) The definition of “provincial plan” in subsection 1 (1) of the Act is amended by striking out “or” at the clause (e) and by adding the following clauses:

- (e.1) a designated policy as defined in section 2 of the *Lake Simcoe Protection Act, 2008*,
- (e.2) a designated policy as defined in section 3 of the *Great Lakes Protection Act, 2015*,
- (e.3) a designated Great Lakes policy or a significant threat policy, as those terms are defined in subsection 2 (1) of the *Clean Water Act, 2006*, or

2 (1) Subsection 2.1 (1) of the Act is amended by striking out the portion before clause (a) and substituting the following:

Approval authorities and Tribunal to have regard to certain matters

(1) When an approval authority makes a decision under subsection 17 (34) or the Tribunal makes a decision in respect of an appeal referred to in subsection 17 (49.5) or (53), 22 (11.3), 34 (26.6) or (29), 38 (4) or (4.1), 41 (12.0.1), 51 (39), (43) or (48) or 53 (19) or (27), it shall have regard to,

(2) Subsection 2.1 (2) of the Act is repealed and the following substituted:

Same, Tribunal

(2) When the Tribunal makes a decision in respect of an appeal referred to in subsection 17 (40), 51 (34) or 53 (14), the Tribunal shall have regard to any information and material that the municipal council or approval authority received in relation to the matter.

3 Section 3 of the Act is amended by adding the following subsections:

Approval of Minister, etc.

(1.1) A policy statement may require an approval or determination by the Minister, any other minister of the Crown or multiple ministers of the Crown for any of the matters provided for in the policy statement.

Deemed policy statements

(8) Each of the following is deemed to be a policy statement issued under subsection (1):

- 1. A policy statement issued under section 31.1 of the *Metrolinx Act, 2006*.
- 2. A policy statement issued under section 11 of the *Resource Recovery and Circular Economy Act, 2016*.
- 3. A policy or statement that is prescribed for the purpose of this subsection.

Exceptions

(9) Subsections (1.1), (2), (3) and (10) do not apply to a policy or statement that is deemed by subsection (8) to be a policy statement issued under subsection (1).

4 (1) Subsection 8.1 (6) of the Act is repealed and the following substituted:

Power to hear appeals, etc.

(6) The council may by by-law empower the local appeal body to hear appeals or motions for directions, as the case may be, under,

- (a) subsections 41 (4.2), (12) and (12.0.1);
- (b) subsection 45 (12);
- (c) subsections 53 (4.1), (14), (19) and (27); or
- (d) the provisions listed in any combination of clauses (a), (b) and (c).

Interpretation re appeals

(6.1) The following rules apply if a by-law has been passed under subsection (6) empowering the local appeal body to hear motions for directions under subsection 41 (4.2) or 53 (4.1), or both:

1. References in this section to an appeal, other than in subsection (10), shall be read as including a reference to a motion for directions under either subsection 41 (4.2) or 53 (4.1), or both, as the case may be.
2. The reference in subsection (9) to an appellant shall be read as including a reference to a person or public body making a motion for directions under either subsection 41 (4.2) or 53 (4.1), or both, as the case may be.

(2) Subsection 8.1 (7) of the Act is repealed and the following substituted:

Effect of by-law under subs. (6)

(7) If a by-law has been passed under subsection (6),

- (a) the local appeal body has all the powers and duties of the Tribunal under the relevant provisions of this Act;
- (b) all references in this Act to the Tribunal in connection with appeals under the relevant provisions shall be read as references to the local appeal body; and
- (c) appeals under the relevant provisions shall be made to the local appeal body, not to the Tribunal.

(3) Subsection 8.1 (11) of the Act is repealed and the following substituted:

Exception

(11) Subsection (10) does not apply in respect of a motion for directions under subsection 41 (4.2) or 53 (4.1).

(4) Clauses 8.1 (13) (a) and (b) of the Act are repealed and the following substituted:

- (a) in respect of the same matter as the appeal under a provision listed in subsection (6); and
- (b) under another provision listed in subsection (6) in respect of which the local appeal body has not been empowered, under section 17, 22, 34, 36, 38 or 51 or in relation to a development permit system.

(5) Subsection 8.1 (16) of the Act is amended by striking out “a notice of appeal is filed in respect of a related appeal, the Municipal Board shall” and substituting “a notice of appeal is filed with the Tribunal in respect of a related appeal, the Tribunal shall”.

(6) Subsection 8.1 (26) of the Act is repealed and the following substituted:

Transition

(26) This section does not apply to the following:

1. An appeal under subsection 45 (12), if the decision of the committee in respect of which a notice of appeal is filed is made before the day on which a by-law passed under subsection (6) of this section by the council of the relevant municipality that empowers the local appeal body to hear that type of appeal comes into force.
2. An appeal under subsection 53 (19) or (27), if the notice under subsection 53 (17) or (24), as the case may be, is given before the day on which a by-law passed under subsection (6) of this section by the council of the relevant municipality that empowers the local appeal body to hear that type of appeal comes into force.
3. An appeal under subsection 41 (4.2), (12) or (12.0.1) or 53 (4.1) or (14), if the appeal is made before the day on which a by-law passed under subsection (6) of this section by the council of the relevant municipality that empowers the local appeal body to hear that type of appeal comes into force.

Deeming rule re appeals under subs. 53 (4.1)

(27) If a municipality has, before the day subsection 4 (1) of Schedule 3 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force, passed a by-law under subsection (6) of this section empowering the local appeal body to hear appeals under subsections 53 (14), (19) and (27), the by-law is deemed to empower the local appeal body to hear appeals under subsection 53 (4.1) that are made on or after that day.

5 Section 16 of the Act is amended by adding the following subsections:

Climate change policies

(14) An official plan shall contain policies that identify goals, objectives and actions to mitigate greenhouse gas emissions and to provide for adaptation to a changing climate, including through increasing resiliency.

Protected major transit station areas – single-tier municipality

(15) The official plan of a single-tier municipality may include policies that identify the area surrounding and including an existing or planned higher order transit station or stop as a protected major transit station area and that delineate the area's boundaries, and if the official plan includes such policies it must also contain policies that,

- (a) identify the minimum number of residents and jobs, collectively, per hectare that are planned to be accommodated within the area;
- (b) identify the authorized uses of land in the major transit station area and of buildings or structures on lands in the area; and
- (c) identify the minimum densities that are authorized with respect to buildings and structures on lands in the area.

Same, upper-tier municipality

(16) The official plan of an upper-tier municipality may include policies that identify the area surrounding and including an existing or planned higher order transit station or stop as a protected major transit station area and that delineate the area's boundaries, and if the official plan includes such policies it must also contain policies that,

- (a) identify the minimum number of residents and jobs, collectively, per hectare that are planned to be accommodated within the area; and
- (b) require official plans of the relevant lower-tier municipality or municipalities to include policies that,
 - (i) identify the authorized uses of land in the area and of buildings or structures on lands in the area; and
 - (ii) identify the minimum densities that are authorized with respect to buildings and structures on lands in the area.

Failure to amend official plan

(17) If an official plan of a lower-tier municipality that is required to include the policies described in subclauses (16) (b) (i) and (ii) is not amended to include those policies as required by subsection 27 (1) within one year from the day the policies identifying the relevant protected major transit station area in accordance with subsection (16) of this section come into effect, subsection 27 (2) does not apply and instead the council of the upper-tier municipality shall amend the official plan of the lower-tier municipality in the like manner and subject to the same requirements and procedures as the council that failed to make the amendment within the one-year period as required.

No exemption under subs. 17 (9)

(18) An order under subsection 17 (9) does not apply to an amendment to an official plan if the amendment does any of the following:

1. Adds all of the policies described in subsection (15) to the official plan.
2. In the case of an official plan of an upper-tier municipality, adds all of the policies described in subsection (16) to the plan, other than the policies described in subclauses (16) (b) (i) and (ii).
3. In the case of an official plan of a lower-tier municipality, adds all of the policies described in subclauses (16) (b) (i) and (ii) to the plan with respect to a protected major transit station area identified in accordance with subsection (16).
4. Amends or revokes any of the policies described in subsection (15) or (16) with respect to a protected major transit station area identified in accordance with either of those subsections.

Authorization under subs. 17 (10) does not apply

(19) An authorization under subsection 17 (10) does not apply to an amendment to an official plan of a lower-tier municipality that,

- (a) adds all of the policies described in subclauses (16) (b) (i) and (ii) to the plan with respect to a protected major transit station area identified in accordance with subsection (16); or
- (b) amends or revokes any of the policies described in subclauses (16) (b) (i) and (ii) with respect to a protected major transit station area identified in accordance with subsection (16).

6 (1) Section 17 of the Act is amended by adding the following subsection:

Basis for appeal

(24.0.1) An appeal under subsection (24) may only be made on the basis that the part of the decision to which the notice of appeal relates is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan.

(2) Clause 17 (25) (b) of the Act is repealed and the following substituted:

- (b) explain how the part of the decision to which the notice of appeal relates is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan; and

(3) Subsection 17 (25.1) of the Act is repealed.

(4) Subsection 17 (34.1) of the Act is amended by striking out “180th day” wherever it appears and substituting in each case “210th day”.

(5) Section 17 of the Act is amended by adding the following subsection:

Basis for appeal

(36.0.1) An appeal under subsection (36) may only be made on the basis that the part of the decision to which the notice of appeal relates is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality’s official plan.

(6) Section 17 of the Act is amended by adding the following subsections:

No appeal re protected major transit station policies

(36.1.4) Despite subsection (36), there is no appeal in respect of the following:

1. Policies that identify a protected major transit station area in accordance with subsection 16 (15) or (16), including any changes to those policies.
2. Policies described in clauses 16 (15) (a), (b) or (c) or 16 (16) (a) or (b) with respect to a protected major transit station area that is identified in accordance with subsection 16 (15) or (16).
3. Policies in a lower-tier municipality’s official plan that are described in subclause 16 (16) (b) (i) or (ii).
4. Policies that identify the maximum densities that are authorized with respect to buildings and structures on lands in a protected major transit station area that is identified in accordance with subsection 16 (15).
5. Policies that identify the maximum densities that are authorized with respect to buildings and structures on lands in a protected major transit station area that is identified in accordance with subsection 16 (16).
6. Policies that identify the minimum or maximum heights that are authorized with respect to buildings and structures on lands in a protected major transit station area that is identified in accordance with subsection 16 (15).
7. Policies that identify the minimum or maximum heights that are authorized with respect to buildings and structures on lands in a protected major transit station area that is identified in accordance with subsection 16 (16).

Limitation

(36.1.5) Paragraphs 3, 5 and 7 of subsection (36.1.4) apply only if,

- (a) the plan that includes the policies referred to in those paragraphs also includes all of the policies described in subclauses 16 (16) (b) (i) and (ii) for the relevant protected major transit station area; or
- (b) the lower-tier municipality’s official plan in effect at the relevant time contains all of the policies described in subclauses 16 (16) (b) (i) and (ii) for the relevant protected major transit station area.

Exception

(36.1.6) Despite paragraphs 6 and 7 of subsection (36.1.4), there is an appeal in circumstances where the maximum height that is authorized with respect to a building or structure on a particular parcel of land would result in the building or structure not satisfying the minimum density that is authorized in respect of that parcel.

Exception re Minister

(36.1.7) Subsection (36.1.4) does not apply to an appeal by the Minister.

(7) Subsection 17 (36.2) of the Act is amended by striking out “in the case of a new official plan there is no appeal” and substituting “in the case of a new official plan that is approved by an approval authority other than the Minister, there is no appeal”.

(8) Section 17 of the Act is amended by adding the following subsection:

No appeal re decision by Minister

(36.5) Despite subsection (36), there is no appeal in respect of a decision of the approval authority under subsection (34), if the approval authority is the Minister.

(9) Clause 17 (37) (b) of the Act is repealed and the following substituted:

- (b) explain how the part of the decision to which the notice of appeal relates is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality’s official plan; and

(10) Subsection 17 (37.1) of the Act is repealed.

(11) Subsection 17 (40) of the Act is amended by,

(a) striking out “within 180 days” and substituting “within 210 days”; and

(b) striking out “any person or public body may appeal to the Municipal Board” and substituting “any person or public body may appeal to the Tribunal”.

(12) Subsection 17 (40.1) of the Act is amended by striking out “180-day period” wherever it appears and substituting in each case “210-day period”.

(13) Subsection 17 (40.2) of the Act is amended by,

(a) striking out “180 days” in the portion before clause (a) and substituting “210 days”; and

(b) striking out “180th day” wherever it appears and substituting in each case “210th day”.

(14) Subsection 17 (40.4) of the Act is amended by striking out “180-day period” and substituting “210-day period”.

(15) Subsections 17 (44.3) to (44.6) of the Act are repealed.

(16) Subsection 17 (44.7) of the Act is amended by striking out “Subsections (44.1) to (44.6)” at the beginning and substituting “Subsections (44.1) and (44.2)”.

(17) Subsection 17 (45) of the Act is repealed and the following substituted:

Dismissal without hearing

(45) Despite the *Statutory Powers Procedure Act* and subsection (44), the Tribunal shall dismiss all or part of an appeal without holding a hearing on its own initiative or on the motion of any party if any of the following apply:

1. The Tribunal is of the opinion that,
 - i. the explanation required by clause (25) (b) or (37) (b), as the case may be, does not disclose that the part of the decision to which the notice of appeal relates is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan, or in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality’s official plan,
 - ii. the appeal is not made in good faith or is frivolous or vexatious,
 - iii. the appeal is made only for the purpose of delay, or
 - iv. the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process.
2. The appellant has not provided the explanations required by clause (25) (b) or (37) (b), as applicable.
3. The appellant has not paid the fee charged under the *Local Planning Appeal Tribunal Act, 2017* and has not responded to a request by the Tribunal to pay the fee within the time specified by the Tribunal.
4. The appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal.

(18) Subsection 17 (46) of the Act is amended by,

(a) striking out “Before dismissing all or part of an appeal, the Municipal Board shall” at the beginning and substituting “Before dismissing all or part of an appeal, the Tribunal shall”; and

(b) striking out “clause (45) (e)” at the end and substituting “paragraph 3 or 4 of subsection (45)”.

(19) Subsection 17 (49) of the Act is repealed and the following substituted:

Transfer

(49) If a notice of appeal under subsection (40) is received by the Tribunal, the Tribunal may require that a municipality or approval authority transfer to the Tribunal any other part of the plan that is not in effect and to which the notice of appeal does not apply.

(20) Section 17 of the Act is amended by adding the following subsections:

Powers of L.P.A.T. – appeals under subss. (24) and (36)

(49.1) Subject to subsections (49.3) and (49.5), on an appeal under subsection (24) or (36), the Tribunal shall dismiss the appeal.

Same

(49.2) Except as provided in subsection (47), if the Tribunal dismisses all appeals made under subsection (24) or (36) in respect of all or part of a decision and if the time for filing notices of appeal has expired, the Tribunal shall notify the clerk of the municipality or the approval authority and,

- (a) the decision or that part of the decision that was the subject of the appeal is final; and

- (b) any plan or part of the plan that was adopted or approved and in respect of which all the appeals have been dismissed comes into effect as an official plan or part of an official plan on the day after the day the last outstanding appeal has been dismissed.

Refusal and notice to make new decision

(49.3) Except as provided in subsection (49.5), if the Tribunal determines that a part of a decision to which a notice of appeal under subsection (24) or (36) relates is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan,

- (a) the Tribunal shall refuse to approve that part of the plan; and
- (b) the Tribunal shall notify the clerk of the municipality that adopted the official plan that the municipality is being given an opportunity to make a new decision in respect of the matter.

Rules that apply if notice is received

(49.4) If the clerk has received notice under clause (49.3) (b), the following rules apply:

1. The council of the municipality may prepare and adopt another plan in accordance with this section, subject to the following:
 - i. Subsections (16) and (17.1) do not apply.
 - ii. If the plan is not exempt from approval,
 - A. the reference to "within 210 days" in subsection (40) shall be read as "within 90 days",
 - B. subsection (40.1) does not apply,
 - C. references to "210 days" and "210th day" in subsection (40.2) shall be read as "90 days" and "90th day", respectively, and
 - D. the reference to "210-day period" in subsection (40.4) shall be read as "90-day period".
2. If the decision referred to in subsection (49.3) was in respect of an amendment adopted in response to a request under subsection 22 (1) or (2), the references to "within 210 days after the day the request is received" in paragraphs 1 and 2 of subsection 22 (7.0.2) shall be read as "within 90 days after the day notice under clause (49.3) (b) was received".

Second appeal

(49.5) On an appeal under subsection (24) or (36) that concerns a new decision that the municipality was given an opportunity to make in accordance with subsection (49.4) or 22 (11.0.10), the Tribunal may make modifications to all or part of the plan and approve all or part of the plan as modified as an official plan or refuse to approve all or part of the plan, if the Tribunal determines that the decision is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan.

(21) Subsection 17 (50) of the Act is amended by striking out "On an appeal or a transfer, the Municipal Board may" at the beginning and substituting "On an appeal under subsection (40) or a transfer, the Tribunal may".

(22) Subsections 17 (50.1) and (51) of the Act are repealed and the following substituted:

Same

(50.1) For greater certainty, subsections (49.5) and (50) do not give the Tribunal power to approve or modify any part of the plan that,

- (a) is in effect; and
- (b) was not added, amended or revoked by the plan to which the notice of appeal relates.

Matters of provincial interest

(51) Where an appeal is made to the Tribunal under this section, the Minister, if he or she is of the opinion that a matter of provincial interest is, or is likely to be, adversely affected by the plan or the parts of the plan in respect of which the appeal is made, may so advise the Tribunal in writing not later than 30 days after the day the Tribunal gives notice under subsection (44) and the Minister shall identify,

- (a) the provisions of the plan by which the provincial interest is, or is likely to be, adversely affected; and
- (b) the general basis for the opinion that a matter of provincial interest is, or is likely to be, adversely affected.

(23) Subsection 17 (53) of the Act is repealed and the following substituted:

Applicable rules if notice under subs. (51) received

(53) If the Tribunal has received a notice from the Minister under subsection (51), the following rules apply:

1. Subsections (49.1) to (50) do not apply to the appeal.
2. The Tribunal may approve all or part of the plan as all or part of an official plan, make modifications to all or part of the plan and approve all or part of the plan as modified as an official plan or refuse to approve all or part of the plan.
3. The decision of the Tribunal is not final and binding in respect of the provisions identified in the notice unless the Lieutenant Governor in Council has confirmed the decision in respect of the provisions.

7 Section 21 of the Act is amended by adding the following subsection:

Exception

(3) Subsection 17 (36.5) applies to an amendment only if it is a revision that is adopted in accordance with section 26.

8 (1) Section 22 of the Act is amended by adding the following subsections:

Same, secondary plans

(2.1.1) No person or public body shall request an amendment to a secondary plan before the second anniversary of the first day any part of the secondary plan comes into effect.

Interpretation, secondary plan

(2.1.2) For the purpose of subsection (2.1.1), a secondary plan is a part of an official plan, added by way of an amendment, that contains policies and land use designations that apply to multiple contiguous parcels of land, but not an entire municipality, and that provides more detailed land use policy direction in respect of those parcels than was provided before the amendment.

No request for amendment re protected major transit station area policies

(2.1.3) If a protected major transit station area is identified in an official plan in accordance with subsection 16 (15) or (16), no person or public body shall request an amendment in respect of any of the policies described in those subsections in respect of that area, including, for greater certainty, policies described in subclauses 16 (16) (b) (i) and (ii) that are contained in the official plan of a lower-tier municipality.

(2) Subsection 22 (2.2) of the Act is repealed and the following substituted:

Exception

(2.2) If the council has declared by resolution that a request described in subsection (2.1), (2.1.1) or (2.1.3) is permitted, which resolution may be made in respect of a specific request, a class of requests or in respect of such requests generally, the relevant subsection does not apply.

(3) Section 22 of the Act is amended by adding the following subsection:

Basis for appeal

(7.0.0.1) An appeal under subsection (7) may only be made on the basis that,

- (a) the existing part or parts of the official plan that would be affected by the requested amendment are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or, in the case of the official plan of a lower-tier municipality, fail to conform with the upper-tier municipality's official plan; and
- (b) the requested amendment is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and, in the case of a requested amendment to the official plan of a lower-tier municipality, conforms with the upper-tier municipality's official plan.

Exception

(7.0.0.2) Subsection (7.0.0.1) and clauses (8) (a.1) and (a.2) do not apply to an appeal under subsection (7) brought in accordance with paragraph 1 or 2 of subsection (7.0.2) that concerns a request in respect of which the municipality or planning board was given an opportunity to make a new decision in accordance with subsection (11.0.10) or subsection 17 (49.4).

(4) Subsection 22 (7.0.2) of the Act is amended by striking out "180 days" wherever it appears and substituting in each case "210 days".

(5) Section 22 of the Act is amended by adding the following subsection:

Same

(7.0.2.1) For greater certainty, a condition set out in subsection (7.0.2) is not met if the council or the planning board adopts an amendment in response to a request under subsection (1) or (2), even if the amendment that is adopted differs from the requested amendment.

(6) Subsection 22 (8) of the Act is amended by striking out “and” at the end of clause (a) and by adding the following clauses:

- (a.1) explain how the existing part or parts of the official plan that would be affected by the requested amendment are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or, in the case of the official plan of a lower-tier municipality, fail to conform with the upper-tier municipality’s official plan;
- (a.2) explain how the requested amendment is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and, in the case of a requested amendment to the official plan of a lower-tier municipality, conforms with the upper-tier municipality’s official plan; and

(7) Subsection 22 (11) of the Act is repealed and the following substituted:

Hearing

(11) On an appeal to the Tribunal, the Tribunal shall hold a hearing of which notice shall be given to such persons or such public bodies and in such manner as the Tribunal may determine.

Restriction re adding parties

(11.0.1) Despite subsection (11), in the case of an appeal under subsection (7) brought in accordance with paragraph 3 or 4 of subsection (7.0.2), only the following may be added as parties:

- 1. A person or public body who satisfies one of the conditions set out in subsection (11.0.2).
- 2. The Minister.
- 3. The appropriate approval authority.

Same

(11.0.2) The conditions mentioned in paragraph 1 of subsection (11.0.1) are:

- 1. Before the requested amendment was refused, the person or public body made oral submissions at a public meeting or written submissions to the council or planning board.
- 2. The Tribunal is of the opinion that there are reasonable grounds to add the person or public body as a party.

Conflict with SPPA

(11.0.3) Subsections (11.0.1) and (11.0.2) apply despite the *Statutory Powers Procedure Act*.

Dismissal without hearing

(11.0.4) Despite the *Statutory Powers Procedure Act* and subsection (11), the Tribunal shall dismiss all or part of an appeal without holding a hearing on its own initiative or on the motion of any party if any of the following apply:

- 1. The Tribunal is of the opinion that the explanations required by clauses (8) (a.1) and (a.2) do not disclose both of the following:
 - i. That the existing part or parts of the official plan that would be affected by the requested amendment are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or, in the case of the official plan of a lower-tier municipality, fail to conform with the upper-tier municipality’s official plan.
 - ii. That the requested amendment is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and, in the case of a requested amendment to the official plan of a lower-tier municipality, conforms with the upper-tier municipality’s official plan.
- 2. The Tribunal is of the opinion that,
 - i. the appeal is not made in good faith or is frivolous or vexatious,
 - ii. the appeal is made only for the purpose of delay, or
 - iii. the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process.
- 3. The appellant has not provided the explanations required by clauses (8) (a.1) and (a.2).
- 4. The appellant has not paid the fee charged under the *Local Planning Appeal Tribunal Act, 2017* and has not responded to a request by the Tribunal to pay the fee within the time specified by the Tribunal.
- 5. The appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal.

Same

(11.0.5) Despite the *Statutory Powers Procedure Act* and subsection (11), the Tribunal may, on its own initiative or on the motion of the municipality, the planning board, the appropriate approval authority or the Minister, dismiss all or part of an appeal without holding a hearing if, in the Tribunal's opinion, the application to which the appeal relates is substantially different from the application that was before council or the planning board at the time of its decision.

Representation

(11.0.6) Before dismissing all or part of an appeal, the Tribunal shall notify the appellant and give the appellant the opportunity to make representation on the proposed dismissal but this subsection does not apply if the appellant has not complied with a request made under paragraph 4 or 5 of subsection (11.0.4).

Dismissal

(11.0.7) Despite the *Statutory Powers Procedure Act*, the Tribunal may dismiss all or part of an appeal after holding a hearing or without holding a hearing on the motion under subsection (11.0.4) or (11.0.5), as it considers appropriate.

Powers of L.P.A.T. – appeals under subs. (7)

(11.0.8) Subject to subsections (11.0.9) and (11.0.11), on an appeal under subsection (7), the Tribunal shall dismiss the appeal.

Notice re opportunity to make new decision

(11.0.9) On an appeal under subsection (7) and except as provided in subsection (11.0.11), the Tribunal shall notify the clerk of the municipality or the secretary-treasurer of the planning board, as the case may be, that received the request for an official plan amendment that the municipality or planning board is being given an opportunity to make a new decision in respect of the matter, if the Tribunal determines that,

- (a) the existing part or parts of the official plan that would be affected by the requested amendment are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or, in the case of the official plan of a lower-tier municipality, fail to conform with the upper-tier municipality's official plan; and
- (b) the requested amendment is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and, in the case of a requested amendment to the official plan of a lower-tier municipality, conforms with the upper-tier municipality's official plan.

Rules that apply if notice received

(11.0.10) If the clerk or secretary-treasurer has received notice under subsection (11.0.9), the following rules apply:

1. The council of the municipality or the planning board may prepare and adopt an amendment, subject to the following:
 - i. Subsections 17 (16) and (17.1) do not apply.
 - ii. If the amendment is not exempt from approval,
 - A. the reference to "within 210 days" in subsection 17 (40) shall be read as "within 90 days",
 - B. subsection 17 (40.1) does not apply,
 - C. references to "210 days" and "210th day" in subsection 17 (40.2) shall be read as "90 days" and "90th day", respectively, and
 - D. the reference to "210-day period" in subsection 17 (40.4) shall be read as "90-day period".
2. The references to "within 210 days after the day the request is received" in paragraphs 1 and 2 of subsection (7.0.2) shall be read as "within 90 days after the day notice under subsection (11.0.9) was received".

Second appeal

(11.0.11) Subsections (11.0.12) and (11.0.13) apply with respect to an appeal under subsection (7) that concerns a request in respect of which the municipality or planning board was given an opportunity to make a new decision in accordance with subsection (11.0.10) or subsection 17 (49.4).

Same

(11.0.12) In the case of an appeal brought in accordance with paragraph 1 or 2 of subsection (7.0.2), the Tribunal may approve all or part of the requested amendment as an official plan amendment, make modifications to all or part of the requested amendment and approve all or part of the requested amendment as modified as an official plan amendment or refuse to approve all or part of the requested amendment.

Same

(11.0.13) In the case of an appeal brought in accordance with paragraph 3 or 4 of subsection (7.0.2), the Tribunal may approve all or part of a requested amendment as an official plan amendment, make modifications to all or part of the

requested amendment and approve all or part of the requested amendment as modified as an official plan amendment or refuse to approve all or part of the requested amendment, if the Tribunal determines that,

- (a) the existing part or parts of the official plan that would be affected by the requested amendment are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or, in the case of the official plan of a lower-tier municipality, fail to conform with the upper-tier municipality's official plan; and
- (b) the requested amendment is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and, in the case of a requested amendment to the official plan of a lower-tier municipality, conforms with the upper-tier municipality's official plan.

(8) Subsection 22 (11.1) of the Act is repealed and the following substituted:

Matters of provincial interest

(11.1) Where an appeal is made to the Tribunal under this section, the Minister, if he or she is of the opinion that a matter of provincial interest is, or is likely to be, adversely affected by the amendment or any part of the amendment in respect of which the appeal is made, may so advise the Tribunal in writing not later than 30 days after the day the Tribunal gives notice under subsection (11) and the Minister shall identify,

- (a) the provisions of the amendment or any part of the amendment by which the provincial interest is, or is likely to be, adversely affected; and
- (b) the general basis for the opinion that a matter of provincial interest is, or is likely to be, adversely affected.

(9) Subsection 22 (11.3) of the Act is repealed and the following substituted:

Applicable rules if notice under subs. (11.1) received

(11.3) If the Tribunal has received a notice from the Minister under subsection (11.1), the following rules apply:

- 1. Subsections (11.0.8) to (11.0.13) do not apply to the appeal.
- 2. The Tribunal may approve all or part of a requested amendment as an official plan amendment, make modifications to all or part of the requested amendment and approve all or part of the requested amendment as modified as an official plan amendment or refuse to approve all or part of the requested amendment.
- 3. The decision of the Tribunal is not final and binding in respect of the provisions of the amendment or the provisions of any part of the amendment identified in the notice unless the Lieutenant Governor in Council has confirmed the decision in respect of those provisions.

9 Subsection 28 (5) of the Act is amended by striking out “and (49) to (50.1) apply” and substituting “and (49), (50) and (50.1), as they read on the day before section 9 of Schedule 3 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force, apply”.

10 (1) Subsection 34 (11) of the Act is repealed and the following substituted:

Appeal to L.P.A.T.

(11) Subject to subsection (11.0.0.1), where an application to the council for an amendment to a by-law passed under this section or a predecessor of this section is refused or the council fails to make a decision on it within 150 days after the receipt by the clerk of the application, any of the following may appeal to the Tribunal by filing with the clerk of the municipality a notice of appeal, accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*:

- 1. The applicant.
- 2. The Minister.

Same, where amendment to official plan required

(11.0.0.1) If an amendment to a by-law passed under this section or a predecessor of this section in respect of which an application to the council is made would also require an amendment to the official plan of the local municipality and the application is made on the same day as the request to amend the official plan, an appeal to the Tribunal under subsection (11) may be made only if the application is refused or the council fails to make a decision on it within 210 days after the receipt by the clerk of the application.

Basis for appeal

(11.0.0.2) An appeal under subsection (11) may only be made on the basis that,

- (a) the existing part or parts of the by-law that would be affected by the amendment that is the subject of the application are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or fail to conform with an applicable official plan; and
- (b) the amendment that is the subject of the application is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and conforms with applicable official plans.

Same

(11.0.0.0.3) For greater certainty, council does not refuse an application for an amendment to a by-law passed under this section or a predecessor of this section or fail to make a decision on the application if it amends the by-law in response to the application, even if the amendment that is passed differs from the amendment that is the subject of the application.

Notice of Appeal

(11.0.0.0.4) A notice of appeal under subsection (11) shall,

- (a) explain how the existing part or parts of the by-law that would be affected by the amendment that is the subject of the application are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or fail to conform with an applicable official plan; and
- (b) explain how the amendment that is the subject of the application is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and conforms with applicable official plans.

Exception

(11.0.0.0.5) Subsections (11.0.0.0.2) and (11.0.0.0.4) do not apply to an appeal under subsection (11) that concerns the failure to make a decision on an application in respect of which the municipality was given an opportunity to make a new decision in accordance with subsection (26.3).

(2) Subsection 34 (11.0.2) of the Act is repealed.

(3) Subsection 34 (12) of the Act is amended by striking out “an order of the Municipal Board made under subsection (11.0.2) or (26)” at the end of the portion before clause (a) and substituting “an order of the Tribunal made under subsection (26)”.

(4) Subsection 34 (19) of the Act is amended by striking out the portion before paragraph 1 and substituting the following:

Appeal to L.P.A.T.

(19) Not later than 20 days after the day that the giving of notice as required by subsection (18) is completed, any of the following may appeal to the Tribunal by filing with the clerk of the municipality a notice of appeal accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*:

(5) Subsection 34 (19.0.1) of the Act is repealed and the following substituted:

Basis for appeal

(19.0.1) An appeal under subsection (19) may only be made on the basis that the by-law is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan.

Notice of Appeal

(19.0.2) A notice of appeal under subsection (19) shall explain how the by-law is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan.

(6) Subsection 34 (19.3.1) of the Act is amended by striking out “in subsection 34 (1)” and substituting “in subsection (1)”.

(7) Section 34 of the Act is amended by adding the following subsections:

No appeal re protected major transit station area – permitted uses, etc.

(19.5) Despite subsections (19) and (19.3.1), and subject to subsections (19.6) to (19.8), there is no appeal in respect of,

- (a) the parts of a by-law that establish permitted uses or the minimum or maximum densities with respect to buildings and structures on lands in a protected major transit station area that is identified in accordance with subsection 16 (15) or (16); or
- (b) the parts of a by-law that establish minimum or maximum heights with respect to buildings and structures on lands in a protected major transit station area that is identified in accordance with subsection 16 (15) or (16).

Same, by-law of a lower-tier municipality

(19.6) Subsection (19.5) applies to a by-law of a lower-tier municipality only if the municipality’s official plan contains all of the policies described in subclauses 16 (16) (b) (i) and (ii) with respect to the protected major transit station area.

Exception

(19.7) Clause (19.5) (b) does not apply in circumstances where the maximum height that is permitted with respect to a building or structure on a particular parcel of land would result in the building or structure not satisfying the minimum density that is required in respect of that parcel.

Exception re Minister

(19.8) Subsection (19.5) does not apply to an appeal by the Minister.

(8) Subsection 34 (23) of the Act is repealed and the following substituted:**Record**

(23) The clerk of a municipality who receives a notice of appeal under subsection (11) or (19) shall ensure that,

- (a) a record that includes the prescribed information and material is compiled;
- (b) the notice of appeal, record and fee are forwarded to the Tribunal,
 - (i) within 15 days after the last day for filing a notice of appeal under subsection (11.0.3) or (19), as the case may be, or
 - (ii) within 15 days after a notice of appeal is filed under subsection (11) with respect to the failure to make a decision; and
- (c) such other information or material as the Tribunal may require in respect of the appeal is forwarded to the Tribunal.

(9) Subsections 34 (24.3) to (24.6) of the Act are repealed.

(10) Subsection 34 (24.7) of the Act is amended by striking out “Subsections (24.1) to (24.6)” at the beginning and substituting “Subsections (24.1) and (24.2)”.

(11) Subsection 34 (25) of the Act is repealed and the following substituted:**Dismissal without hearing**

(25) Despite the *Statutory Powers Procedure Act* and subsection (24), the Tribunal shall dismiss all or part of an appeal without holding a hearing on its own initiative or on the motion of any party if any of the following apply:

1. The Tribunal is of the opinion that the explanations required by subsection (11.0.0.4) do not disclose both of the following:
 - i. That the existing part or parts of the by-law that would be affected by the amendment that is the subject of the application are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or fail to conform with an applicable official plan.
 - ii. The amendment that is the subject of the application is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and conforms with applicable official plans.
2. The Tribunal is of the opinion that the explanation required by subsection (19.0.2) does not disclose that the by-law is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan.
3. The Tribunal is of the opinion that,
 - i. the appeal is not made in good faith or is frivolous or vexatious,
 - ii. the appeal is made only for the purpose of delay, or
 - iii. the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process.
4. The appellant has not provided the explanation required by subsection (11.0.0.4) or (19.0.2), as applicable.
5. The appellant has not paid the fee charged under the *Local Planning Appeal Tribunal Act, 2017* and has not responded to a request by the Tribunal to pay the fee within the time specified by the Tribunal.
6. The appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal.

(12) Subsection 34 (25.1) of the Act is amended by,

- (a) striking out “Before dismissing all or part of an appeal, the Municipal Board shall” at the beginning and substituting “Before dismissing all or part of an appeal, the Tribunal shall”; and
- (b) striking out “clause (25) (d)” at the end and substituting “paragraph 5 or 6 of subsection (25)”.

(13) Subsection 34 (25.1.1) of the Act is repealed and the following substituted:

Same

(25.1.1) Despite the *Statutory Powers Procedure Act* and subsection (24), the Tribunal may, on its own initiative or on the motion of the municipality or the Minister, dismiss all or part of an appeal without holding a hearing if, in the Tribunal's opinion, the application to which the appeal relates is substantially different from the application that was before council at the time of its decision.

(14) Subsection 34 (26) of the Act is repealed and the following substituted:

Powers of L.P.A.T.

(26) Subject to subsections (26.1), (26.2) and (26.4) to (26.6), on an appeal under subsection (11) or (19), the Tribunal shall dismiss the appeal.

Notice re opportunity to make new decision – appeal under subs. (11)

(26.1) On an appeal under subsection (11) and except as provided in subsections (26.4) and (26.5), the Tribunal shall notify the clerk of the municipality that received the application that the municipality is being given an opportunity to make a new decision in respect of the matter, if the Tribunal determines that,

- (a) the existing part or parts of the by-law that would be affected by the amendment that is the subject of the application are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or fail to conform with an applicable official plan; and
- (b) the amendment that is the subject of the application is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and conforms with applicable official plans.

Same – appeal under subs. (19)

(26.2) On an appeal under subsection (19) and except as provided in subsection (26.6), if the Tribunal determines that a part of the by-law to which the notice of appeal relates is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan,

- (a) the Tribunal shall repeal that part of the by-law; and
- (b) the Tribunal shall notify the clerk of the municipality that passed the by-law that the municipality is being given an opportunity to make a new decision in respect of the matter.

Rules that apply if notice received

(26.3) If the clerk has received notice under subsection (26.1) or (26.2), the following rules apply:

1. The council of the municipality may prepare and pass another by-law in accordance with this section, except that clause (12) (b) does not apply.
2. In the case of a notice under subsection (26.1), the reference to “within 150 days after the receipt by the clerk of the application” in subsection (11) shall be read as “within 90 days after the day notice under subsection (26.1) was received”.
3. In the case of notice under subsection (26.2), if the by-law referred to in that subsection was passed in response to an application, the reference to “within 150 days after the receipt by the clerk of the application” in subsection (11) shall be read as “within 90 days after the day notice under clause (26.2) (b) was received”.

Second appeal – subs. (11), refusal

(26.4) On an appeal under subsection (11) that concerns the refusal of an application in respect of which the municipality was given an opportunity to make a new decision in accordance with subsection (26.3), the Tribunal may amend the by-law in such manner as the Tribunal may determine or direct the council of the municipality to amend the by-law in accordance with the Tribunal's order if the Tribunal determines that,

- (a) the existing part or parts of the by-law that would be affected by the amendment that is the subject of the application are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or fail to conform with an applicable official plan; and
- (b) the amendment that is the subject of the application is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and conforms with all applicable official plans.

Same, subs. (11) – failure to make decision

(26.5) On an appeal under subsection (11) that concerns the failure to make a decision on an application in respect of which the municipality was given an opportunity to make a new decision in accordance with subsection (26.3), the Tribunal may amend the by-law in such manner as the Tribunal may determine or direct the council of the municipality to amend the by-law in accordance with the Tribunal's order.

Same, subs. (19)

(26.6) On an appeal under subsection (19) that concerns a new decision that the municipality was given an opportunity to make in accordance with subsection (26.3), the Tribunal may repeal the by-law in whole or in part or amend the by-law in such manner as the Tribunal may determine or direct the council of the municipality to repeal the by-law in whole or in part or to amend the by-law in accordance with the Tribunal's order, if the Tribunal determines that the decision is inconsistent with policy statements issued under subsection 3 (1), fails to conform with or conflicts with provincial plans or fails to conform with an applicable official plan.

(15) Subsection 34 (27) of the Act is repealed and the following substituted:

Matters of provincial interest

(27) Where an appeal is made to the Tribunal under subsection (11) or (19), the Minister, if he or she is of the opinion that a matter of provincial interest is, or is likely to be, adversely affected by the by-law, may so advise the Tribunal in writing not later than 30 days after the day the Tribunal gives notice under subsection (24) and the Minister shall identify,

- (a) the part or parts of the by-law by which the provincial interest is, or is likely to be, adversely affected; and
- (b) the general basis for the opinion that a matter of provincial interest is, or is likely to be, adversely affected.

(16) Subsection 34 (29) of the Act is repealed and the following substituted:

Applicable rules if notice under subs. (27) received

(29) If the Tribunal has received a notice from the Minister under subsection (27), the following rules apply:

- 1. Subsections (26) to (26.6) do not apply to the appeal.
- 2. The Tribunal may make a decision as to whether the appeal should be dismissed or the by-law should be repealed or amended in whole or in part or the council of the municipality should be directed to repeal or amend the by-law in whole or in part.
- 3. The Tribunal shall not make an order in respect of the part or parts of the by-law identified in the notice.

(17) Subsection 34 (30) of the Act is amended by striking out “repealed or amended under subsection (26)” and substituting “repealed or amended under subsection (26.6)”.

11 (1) Subsection 36 (3) of the Act is repealed and the following substituted:

Appeal to L.P.A.T.

(3) Where an application to the council for an amendment to the by-law to remove the holding symbol is refused or the council fails to make a decision thereon within 150 days after receipt by the clerk of the application, the applicant may appeal to the Tribunal and the Tribunal shall hear the appeal and dismiss the same or amend the by-law to remove the holding symbol or direct that the by-law be amended in accordance with its order.

(2) Subsection 36 (4) of the Act is amended by striking out “Subsections 34 (10.7) and (10.9) to (25.1)” at the beginning and substituting “Subsections 34 (10.7), (10.9) to (20.4) and (22) to (34)”.

12 (1) Subsection 38 (4) of the Act is repealed and the following substituted:

Appeal to L.P.A.T. re by-law passed under subs. (1)

(4) The Minister may, within 60 days after the date of the passing of a by-law under subsection (1), appeal to the Tribunal by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection.

Appeal to L.P.A.T. re by-law passed under subs. (2)

(4.1) Any person or public body who was given notice of the passing of a by-law under subsection (2) may, within 60 days after the date of the passing of the by-law, appeal to the Tribunal by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection.

(2) Subsection 38 (5) of the Act is amended by striking out “subsections 34 (23) to (26) apply” and substituting “subsections 34 (23) to (26), as they read on the day before subsection 12 (2) of Schedule 3 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force, apply”.

13 (1) Subsection 41 (12) of the Act is repealed and the following substituted:

Appeal to L.P.A.T. re approval of plans or drawings

(12) If the municipality fails to approve the plans or drawings referred to in subsection (4) within 30 days after they are submitted to the municipality, the owner may appeal the failure to approve the plans or drawings to the Tribunal by filing with the clerk of the local municipality a notice of appeal accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.

Appeal to L.P.A.T. re requirement under subs. (7) or (8)

(12.0.1) If the owner of the land is not satisfied with any requirement made by the municipality under subsection (7) or by the upper-tier municipality under subsection (8) or with any part thereof, including the terms of any agreement required, the owner may appeal the unsatisfactory requirements, or parts thereof, including the terms of any agreement required, to the Tribunal by filing with the clerk of the local municipality a notice of appeal accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.

Record

(12.0.2) If the clerk receives a notice of appeal under subsection (12) or (12.0.1), the clerk shall ensure that the following are forwarded to the Tribunal within 15 days after the notice is filed:

1. The notice of appeal.
2. The fee.
3. The plans and drawings submitted for approval under subsection (4).
4. In the case of an appeal under subsection (12.0.1), documents that set out the requirements made by the municipality under subsection (7) or by the upper-tier municipality under subsection (8), as the case may be.

(2) Subsection 41 (12.1) of the Act is amended by,

(a) striking out “The Municipal Board shall hear” at the beginning and substituting “The Tribunal shall hear”;
and

(b) striking out “and the decision of the Board is final” at the end.

(3) Subsection 41 (16) of the Act is repealed and the following substituted:

City of Toronto

(16) This section does not apply to the City of Toronto.

14 Subsection 45 (1.0.3) of the Act is amended by striking out “the following provisions apply” in the portion before paragraph 1 and substituting “the following provisions, as they read on the day before section 14 of Schedule 3 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force, apply”.

15 (1) Subsection 47 (5) of the Act is amended by striking out “and shall set out in the notice the provisions of subsections (8), (9) and (10)” at the end.

(2) Subsection 47 (8) of the Act is repealed and the following substituted:

Revocation or amendment

(8) An amendment to any order made under subsection (1), or the revocation in whole or in part of such an order, may be initiated by the Minister or on request to the Minister by any person or public body.

Consolidated Hearings Act

(8.0.1) Despite the *Consolidated Hearings Act*, the proponent of an undertaking shall not give notice to the Hearings Registrar under subsection 3 (1) of that Act in respect of a request under subsection (8) unless the Minister has referred the request to the Tribunal under subsection (10).

(3) Subsections 47 (9) to (14) of the Act are repealed and the following substituted:

Action by Minister

(9) If the Minister initiates an amendment or revocation of an order made under subsection (1) or receives a request to amend or revoke the order, the Minister shall give notice or cause to be given notice of the proposed amendment or revocation in such manner as the Minister considers proper and shall allow such period of time as he or she considers appropriate for the submission of representations in respect of the proposed amendment or revocation.

Referral of request under subs. (8)

(10) The Minister may refer a request made under subsection (8) to the Tribunal.

Hearing by Tribunal

(11) If the Minister refers the request to the Tribunal, the Tribunal shall conduct a hearing.

Notice of hearing

(12) Notice of the hearing shall be given in such manner and to such persons as the Tribunal may determine.

Recommendation

(13) At the conclusion of the hearing, the Tribunal shall make a written recommendation to the Minister stating whether the Minister should approve the requested amendment or revocation, in whole or in part, make modifications and approve the requested amendment or revocation as modified or refuse the requested amendment or revocation, in whole or in part, and giving reasons for the recommendation.

Notice of recommendation

(14) A copy of the recommendation of the Tribunal shall be sent to each person who appeared at the hearing and made representations and to any person who in writing requests a copy of the recommendation.

Decision to amend or revoke

(15) After considering representations received under subsection (9), if any, and the recommendation of the Tribunal under subsection (13), if there is one, the Minister may, by order, amend or revoke in whole or in part the order made under subsection (1).

Notice of decision

(16) The Minister shall forward a copy of his or her decision to amend or revoke in whole or in part the order to the clerk of each municipality or secretary-treasurer of each planning board which is within the area covered by the amendment and any person who in writing requests a copy of the decision.

16 Subsection 51 (52.4) of the Act is repealed and the following substituted:

Same

(52.4) If subsection (52.3) applies and if the approval authority so requests, the Tribunal shall not admit the information and material into evidence until subsection (52.5) has been complied with and the prescribed time period has elapsed.

17 The Act is amended by adding the following section:

Regulations re transitional matters, 2017 amendments

70.8 (1) The Minister may make regulations providing for transitional matters respecting matters and proceedings that were commenced before or after the effective date.

Same

(2) A regulation made under this section may, without limitation,

- (a) determine which matters and proceedings may be continued and disposed of under this Act, as it read on the day before the effective date, and which matters and proceedings must be continued and disposed of under this Act, as it read on the effective date;
- (b) for the purpose of subsection (1), deem a matter or proceeding to have been commenced on the date or in the circumstances specified in the regulation.

Conflict

(3) A regulation made under this section prevails over any provision of this Act specifically mentioned in the regulation.

Definition

(4) In this section,

“effective date” means the date on which section 17 of Schedule 3 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force.

CITY OF TORONTO ACT, 2006

18 (1) Section 114 of the *City of Toronto Act, 2006* is amended by adding the following subsection:

Exception

(1.1) The definition of “development” in subsection (1) does not include the placement of a portable classroom on a school site of a district school board if the school site was in existence on January 1, 2007.

(2) Subsection 114 (5) of the Act is amended by,

- (a) striking out “the Ontario Municipal Board” in the portion before paragraph 1 and substituting “the Local Planning Appeal Tribunal”; and
- (b) striking out “required under clause (11) (a)” at the end of paragraph 1 and substituting “required under clause (11) (a), including facilities designed to have regard for accessibility for persons with disabilities”.

(3) Paragraph 2 of subsection 114 (5) of the Act is amended by striking out “and” at the end subparagraph iv, by adding “and” at the end of subparagraph v and by adding the following subparagraph:

vi. facilities designed to have regard for accessibility for persons with disabilities.

(4) Clause 114 (11) (a) of the Act is amended by adding the following subclause:

(iv.1) facilities designed to have regard for accessibility for persons with disabilities;

(5) Subsections 114 (15) and (16) of the Act are repealed and the following substituted:

Appeal to L.P.A.T. re approval of plans or drawings

(15) If the City fails to approve the plans or drawings referred to in subsection (5) within 30 days after they are submitted to the City, the owner may appeal the failure to approve the plans or drawings to the Local Planning Appeal Tribunal by filing with the city clerk a notice of appeal accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.

Appeal to L.P.A.T. re requirement under subs. (11)

(15.1) If the owner of the land is not satisfied with any requirement made by the City under subsection (11) or with any part thereof, including the terms of any agreement required, the owner may appeal the unsatisfactory requirements, or parts thereof, including the terms of any agreement required, to the Local Planning Appeal Tribunal by filing with the city clerk a notice of appeal accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.

City clerk to forward plans and drawings, etc. to L.P.A.T.

(15.2) If the city clerk receives a notice of appeal under subsection (15) or (15.1), the city clerk shall ensure that the following are forwarded to the Local Planning Appeal Tribunal within 15 days after the notice is filed:

1. The notice of appeal.
2. The fee.
3. The plans and drawings submitted for approval under subsection (5).
4. In the case of an appeal under subsection (15.1), documents that set out the requirements made by the municipality under subsection (11).

Hearing

(16) The Local Planning Appeal Tribunal shall hear and determine the matter in issue and determine the details of the plans or drawings and determine the requirements, including the provisions of any agreement required.

19 (1) Subsections 115 (5) and (6) of the Act are repealed and the following substituted:

Power to hear appeals, etc.

(5) The City may by by-law empower the appeal body to hear appeals or motions for directions, as the case may be, under,

- (a) subsections 114 (7), (15) and (15.1);
- (b) subsection 45 (12) of the *Planning Act*;
- (c) subsections 53 (4.1), (14), (19) and (27) of the *Planning Act*; or
- (d) the provisions listed in any combination of clauses (a), (b) and (c).

Interpretation re appeals

(5.1) The following rules apply if a by-law has been passed under subsection (5) empowering the appeal body to hear motions for directions under subsection 114 (7) of this Act or subsection 53 (4.1) of the *Planning Act*, or both:

1. References in this section to an appeal, other than in subsection (9), shall be read as including a reference to a motion for directions under either subsection 114 (7) of this Act or subsection 53 (4.1) of the *Planning Act*, or both, as the case may be.
2. The reference in subsection (8) to an appellant shall be read as including a reference to a person or public body making a motion for directions under either subsection 114 (7) of this Act or subsection 53 (4.1) of the *Planning Act*, or both, as the case may be.

Effect of by-law under subs. (5)

(6) If a by-law has been passed under subsection (5),

- (a) the appeal body has all the powers and duties of the Local Planning Appeal Tribunal under this section and the relevant provisions of the *Planning Act*;
- (b) all references in this section and section 114 and in the *Planning Act* to the Local Planning Appeal Tribunal in connection with appeals under the relevant provisions shall be read as references to the appeal body; and
- (c) appeals under the relevant provisions shall be made to the appeal body, not to the Local Planning Appeal Tribunal.

(2) Subsection 115 (9.1) of the Act is repealed and the following substituted:**Exception**

(9.1) Subsection (9) does not apply in respect of a motion for directions under subsection 114 (7) of this Act or subsection 53 (4.1) of the *Planning Act*.

(3) Subsection 115 (11) of the Act is repealed and the following substituted:**Same**

(11) For the purpose of subsections (10) and (14), an appeal is a related appeal with respect to an appeal under a provision listed in subsection (5) if it is made,

- (a) in respect of the same matter as the appeal under a provision listed in subsection (5); and
- (b) under another provision listed in subsection (5) in respect of which the appeal body has not been empowered, under section 17, 22, 34, 36, 38 or 51 of the *Planning Act* or under a regulation made under section 70.2 of that Act.

(4) Subsection 115 (12) of the Act is repealed and the following substituted:**Dispute about application of subs. (10) or (14)**

(12) A person may make a motion for directions to have the Local Planning Appeal Tribunal determine a dispute about whether subsection (10) or (14) applies to an appeal.

(5) Subsection 115 (14) of the Act is repealed and the following substituted:**L.P.A.T. to assume jurisdiction**

(14) If an appeal has been made to the appeal body under a provision listed in subsection (5) but no hearing has begun, and a notice of appeal is filed with the Local Planning Appeal Tribunal in respect of a related appeal, the Tribunal shall assume jurisdiction to hear the first-mentioned appeal.

(6) Subsection 115 (22) of the Act is repealed and the following substituted:**Transition**

(22) This section does not apply to the following:

1. An appeal under subsection 45 (12) of the *Planning Act*, if the decision of the committee in respect of which a notice of appeal is filed is made before the day on which a by-law passed under subsection (5) of this section by the City that empowers the appeal body to hear that type of appeal comes into force.
2. An appeal under subsection 53 (19) or (27) of the *Planning Act*, if the notice under subsection 53 (17) or (24) of that Act, as the case may be, is given before the day on which a by-law passed under subsection (5) of this section by the City that empowers the appeal body to hear that type of appeal comes into force.
3. An appeal under subsection 114 (7), (15) or (15.1) of this Act or subsection 53 (4.1) or (14) of the *Planning Act*, if the appeal is made before the day on which a by-law passed under subsection (5) of this section by the City that empowers the appeal body to hear that type of appeal comes into force.

Deeming rule re appeals under subs. 53 (4.1) of the *Planning Act*

(23) If the City has, before the day subsection 19 (1) of Schedule 3 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force, passed a by-law under subsection (5) empowering the appeal body to hear appeals under subsections 53 (14), (19) and (27) of the *Planning Act*, the by-law is deemed to empower the appeal body to hear appeals under subsection 53 (4.1) of that Act that are made on or after that day.

ONTARIO PLANNING AND DEVELOPMENT ACT, 1994**20 Section 6 of the *Ontario Planning and Development Act, 1994* is amended by adding the following subsection:*****Consolidated Hearings Act***

(3.1) Despite the *Consolidated Hearings Act*, the proponent of an undertaking shall not give notice to the Hearings Registrar under subsection 3 (1) of that Act in respect of an application under subsection (1) unless the Minister has appointed a hearing officer under clause 7 (4) (a) or 8 (1) (a) or referred the matter to the Local Planning Appeal Tribunal under clause 7 (4) (b) or 8 (1) (b).

Commencement

21 This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

**SCHEDULE 4
AMENDMENTS TO THE CONSERVATION AUTHORITIES ACT**

1 The *Conservation Authorities Act* is amended by adding the following section:

**PART I
PURPOSE AND INTERPRETATION**

Purpose

0.1 The purpose of this 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.

2 (1) The definitions of “administration costs” and “maintenance costs” in section 1 of the Act are repealed.

(2) Section 1 of the Act is amended by adding the following definition:

“operating expenses” include,

- (a) salaries, per diems and travel expenses of employees and members of an authority,
- (b) rent and other office costs,
- (c) program expenses,
- (d) costs that are related to the operation or maintenance of a project, but not including the project’s capital costs, and
- (e) such other costs as may be prescribed by regulation; (“dépenses d’exploitation”)

3 The Act is amended by adding the following heading immediately before section 2:

**PART II
ESTABLISHMENT OF CONSERVATION AUTHORITIES**

4 Subsection 2 (4) of the Act is amended by striking out “but, where not fewer than three representatives are present at a meeting or adjourned meeting, they may adjourn the meeting or adjourned meeting from time to time” at the end.

5 (1) Subsection 3 (1) of the Act is amended by striking out “or adjourned meeting”.

(2) Subsection 3 (5) of the Act is amended by striking out “at such rate of interest as the Minister approves”.

6 (1) Subsection 4 (1) of the Act is amended by striking out the portion before clause (a) and substituting the following:

Upper-tier municipalities

Regional municipalities to act in place of local municipalities

(1) An upper-tier municipality that was established as a regional municipality before the day subsection 6 (1) of Schedule 4 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force,

.

(2) Subsection 4 (2) of the Act is repealed.

7 The Act is amended by adding the following heading immediately before section 10:

**PART III
ENLARGING AREAS OF JURISDICTION, AMALGAMATIONS AND DISSOLUTIONS**

8 Subsections 10 (1.1), (2), (3) and (4) of the Act are repealed and the following substituted:

Notice of meeting

(1.1) Notice of the meeting shall be given to each participating municipality of the authority and to any municipality that is completely or partly within the area specified under subsection (1).

Representatives

(2) Each municipality that receives notice of the meeting may appoint the number of representatives to attend the meeting that is determined in accordance with subsection 2 (2).

Quorum

(3) At any meeting called under this section, a quorum consists of two-thirds of the representatives that the municipalities are entitled to appoint under subsection (2).

Resolution

(4) At a meeting held under this section at which a quorum is present, a resolution may be passed to do all of the following:

1. Agree to enlarge the area over which the authority has jurisdiction.
2. Designate participating municipalities for the enlarged area.
3. Designate the enlarged area over which the authority has jurisdiction.

Two-thirds majority vote

(5) A resolution described in subsection (4) shall be passed by a majority of at least two-thirds of the representatives present at the meeting.

Resolution in effect

(6) A resolution described in subsection (4) takes effect on such terms as it may specify despite anything to the contrary in the order in council establishing the authority.

Minister's copy

(7) The municipality that called a meeting under subsection (1) shall provide the Minister with a copy of any resolution described in subsection (4) passed at the meeting promptly after the resolution is passed.

9 (1) Subsection 11 (1) of the Act is amended by striking out “council of a municipality situated completely or partly within the jurisdiction of one of the authorities” and substituting “council of a participating municipality of one of the authorities”.

(2) Subsection 11 (1.1) of the Act is repealed and the following substituted:

Notice of meeting

(1.1) Notice of the meeting shall be given to each participating municipality of the relevant authorities.

Public notice

(1.2) The body or bodies that call a meeting under subsection (1) shall ensure that, at least 14 days before the meeting, notice of the meeting is,

- (a) published in a newspaper having general circulation in each participating municipality, including in the electronic version of the newspaper where available; or
- (b) if there is no newspaper of general circulation in a participating municipality, posted on a website maintained by the municipality and in at least one prominent place in the municipality.

Public representations

(1.3) No vote shall be taken on a resolution requesting amalgamation of the authorities unless members of the public have been given an opportunity at the meeting to make representations on the issue.

(3) Subsections 11 (2) and (3) of the Act are repealed and the following substituted:

Representatives

(2) Each municipality that receives notice of the meeting may appoint the number of representatives to attend the meeting that is determined in accordance with subsection 2 (2).

Quorum

(3) At any meeting called under this section, a quorum consists of two-thirds of the representatives that the municipalities are entitled to appoint under subsection (2).

(4) Subsection 11 (4) of the Act is repealed and the following substituted:

Resolution

(4) At a meeting held under this section at which a quorum is present, a resolution may be passed to do all of the following:

1. Establish a new authority that has jurisdiction over areas that previously were under the separate jurisdiction of the two or more existing authorities of the adjoining watersheds.
2. Dissolve the existing authorities.
3. Designate the participating municipalities for the new authority.
4. Designate the area over which the new authority has jurisdiction.

Two-thirds majority vote

(4.1) A resolution described in subsection (4) shall be passed by a majority of at least two-thirds of the representatives present at the meeting.

Approval by Minister

(4.2) The authorities or the municipality who called a meeting under subsection (1) shall submit the resolution passed in accordance with subsection (4.1) to the Minister for approval and the Minister may approve the resolution with such changes and on such terms and conditions as he or she considers appropriate.

Resolution in effect

(4.3) The resolution takes effect in accordance with the terms of the resolution and the Minister's approval.

(5) Subsection 11 (5) of the Act is amended by striking out “Upon the establishment of a new authority and the dissolution of the existing authorities under subsection (4)” at the beginning and substituting “When the establishment of a new authority and the dissolution of the existing authorities take effect under subsection (4.3)”.

10 (1) Section 13.1 of the Act is amended by adding the following subsection:

Public notice

(1.1) The authority that calls a meeting under subsection (1) shall ensure that, at least 14 days before the meeting, notice of the meeting is,

- (a) published in a newspaper having general circulation in each participating municipality, including in the electronic version of the newspaper where available; or
- (b) if there is no newspaper of general circulation in a participating municipality, posted on a website maintained by the municipality and in at least one prominent place in the municipality.

(2) Subsection 13.1 (2) of the Act is amended by striking out “who were appointed by participating municipalities” at the end.

(3) Subsections 13.1 (3) and (4) of the Act are repealed.

(4) Subsection 13.1 (7) of the Act is repealed.

11 The Act is amended by adding the following heading immediately before section 14:

PART IV MEMBERSHIP AND GOVERNANCE

12 (1) Subsection 14 (1) of the Act is repealed and the following substituted:

Members of authority

(1) Members of an authority shall be appointed by the respective councils of the participating municipalities in the numbers set out in subsection 2 (2) for the appointment of representatives.

(2) Subsection 14 (4) of the Act is repealed and the following substituted:

Requirements regarding composition of authority

(4) The appointment of members to an authority shall be in accordance with such additional requirements regarding the composition of the authority and the qualification of members as may be prescribed by regulation.

Term

(4.1) A member shall be appointed for a term of up to four years, as may be determined by the council that appoints the member.

Same

(4.2) A member's term begins at the first meeting of the authority after his or her appointment and expires immediately before the first meeting of the authority after the appointment of his or her replacement.

Replacement of member

(4.3) Despite subsections (4.1) and (4.2), a member may be replaced by the council of the participating municipality that appointed the member.

Reappointment

(4.4) A member is eligible to be reappointed.

13 Section 15 of the Act is amended by adding the following subsection:

Open meetings

(3) Every meeting held by the authority shall be open to the public, subject to such exceptions as may be specified in the by-laws of the authority.

14 Subsection 17 (1) of the Act is amended by striking out “At the first meeting of an authority and thereafter at the first meeting held in each year” at the beginning and substituting “At the first meeting held in each year or at such other meeting as may be specified by the authority’s by-laws”.

15 Subsection 18 (2) of the Act is repealed and the following substituted:

Advisory boards

(2) An authority shall establish such advisory boards as may be required by regulation and may establish such other advisory boards as it considers appropriate.

Same

(3) An advisory board shall comply with any requirements that may be prescribed by regulation with respect to its composition, functions, powers, duties, activities and procedures.

16 The Act is amended by adding the following section:

By-laws

19.1 (1) An authority may make by-laws,

- (a) respecting the meetings to be held by the authority, including providing for the calling of the meetings and the procedures to be followed at meetings, specifying which meetings, if any, may be closed to the public;
- (b) prescribing the powers and duties of the secretary-treasurer;
- (c) designating and empowering officers to sign contracts, agreements and other documents on behalf of the authority;
- (d) delegating all or any of its powers to the executive committee except,
 - (i) the termination of the services of the secretary-treasurer,
 - (ii) the power to raise money, and
 - (iii) the power to enter into contracts or agreements other than those contracts or agreements as are necessarily incidental to the works approved by the authority;
- (e) providing for the composition of its executive committee and for the establishment of other committees that it considers advisable and respecting any other matters relating to its governance;
- (f) respecting the roles and responsibilities of the members of the authority and of its officers and senior staff;
- (g) requiring accountability and transparency in the administration of the authority including,
 - (i) providing for the retention of records specified in the by-laws and for making the records available to the public,
 - (ii) establishing a code of conduct for the members of the authority, and
 - (iii) adopting conflict of interest guidelines for the members of the authority;
- (h) respecting the management of the authority’s financial affairs, including auditing and reporting on the authority’s finances;
- (i) respecting the by-law review required under subsection (3) and providing for the frequency of the reviews; and
- (j) respecting such other matters as may be prescribed by regulation.

Conflict with other laws

(2) If a by-law made by an authority conflicts with any provision of the *Municipal Conflict of Interest Act* or the *Municipal Freedom of Information and Protection of Privacy Act* or a provision of a regulation made under one of those Acts, the provision of the Act or regulation prevails.

Periodic review of by-laws

(3) At such regular intervals as may be determined by by-law, an authority shall undertake a review of all of its by-laws to ensure, amongst other things, that the by-laws are in compliance with any Act referred to in subsection (2) or any other relevant law.

By-laws available to public

(4) An authority shall make its by-laws available to the public in the manner it considers appropriate.

Transition

- (5) An authority shall make such by-laws under this section as are required for its proper administration,
- (a) in the case of an authority that was established on or before the day section 16 of Schedule 4 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force, within one year of that day; and
 - (b) in the case of an authority that is established after the day section 16 of Schedule 4 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force, within one year of the day the authority is established.

Direction by Minister

- (6) The Minister may give an authority a written direction to make or amend a by-law on any matter described in subsection (1), in accordance with the direction, within such period of time as may be specified in the direction.

Compliance

- (7) The authority that receives a direction under subsection (6) shall comply with the direction within the time specified in the direction.

Regulation where failure to comply

- (8) If an authority fails to adopt a by-law in accordance with the direction made under subsection (6), the Minister may make regulations in relation to the matters set out in the direction that are applicable in the area of jurisdiction of the authority.

Same

- (9) Any regulation made by the Minister under subsection (8) prevails over any conflicting by-law that the authority may have adopted.

17 The Act is amended by adding the following heading immediately before section 20:

PART V OBJECTS, POWERS AND DUTIES

18 Subsection 20 (1) of the Act is amended by striking out “to establish and undertake, in the area over which it has jurisdiction, a program designed” and substituting “to provide, in the area over which it has jurisdiction, programs and services designed”.

19 (1) Clause 21 (1) (a) of the Act is amended by striking out “a program” and substituting “programs and services”.

(2) Clause 21 (1) (f) of the Act is amended by adding “or to further the authority’s objects” at the end.

(3) Clause 21 (1) (m.1) of the Act is repealed.

(4) Clause 21 (1) (n) of the Act is amended by adding “and individuals” at the end.

(5) Clause 21 (1) (q) of the Act is amended by adding “or as may be desirable to further the objects of the authority” at the end.

20 (1) The Act is amended by adding the following section:

Programs and services

21.1 (1) The following are the programs and services that an authority is required or permitted to provide within its area of jurisdiction:

1. Mandatory programs and services that are required by regulation.
2. Municipal programs and services that the authority agrees to provide on behalf of municipalities situated in whole or in part within its area of jurisdiction under a memorandum of understanding referred to in subsection (3).
3. Such other programs and services as the authority may determine are advisable to further its objects.

Mandatory programs and services

(2) Programs and services referred to in paragraph 1 of subsection (1) shall be provided in accordance with such standards and requirements as may be set out in the regulations.

Memorandum of understanding with municipalities

(3) An authority may enter into a memorandum of understanding with a municipality situated in whole or in part within its area of jurisdiction in respect of programs and services that the authority will provide on behalf of the municipality.

Periodic review of memorandum

(4) An authority and a municipality who have entered into a memorandum of understanding described in subsection (3) shall review the memorandum at such regular intervals as may be determined by the memorandum.

Municipal programs and services

(5) Programs and services that an authority agrees to provide on behalf of a municipality shall be provided in accordance with the terms and conditions set out in the memorandum of understanding or in such other agreement as may be entered into by the authority and the municipality.

Consultation

(6) An authority shall carry out such consultations with respect to the programs and services it provides as may be required by regulation and shall do so in the manner specified by regulation.

(2) Section 21.1 of the Act, as enacted by subsection (1), is amended by adding the following subsection:

Memorandum available to public

(3.1) An authority shall make a memorandum of understanding referred to in subsection (3) available to the public in such manner as may be determined in the memorandum.

21 The Act is amended by adding the following section:

Fees for programs and services

21.2 (1) The Minister may determine classes of programs and services in respect of which an authority may charge a fee.

Publication of list

(2) The Minister shall publish the list of classes of programs and services in respect of which an authority may charge a fee in a policy document and distribute the document to each authority.

Updating list

(3) If the Minister makes changes to the list of classes of programs and services in respect of which an authority may charge a fee, the Minister shall promptly update the policy document referred to in subsection (2) and distribute the new document to each authority.

Where authority may charge fee

(4) An authority may charge a fee for a program or service that it provides only if it is set out on the list of classes of programs and services referred to in subsection (2).

Amount of fee

(5) The amount of a fee charged by an authority for a program or service it provides shall be,

- (a) the amount prescribed by the regulations; or
- (b) if no amount is prescribed, the amount determined by the authority.

Fee schedule

(6) Every authority shall prepare and maintain a fee schedule that sets out,

- (a) the list of programs and services that it provides and in respect of which it charges a fee; and
- (b) the amount of the fee charged for each program or service or the manner in which the fee is determined.

Fee policy

(7) Every authority shall adopt a written policy with respect to the fees that it charges for the programs and services it provides, and the policy shall set out,

- (a) the fee schedule described in subsection (6);
- (b) the frequency within which the fee policy shall be reviewed by the authority under subsection (9);
- (c) the process for carrying out a review of the fee policy, including the rules for giving notice of the review and of any changes resulting from the review; and
- (d) the circumstances in which a person may request that the authority reconsider a fee that was charged to the person and the procedures applicable to the reconsideration.

Fee policy to be made public

(8) Every authority shall make the fee policy available to the public in a manner it considers appropriate.

Periodic review of fee policy

(9) At such regular intervals as may be determined by an authority, the authority shall undertake a review of its fee policy, including a review of the fees set out in the fee schedule.

Notice of fee changes

(10) If, after a review of a fee policy or at any other time, an authority wishes to make a change to the list of fees set out in the fee schedule or to the amount of any fee or the manner in which a fee is determined, the authority shall give notice of the proposed change to the public in a manner it considers appropriate.

Reconsideration of fee charged

(11) Any person who considers that the authority has charged a fee that is contrary to the fees set out in the fee schedule, or that the fee set out in the fee schedule is excessive in relation to the service or program for which it is charged, may apply to the authority in accordance with the procedures set out in the fee policy and request that it reconsider the fee that was charged.

Powers of authority on reconsideration

- (12) Upon reconsideration of a fee that was charged for a program or service provided by an authority, the authority may,
- (a) order the person to pay the fee in the amount originally charged;
 - (b) vary the amount of the fee originally charged, as the authority considers appropriate; or
 - (c) order that no fee be charged for the program or service.

22 The Act is amended by adding the following section:

Information required by Minister

23.1 (1) An authority shall provide the Minister with such information as the Minister may require in relation to its operations, including the programs and services it provides.

Same

- (2) The information shall be provided at the time and in the manner as the Minister may specify.

Publication

(3) If directed by the Minister to do so, an authority shall publish all or such portion of the information provided to the Minister under subsection (1) and shall do so at the time and in the manner specified by the Minister.

23 Sections 24, 25 and 26 of the Act are repealed and the following substituted:

Projects requiring approval

24 Before proceeding with a project that involves money granted by the Minister under section 39, the authority shall file plans and a description with the Minister and obtain his or her approval in writing.

Recovery of project capital costs

25 (1) An authority may, from time to time, determine the amount of capital costs to be incurred in connection with a project and apportion the capital costs to the participating municipalities in accordance with the regulations.

Notice of apportionment

(2) An authority shall send a notice of apportionment in writing to each participating municipality setting out the amount of the capital costs for a project that has been apportioned to the participating municipality.

Payment of apportioned amount

(3) Each participating municipality shall pay to the authority the portion of the capital costs for a project that is specified in the notice of apportionment in accordance with the requirements set out in the notice and with this section.

How money to be raised

(4) Each participating municipality may issue debentures to provide financing for the capital costs for a project of an authority.

Where money raised over several years

(5) If the notice of apportionment requires a municipality to raise its portion of the capital costs for a project over a period of two or more years, the municipality shall, within 30 days of receiving the notice of apportionment, give the authority written notice of how it will pay its portion of the capital costs.

Debt due

(6) The amount of the portion of the capital costs for a project that is specified in a notice of apportionment sent to a participating municipality is a debt due by the participating municipality to the authority and may be enforced by the authority as such.

Review of apportionment of capital costs

26 (1) Any participating municipality that receives a notice of apportionment under section 25 may, within 30 days after receiving the notice of apportionment, apply to the Ontario Municipal Board, or to such other body as may be prescribed by regulation, for a review of the apportionment among the participating municipalities of the capital costs for the relevant project.

Same

(2) The participating municipality that makes an application under subsection (1) shall send a copy of the notice of application to the authority and to every other participating municipality of the authority.

Hearing

(3) The Ontario Municipal Board, or such other body as may be prescribed by regulation, shall hold a hearing to reconsider the apportionment of capital costs among the participating municipalities, including considering whether the apportionment complies with section 25 and the regulations and whether the portion apportioned to the municipality is otherwise appropriate.

Parties

(4) The parties to the hearing are the applicant municipality, the authority, any other participating municipality of the authority that requests to be a party, and such other persons as the Ontario Municipal Board, or such other body as may be prescribed by regulation, may determine.

Requirement to pay costs stayed

(5) A participating municipality that makes an application under this section is not required to pay the portion of the capital costs that was apportioned to the municipality under the notice of apportionment until the determination of the application.

Delay of notice

(6) A participating municipality that makes an application under this section is not required to give notice under subsection 25 (5) until 30 days after the final determination of the application.

Powers on hearing

(7) Upon hearing an application under this section, the Ontario Municipal Board, or such other body as may be prescribed by regulation, may confirm or vary the apportionment of the capital costs by the authority among the participating municipalities.

Decision final

(8) A decision under subsection (7) is final.

24 (1) Section 27 of the Act is repealed and the following substituted:

Recovery of operating expenses

27 (1) Every year an authority shall determine its operating expenses for the subsequent year and apportion those expenses to the participating municipalities in accordance with the regulations.

Fixed portion for some municipalities

(2) Despite subsection (1) and subject to the regulations, an authority may establish a fixed minimal amount as the portion of the authority's operating expenses that a participating municipality is required to pay each year, and may apportion that amount to the municipality instead of the portion determined under subsection (1) in any year in which the fixed minimal amount exceeds the portion determined under subsection (1).

Notice of apportionment

(3) An authority shall send a notice of apportionment in writing to each participating municipality setting out the amount of the operating expenses that has been apportioned to the participating municipality.

Collection as taxes

(4) Each participating municipality shall collect the amount apportioned to it in the same manner as municipal taxes for general purposes and shall remit the amount collected to the authority.

Debt due

(5) The amount of the portion of the operating expenses specified in a notice of apportionment sent to a participating municipality is a debt due by the participating municipality to the authority and may be enforced by the authority as such.

Review of apportionment of operating expenses

27.1 (1) Any participating municipality that receives a notice of apportionment under section 27 may, within 30 days of receiving the notice, apply to the Mining and Lands Commissioner, or to such other body as may be prescribed by regulation, for a review of the apportionment of the operating expenses.

Same

(2) The participating municipality that makes an application under subsection (1) shall send a copy of the notice of application to the authority and to every other participating municipality of the authority.

Hearing

(3) The Mining and Lands Commissioner, or such other body as may be prescribed by regulation, shall hold a hearing to reconsider the apportionment of the operating expenses, including considering whether the apportionment complies with section 27 and the regulations and whether the portion apportioned to the municipality is otherwise appropriate.

Parties

(4) The parties to the hearing are the applicant municipality, the authority, any other participating municipality of the authority that requests to be a party and such other persons as the Mining and Lands Commissioner, or such other body as may be prescribed by regulation, may determine.

No stay

(5) The appellant municipality shall comply with the notice of apportionment pending the determination of the application.

Powers on hearing

(6) Upon hearing an application under this section, the Mining and Lands Commissioner, or such other body as may be prescribed by regulation, may confirm or vary the apportionment of the operating expenses by the authority among the participating municipalities and may order participating municipalities to pay such portion of the operating expenses as it determines.

Decision final

(7) A decision under subsection (6) is final.

(2) Section 27.1 of the Act, as enacted by subsection (1), is amended by striking out “Mining and Lands Commissioner” wherever it appears and substituting in each case “Mining and Lands Tribunal”.

25 Section 28 of the Act is repealed and the following substituted:

PART VI REGULATION OF AREAS OVER WHICH AUTHORITIES HAVE JURISDICTION

Prohibited activities re watercourses, wetlands, etc.

28 (1) Subject to subsections (2) and (3) 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:

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
 - v. other areas in which development should be prohibited or regulated, as may be determined by the regulations.

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.

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.

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.

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”)

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.

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.

Same

- (3) An application for a permit shall be made in accordance with the regulations and include such information as is required by regulation.

Power to refuse, etc.

- (4) Subject to subsection (5), the authority may attach conditions to a permit or refuse to issue a permit if, in the authority's opinion,
- (a) the 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 the damage or destruction of property;
 - (b) the activity is likely to affect the control of flooding, erosion, dynamic beaches or pollution or the conservation of land; or
 - (c) any circumstances as may be prescribed by regulation exist.

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.

Additional criteria, renewable energy projects

- (6) Despite subsection (4), in the case of an application for a permit to engage in development related to a renewable energy project as defined in subsection 1 (1) of the *Green Energy Act, 2009*,
- (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
 - (b) the authority shall not impose conditions on the permit unless the conditions relate to controlling pollution, flooding, erosion or dynamic beaches.

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.

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.

Definition

- (9) In this section,

“pollution” means pollution as defined by regulation.

Period of validity

28.2 A permit shall be valid for a period to be determined in accordance with the regulations.

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.

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).

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.

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.

Power

(5) After a hearing, the authority may confirm, rescind or vary the decision to cancel a permit.

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.

26 The Act is amended by adding the following section:

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.

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.

Same

(3) A regulation made under this section may be limited in its application to one or more authorities or activities.

27 (1) Subsection 29 (1) of the Act is amended by striking out the portion before clause (a) and substituting the following:

Regulations: public use of authority’s property

(1) The Minister may make regulations with respect to land and other property owned by authorities including regulations,

(2) Subsections 29 (1.1), (1.2) and (2) of the Act are repealed and the following substituted:

Same

(2) A regulation made under this section may be limited in its application to one or more authorities.

28 Sections 30 and 30.1 of the Act are repealed and the following substituted:

**PART VII
ENFORCEMENT AND OFFENCES**

Appointment of officers

30 An authority may appoint officers for the purposes of ensuring compliance with the Act and the regulations.

Entry without warrant

30.1 (1) An officer appointed by an authority under section 30 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).

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.

Time of entry

(3) The power to enter land under subsection (1) may be exercised at any reasonable time.

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.

No use of force

(5) Subsection (1) does not authorize the use of force.

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.

Searches**Search with warrant**

30.2 (1) An officer may obtain a search warrant under Part VIII of the *Provincial Offences Act* in respect of an offence under this Act.

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.

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.

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.

Stop order

30.3 (1) An officer appointed under section 30 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).

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.

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.

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.

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.

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.

Powers of authority

- (7) After holding a hearing, the authority or executive committee, as the case may be, shall,
- (a) confirm the order;
 - (b) amend the order; or
 - (c) remove the order, with or without conditions.

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.

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,
- (a) confirm the order;
 - (b) amend the order; or
 - (c) remove the order, with or without conditions.

Offences

- 30.4** (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 30.3.

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.

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.

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.

Obstruction of officer

(5) Every person who prevents or obstructs an officer from entering land under section 30.1 or 30.2 is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Limitation period

30.5 A proceeding shall not be commenced with respect to an offence under subsection 30.4 (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.

Rehabilitation orders

30.6 (1) In addition to any other remedy or penalty provided by law, the court, upon convicting a person of an offence under clause 30.4 (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.

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.

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.

29 The Act is amended by adding the following heading immediately before section 31:

PART VIII MATTERS RELATING TO LAND AND WATER USE

30 The Act is amended by adding the following heading immediately before section 36:

PART IX MISCELLANEOUS

31 Section 37 of the Act is repealed and the following substituted:

Spending by authority

37 All money that is paid to an authority for specified purposes under this Act may be spent by the authority as it considers proper.

32 (1) Section 40 of the Act is repealed and the following substituted:

Regulations, Lieutenant Governor in Council

40 (1) The Lieutenant Governor in Council may make regulations,

- (a) governing the composition of conservation authorities and prescribing additional requirements regarding the appointment and qualifications of members of conservation authorities;
- (b) governing advisory boards established under subsection 18 (2), including requiring authorities to establish one or more advisory boards and prescribing requirements with respect to the composition, functions, powers, duties, activities and procedures of any advisory board that is established;
- (c) governing programs and services provided by authorities under paragraph 1 of subsection 21.1 (1), requiring authorities to provide those programs and services and respecting standards and requirements applicable to those programs and services;

- (d) governing the apportionment of an authority's capital costs in connection with a project for the purposes of section 25;
- (e) governing reviews under sections 26 and 27.1, including prescribing a body that may conduct such reviews instead of the Ontario Municipal Board or the Mining and Lands Commissioner, as the case may be;
- (f) governing the apportionment of an authority's operating expenses for the purposes of section 27, prescribing expenses as operating expenses for the purposes of section 27, governing the amount that participating municipalities are required to pay under section 27, including the fixed amount that a participating municipality may be required to pay under subsection 27 (2), and restricting and prohibiting the apportionment of certain types of operating expenses;
- (g) defining any term that is used in this Act and that is not defined in this Act;
- (h) respecting anything that is necessary or advisable for the proper administration of this Act.

Same

(2) The standards and requirements established for programs and services in a regulation made under clause (1) (c) may include standards and requirements to mitigate the impacts of climate change and provide for adaptation to a changing climate, including through increasing resiliency.

Regulations, Minister

- (3) The Minister may make regulations,
 - (a) prescribing matters that may be the subject of by-laws made under clause 19.1 (1) (j);
 - (b) respecting the amount of any fee that may be charged by an authority in relation to a program or service, including determining the manner in which the fee is calculated;
 - (c) governing consultations that an authority must carry out for the purposes of subsection 21.1 (6);
 - (d) governing the information that authorities must provide to the Minister under section 23.1, including the publication of that information;
 - (e) governing the prohibitions set out in section 28, including,
 - (i) prescribing the limits on river and stream valleys for the purposes of subparagraph 2 iii of subsection 28 (1),
 - (ii) determining or specifying areas for the purposes of subparagraph 2 iv of subsection 28 (1),
 - (iii) determining areas in which development should be prohibited or regulated for the purposes of subparagraph 2 v of subsection 28 (1),
 - (iv) prescribing activities or types of activities to which the prohibitions set out in subsection 28 (1) do not apply and respecting the manner or circumstances in which the activities or types of activities may be carried out and any conditions or restrictions that apply to the activity or type of activity,
 - (v) prescribing areas in which the prohibitions set out in subsection 28 (1) do not apply and respecting the manner or circumstances in which the activities may be carried out in such areas and any conditions or restrictions that apply to carrying out activities in such areas,
 - (vi) defining "development activity", "hazardous land", "watercourse" and "wetland" for the purposes of section 28;
 - (f) governing the issuance of permits under section 28.1, including applications for the permits, prescribing conditions that may be attached to a permit or circumstances in which a permit may be refused under subsection 28.1 (4) or cancelled under section 28.3 and respecting the period for which a permit is valid;
 - (g) defining "pollution" for the purposes of the Act;
 - (h) governing the delegation of powers by an authority under section 28.4 and prescribing any limitations or requirements related to the delegation.

(2) Clause 40 (1) (e) of the Act, as enacted by subsection (1), is amended by striking out "Mining and Lands Commissioner" and substituting "Mining and Lands Tribunal".

33 The Act is amended by adding the following section:

Rolling incorporations

41 A regulation made under this Act that adopts a document by reference may adopt the document as it may be amended from time to time after the regulation is made.

Commencement

34 (1) Subject to subsection (2), this Schedule comes into force on the day it receives Royal Assent.

(2) Sections 2, 13 and 16, subsections 19 (3) and 20 (2) and sections 21, 23, 24, 25, 26, 27, 28 and 32 come into force on a day to be named by proclamation of the Lieutenant Governor.

SCHEDULE 5
AMENDMENTS TO VARIOUS ACTS CONSEQUENTIAL TO THE ENACTMENT OF THE LOCAL PLANNING
APPEAL TRIBUNAL ACT, 2017

AGGREGATE RESOURCES ACT

1 The definition of “Board” in subsection 1 (1) of the *Aggregate Resources Act* is repealed.

2 The following provisions of the Act are amended by striking out “the Board” wherever it appears and substituting in each case “the Local Planning Appeal Tribunal”:

1. Subsections 11 (9), (11), (12), (13) and (14).
2. Subsections 12 (1) and (2).
3. Subsections 13 (6) to (9).
4. Subsections 16 (8) to (11).
5. Subsections 18 (5) to (8).
6. Subsections 20 (4), (6), (7) and (8).

3 (1) Subsections 11 (5) to (8) of the Act are repealed and the following substituted:

Referral to Local Planning Appeal Tribunal

(5) The Minister may refer the application and any objections arising out of the notification and consultation procedures that are prescribed or set out in a custom plan to the Local Planning Appeal Tribunal for a hearing, and may direct that the Local Planning Appeal Tribunal shall determine only the issues specified in the referral.

Parties

(6) The parties to the hearing are,

- (a) the applicant;
- (b) the person who made the objection;
- (c) the Minister, if he or she notifies the Local Planning Appeal Tribunal of his or her intention to be a party; and
- (d) such other persons as are specified by the Local Planning Appeal Tribunal.

Combined hearing

(7) The Local Planning Appeal Tribunal may consider an application and objections referred to the Local Planning Appeal Tribunal under subsection (5) and a related appeal to the Local Planning Appeal Tribunal under the *Planning Act* at the same hearing.

Powers of Local Planning Appeal Tribunal

(8) The following rules apply if an application is referred to the Local Planning Appeal Tribunal:

1. The Local Planning Appeal Tribunal may hold a hearing and direct the Minister to issue the licence subject to the prescribed conditions and to any additional conditions specified by the Local Planning Appeal Tribunal, but the Minister may refuse to impose an additional condition specified by the Local Planning Appeal Tribunal if he or she is of the opinion that the condition is not consistent with the purposes of this Act.
2. The Local Planning Appeal Tribunal may hold a hearing and direct the Minister to refuse to issue the licence.
3. If the Local Planning Appeal Tribunal is of the opinion that an objection referred to it is not made in good faith, is frivolous or vexatious, or is made only for the purpose of delay, the Local Planning Appeal Tribunal may, without holding a hearing, on its own initiative or on a party’s motion, refuse to consider the objection. If consideration of all the objections referred to the Local Planning Appeal Tribunal in connection with an application is refused in this way, the Local Planning Appeal Tribunal may direct the Minister to issue the licence subject to the prescribed conditions.
4. If all of the parties to a hearing, other than the applicant, withdraw before the commencement of the hearing, the Local Planning Appeal Tribunal may refer the application back to the Minister and the Minister shall decide whether to issue or refuse to issue the licence.

(2) Subsection 11 (15) of the Act is repealed and the following substituted:

No petition or review

(15) Section 35 of the *Local Planning Appeal Tribunal Act, 2017* and section 21.2 of the *Statutory Powers Procedure Act* do not apply to an order or decision of the Local Planning Appeal Tribunal under this section.

4 Subsection 13 (10) of the Act is repealed and the following substituted:

No petition or review

(10) Section 35 of the *Local Planning Appeal Tribunal Act, 2017* and section 21.2 of the *Statutory Powers Procedure Act* do not apply to an order or decision of the Local Planning Appeal Tribunal under this section.

5 Subsection 16 (12) of the Act is repealed and the following substituted:**No petition or review**

(12) Section 35 of the *Local Planning Appeal Tribunal Act, 2017* and section 21.2 of the *Statutory Powers Procedure Act* do not apply to an order or decision of the Local Planning Appeal Tribunal under this section.

6 Subsection 18 (9) of the Act is repealed and the following substituted:**No petition or review**

(9) Section 35 of the *Local Planning Appeal Tribunal Act, 2017* and section 21.2 of the *Statutory Powers Procedure Act* do not apply to an order or decision of the Local Planning Appeal Tribunal under this section.

7 Subsection 20 (9) of the Act is repealed and the following substituted:**No petition or review**

(9) Section 35 of the *Local Planning Appeal Tribunal Act, 2017* and section 21.2 of the *Statutory Powers Procedure Act* do not apply to an order or decision of the Local Planning Appeal Tribunal under this section.

CITY OF TORONTO ACT, 2006

8 Subsection 9 (2) of the *City of Toronto Act, 2006* is amended by striking out “with the approval of the Ontario Municipal Board” and substituting “with the approval of the Local Planning Appeal Tribunal”.

9 (1) Subsection 114 (7) of the Act is amended by striking out “the Ontario Municipal Board” and substituting “the Local Planning Appeal Tribunal”.

(2) Subsection 114 (8) of the Act is amended by striking out “The Ontario Municipal Board’s determination” at the beginning and substituting “The Local Planning Appeal Tribunal’s determination”.

10 (1) Subsection 115 (10) of the Act is repealed and the following substituted:

Exception, related appeals

(10) Despite subsection (6), an appeal under a provision listed in subsection (5) shall be made to the Local Planning Appeal Tribunal, not to the appeal body, if a related appeal,

- (a) has previously been made to the Tribunal and has not yet been finally disposed of; or
- (b) is made to the Tribunal together with the appeal under a provision listed in subsection (5).

(2) Subsection 115 (13) of the Act is amended by striking out “The Ontario Municipal Board’s determination” at the beginning and substituting “The Local Planning Appeal Tribunal’s determination”.

(3) Subsection 115 (15) of the Act is repealed and the following substituted:

Same

(15) When the Local Planning Appeal Tribunal assumes jurisdiction as described in subsection (14), the appeal body,

- (a) shall immediately forward to the Tribunal all information and material in its possession that relates to the appeal; and
- (b) shall not take any further action with respect to the appeal.

(4) Subsection 115 (18) of the Act is repealed and the following substituted:

Effect of withdrawal

(18) If an order is made under subsection (16),

- (a) the Local Planning Appeal Tribunal shall hear all appeals to which the order applies; and
- (b) the appeal body shall forward to the Tribunal all information and material in its possession that relates to any appeal to which the order applies.

(5) Subsection 115 (20) of the Act is amended by striking out “the Ontario Municipal Board” and substituting “the Local Planning Appeal Tribunal”.

(6) Clause 115 (21) (b) of the Act is repealed and the following substituted:

- (b) the Local Planning Appeal Tribunal shall forward to the appeal body all information and material in its possession that relates to any appeal to which the order applies.

11 (1) Subsection 115 (21.2) of the Act is amended by striking out “the Ontario Municipal Board” wherever it appears and substituting in each case “the Local Planning Appeal Tribunal”.

(2) Subsection (1) only applies if Bill 68 (*Modernizing Ontario's Municipal Legislation Act, 2017*), introduced on November 16, 2016, receives Royal Assent.

12 (1) Subsection 128 (4) of the Act is amended by striking out “to the Ontario Municipal Board” at the end and substituting “to the Local Planning Appeal Tribunal”.

(2) Subsection 128 (5) of the Act is amended by striking out “appeal to the Ontario Municipal Board” at the end and substituting “appeal to the Local Planning Appeal Tribunal”.

(3) Subsection 128 (6) of the Act is amended by striking out “that the Board requires” substituting “that the Tribunal requires”.

(4) Subsection 128 (7) of the Act is amended by striking out “The Board shall” at the beginning and substituting “The Tribunal shall”.

(5) Subsection 128 (8) of the Act is amended by,

(a) striking out “the Board issues” in clause (a) (iii) and substituting “the Tribunal issues”; and

(b) striking out “by the Board” at the end of clause (b) and substituting “by the Tribunal”.

13 (1) Subsection 129 (4) of the Act is amended by striking out “may apply to the Ontario Municipal Board” and substituting “may apply to the Local Planning Appeal Tribunal”.

(2) Subsection 129 (5) of the Act is amended by striking out “The Board shall” at the beginning and substituting “The Tribunal shall”.

(3) Subsection 129 (6) of the Act is amended by striking out “An order of the Board” at the beginning and substituting “An order of the Tribunal”.

(4) Subsection 129 (8) of the Act is amended by striking out “Once an order of the Board” at the beginning and substituting “Once an order of the Tribunal”.

14 Subsection 250 (2) of the Act is amended by striking out “Subject to section 62 of the *Ontario Municipal Board Act*” at the beginning and substituting “Subject to section 22 of the *Local Planning Appeal Tribunal Act, 2017*”.

15 Section 265 of the Act is repealed.

16 Subsection 285 (8) of the Act is repealed and the following substituted:

Application to L.P.A.T

(8) If the Minister has directed that an agreement be entered into under subsection (7) and the City and the other municipality fail to reach agreement within 60 days after the Minister’s direction, the City, the other municipality or the Minister may apply to the Local Planning Appeal Tribunal and the Tribunal shall settle the terms of the agreement.

17 (1) Subsection 341 (1) of the Act is amended by striking out “the Ontario Municipal Board may” and substituting “the Local Planning Appeal Tribunal may”.

(2) Subsection 341 (2) of the Act is amended by striking out “order of the Ontario Municipal Board” and substituting “order of the Tribunal”.

18 Clause 397 (2) (b) of the Act is amended by striking out “the Ontario Municipal Board” and substituting “the Local Planning Appeal Tribunal”.

19 Subsection 453.1 (15) of the Act is amended by striking out “the Ontario Municipal Board” and substituting “the Local Planning Appeal Tribunal”.

CONSERVATION AUTHORITIES ACT

20. Section 26 of the *Conservation Authorities Act* is amended by striking out “Ontario Municipal Board” wherever it appears and substituting in each case “Local Planning Appeal Tribunal”.

21. Clause 40 (1) (e) of the Act is amended by striking out “Ontario Municipal Board” and substituting “Local Planning Appeal Tribunal”.

CONSOLIDATED HEARINGS ACT

22 The definition of “establishing authority” in section 1 of the *Consolidated Hearings Act* is amended by striking out “the Ontario Municipal Board” and substituting “the Local Planning Appeal Tribunal”.

23 Subsections 4 (1), (2), (4) and (8) of the Act are amended by striking out “the Ontario Municipal Board” wherever it appears and substituting in each case “the Local Planning Appeal Tribunal”.

24 The Schedule to the Act is amended by striking out “Ontario Municipal Board Act” and substituting “Local Planning Appeal Tribunal Act, 2017”.

DRAINAGE ACT

25 Subsection 75 (3) of the *Drainage Act* is amended by striking out “sections 65 and 66 of the *Ontario Municipal Board Act* do not apply” at the end and substituting “section 25 of the *Local Planning Appeal Tribunal Act, 2017* does not apply”.

EXPROPRIATIONS ACT

26 (1) The definition of “Board” in subsection 1 (1) of the *Expropriations Act* is repealed.

(2) Subsection 1 (1) of the Act is amended by adding the following definition:

“Tribunal” means the Local Planning Appeal Tribunal. (“Tribunal”)

27 The following provisions of the Act are amended by striking out “the Board” wherever it appears and substituting in each case “the Tribunal”:

1. Subsection 9 (4).
2. Section 11.
3. Section 24.
4. Clause 26 (b).
5. Subsection 27 (6).
6. Subsections 28 (1) and (2).
7. Section 30.
8. Subsection 31 (1) and clauses 31 (2) (a) and (b).
9. Subsections 34 (1) and (2).

28 Subsection 10 (3) of the Act is repealed and the following substituted:

Entry on land for appraisal

(3) An expropriating authority may, after it has served notice of expropriation on the owner in possession of the lands expropriated, and with the consent of the said owner, enter on the expropriated lands for the purposes of viewing for appraisal, but, where the consent of the owner is not given, the expropriating authority may apply to the Tribunal which may, by order, authorize the entry upon such terms and conditions as may be specified in the order.

29 Section 15 of the Act is repealed and the following substituted:

Increase by Tribunal

15 Upon application therefor, the Tribunal shall, by order, after fixing the market value of lands used for residential purposes of the owner under subsection 14 (1), award such additional amount of compensation as, in the opinion of the Tribunal, is necessary to enable the owner to relocate his or her residence in accommodation that is at least equivalent to the accommodation expropriated.

30 Subsection 19 (2) of the Act is repealed and the following substituted:

Good will

(2) The Tribunal may, in determining compensation on the application of the expropriating authority or an owner, include an amount not exceeding the value of the good will of a business where the land is valued on the basis of its existing use and, in the opinion of the Tribunal, it is not feasible for the owner to relocate.

31 Section 29 of the Act is repealed and the following substituted:

Local Planning Appeal Tribunal

Duties of Tribunal

29 (1) The Tribunal shall determine any compensation in respect of which a notice of arbitration has been served upon it under section 26 or 27, and, in the absence of agreement, determine any other matter required by this or any other Act to be determined by the Tribunal.

Record

(2) All oral evidence submitted before the Tribunal shall be taken down in writing and, together with such documentary evidence and things as are received in evidence by the Tribunal, form the record.

Reasons

(3) The Tribunal shall prepare and furnish the parties to an application with written reasons for its decision.

Reports

(4) The Tribunal may prepare and periodically publish a summary of such of its decisions and the reasons therefor as the Tribunal considers to be of general public significance.

32 Subsection 31 (4) of the Act is repealed and the following substituted:

Procedure

(4) Section 37 of the *Local Planning Appeal Tribunal Act, 2017* does not apply to a decision or order of the Tribunal made under this Act.

33 Section 32 of the Act is repealed and the following substituted:

Costs

32 (1) Where the amount to which an owner is entitled upon an expropriation or claim for injurious affection is determined by the Tribunal and the amount awarded by the Tribunal is 85 per cent, or more, of the amount offered by the statutory authority, the Tribunal shall make an order directing the statutory authority to pay the reasonable legal, appraisal and other costs actually incurred by the owner for the purposes of determining the compensation payable, and may fix the costs in a lump sum or may order that the determination of the amount of such costs be referred to an assessment officer who shall assess and allow the costs in accordance with this subsection and the tariffs and rules prescribed under clause 44 (d).

Same

(2) Where the amount to which an owner is entitled upon an expropriation or claim for injurious affection is determined by the Tribunal and the amount awarded by the Tribunal is less than 85 per cent of the amount offered by the statutory authority, the Tribunal may make such order, if any, for the payment of costs as it considers appropriate, and may fix the costs in a lump sum or may order that the determination of the amount of such costs be referred to an assessment officer who shall assess and allow the costs in accordance with the order and the tariffs and rules prescribed under clause 44 (d) in like manner to the assessment of costs awarded on a party and party basis.

34 Subsections 33 (2) and (4) of the Act are repealed and the following substituted:

Variation of interest

(2) Subject to subsection (3), where the Tribunal is of the opinion that any delay in determining the compensation is attributable in whole or in part to the owner, it may refuse to allow the owner interest for the whole or any part of the time for which the owner might otherwise be entitled to interest, or may allow interest at such rate less than 6 per cent a year as appears reasonable.

Same

(4) Where the Tribunal is of the opinion that any delay in determining compensation is attributable in whole or in part to the expropriating authority, the Tribunal may order the expropriating authority to pay to the owner interest under subsection (1) at a rate exceeding 6 per cent a year but not exceeding 12 per cent a year.

HOUSING DEVELOPMENT ACT

35 Subsection 7 (5) of the *Housing Development Act* is amended by striking out “to the Ontario Municipal Board” and substituting “to the Local Planning Appeal Tribunal”.

36 Subsection 13 (4) of the Act is repealed and the following substituted:

Approval not required

(4) Section 25 of the *Local Planning Appeal Tribunal Act, 2017* does not apply to a corporation as referred to in subsection (1).

HOUSING SERVICES ACT, 2011

37 (1) Subsection 16 (4) of the *Housing Services Act, 2011* is repealed and the following substituted:

Application for approval

(4) A dssab service manager that proposes to give a direction to a municipality shall apply to the Local Planning Appeal Tribunal for approval of the proposed direction under section 25 of the *Local Planning Appeal Tribunal Act, 2017* and the dssab service manager is deemed, for the purposes of that section, to make the application on behalf of the municipality.

(2) Subsection 16 (5) of the Act is amended by striking out “If the Ontario Municipal Board approves” at the beginning and substituting “If the Local Planning Appeal Tribunal approves”.

MUNICIPAL ACT, 2001

38 Subsection 6 (2) of the *Municipal Act, 2001* is amended by striking out “with the approval of the Ontario Municipal Board” and substituting “with the approval of the Local Planning Appeal Tribunal”.

39 Clause 179 (b) of the Act is amended by striking out “shall be considered by the Ontario Municipal Board” and substituting “shall be considered by the Local Planning Appeal Tribunal”.

40 (1) Subsection 180 (1) of the Act is amended by striking out “may apply to the Ontario Municipal Board” and substituting “may apply to the Local Planning Appeal Tribunal”.

(2) Subsection 180 (2) of the Act is amended by striking out “The Board may” at the beginning and substituting “The Tribunal may”.

(3) Subsection 180 (3) of the Act is amended by striking out “specified by the Board” at the end and substituting “specified by the Tribunal”.

41 (1) Subsection 181 (1) of the Act is amended by striking out “The Ontario Municipal Board may” at the beginning and substituting “The Local Planning Appeal Tribunal may”.

(2) Subsection 181 (2) of the Act is amended by striking out “The Board may” at the beginning and substituting “The Tribunal may”.

42 (1) Subsection 182 (1) of the Act is amended by striking out “may apply to the Ontario Municipal Board” and substituting “may apply to the Local Planning Appeal Tribunal”.

(2) Subsection 182 (2) of the Act is amended by striking out “the Ontario Municipal Board may” in the portion before clause (a) and substituting “the Tribunal may”.

(3) Subsection 182 (3) of the Act is amended by striking out “The Board may” at the beginning and substituting “The Tribunal may”.

43 (1) Subsection 183 (1) of the Act is amended by striking out “The Ontario Municipal Board” at the beginning and substituting “The Local Planning Appeal Tribunal”.

(2) Subsection 183 (2) of the Act is amended by striking out “the Board has the same powers” and substituting “the Tribunal has the same powers”.

(3) Subsection 183 (3) of the Act is amended by striking out “If the Board” at the beginning and substituting “If the Tribunal”.

(4) Subsection 183 (5) of the Act is repealed and the following substituted:

Deferred proceedings

(5) The Minister may notify the Tribunal in writing that in his or her opinion an application to the Tribunal under section 180, 181 or 182 should be deferred and upon so doing all proceedings in the application are stayed until the Minister notifies the Tribunal in writing that they may be continued.

44 Section 184 of the Act is amended by striking out “to the Ontario Municipal Board” and substituting “to the Local Planning Appeal Tribunal”.

45 (1) Subsection 186 (1) of the Act is amended by striking out “or the Ontario Municipal Board” in the portion before clause (a) and substituting “or the Local Planning Appeal Tribunal”.

(2) Paragraph 6 of subsection 186 (2) of the Act is amended by striking out “or the Ontario Municipal Board” and substituting “or the Local Planning Appeal Tribunal”.

46 Subsection 205 (4) of the Act is amended by striking out “Section 65 of the *Ontario Municipal Board Act*” at the beginning and substituting “Section 25 of the *Local Planning Appeal Tribunal Act, 2017*”.

47 (1) Subsection 222 (4) of the Act is amended by striking out “to the Ontario Municipal Board” and substituting “to the Local Planning Appeal Tribunal”.

(2) Subsection 222 (5) of the Act is amended by striking out “appeal to the Ontario Municipal Board” at the end and substituting “appeal to the Tribunal”.

(3) Subsection 222 (6) of the Act is amended by striking out “that the Board requires” and substituting “that the Tribunal requires”.

(4) Subsection 222 (7) of the Act is amended by striking out “The Board shall” at the beginning and substituting “The Tribunal shall”.

(5) Subsection 222 (8) of the Act is amended by,

- (a) striking out “the Board issues” in clause (a) (iii) and substituting “the Tribunal issues”; and

(b) striking out “by the Board” at the end of clause (b) and substituting “by the Tribunal”.

48 (1) Subsection 223 (4) of the Act is amended by striking out “may apply to the Ontario Municipal Board” and substituting “may apply to the Local Planning Appeal Tribunal”.

(2) Subsection 223 (5) of the Act is amended by striking out “The Board shall” at the beginning and substituting “The Tribunal shall”.

(3) Subsection 223 (6) of the Act is amended by striking out “An order of the Board” at the beginning and substituting “An order of the Tribunal”.

(4) Subsection 223 (8) of the Act is amended by striking out “Once an order of the Board” at the beginning and substituting “Once an order of the Tribunal”.

49 Subsection 323 (8) of the Act is repealed and the following substituted:

Application to L.P.A.T.

(8) If the Minister has directed that an agreement be entered into under subsection (7) and the municipalities fail to reach agreement within 60 days after the Minister’s direction, either of the municipalities or the Minister may apply to the Local Planning Appeal Tribunal and the Tribunal shall settle the terms of the agreement.

50 (1) Subsection 370.1 (1) of the Act is amended by striking out “the Ontario Municipal Board may” and substituting “the Local Planning Appeal Tribunal may”.

(2) Subsection 370.1 (2) of the Act is amended by striking out “order of the Ontario Municipal Board” and substituting “order of the Tribunal”.

51 Section 399 of the Act is repealed.

52 Clause 401 (4) (c) of the Act is amended by striking out “the approval of the Ontario Municipal Board” and substituting “the approval of the Local Planning Appeal Tribunal”.

53 (1) Subsection 402 (1) of the Act is repealed and the following substituted:

Notice

(1) Upon receipt of an application of a municipality to incur a debt, the Local Planning Appeal Tribunal may direct the municipality to give notice of the application to such persons and in such manner as the Tribunal determines.

(2) Subsection 402 (2) of the Act is amended by striking out “by the Board” at the end and substituting “by the Tribunal”.

(3) Subsection 402 (3) of the Act is amended by striking out “to the secretary of the Board” at the end and substituting “to the Tribunal”.

54 Subsection 407 (2) of the Act is amended by striking out “Except with the approval of the Ontario Municipal Board” at the beginning and substituting “Except with the approval of the Local Planning Appeal Tribunal”.

55 Subsection 415 (2) of the Act is amended by striking out “Subject to section 62 of the *Ontario Municipal Board Act*” at the beginning and substituting “Subject to section 22 of the *Local Planning Appeal Tribunal, 2017*”.

56 Subsection 469 (1) of the Act is amended by,

(a) striking out “or the Ontario Municipal Board” in clause (a) and substituting “or the Local Planning Appeal Tribunal”; and

(b) striking out “to the Ontario Municipal Board” in clause (b) and substituting “to the Local Planning Appeal Tribunal”.

57 (1) Subsection 474.14 (1) of the Act is amended by striking out “and any land added by the Ontario Municipal Board” and substituting “and any land added by the Local Planning Appeal Tribunal”.

(2) Subsection 474.14 (2) of the Act is amended by striking out “the Ontario Municipal Board may” and substituting “the Local Planning Appeal Tribunal may”.

(3) Subsection 474.14 (3) of the Act is amended by striking out “Section 94 of the *Ontario Municipal Board Act*” at the beginning and substituting “Section 36 of the *Local Planning Appeal Tribunal Act, 2017*”.

MUNICIPAL ARBITRATIONS ACT

58 Section 15 of the *Municipal Arbitrations Act* is repealed and the following substituted:

L.P.A.T. as sole arbitrator

15 (1) Despite this Act, a municipality may designate the Local Planning Appeal Tribunal as sole arbitrator for the municipality with all the powers and duties of an official arbitrator.

Proceedings before the Tribunal

(2) Subject to subsection (3), the *Local Planning Appeal Tribunal Act, 2017* applies to proceedings before the Tribunal under this Act.

Awards

(3) The appeal provisions of this Act apply to awards made by the Tribunal under this Act.

ONTARIO HERITAGE ACT

59 (1) The definition of “Board” in section 1 of the *Ontario Heritage Act* is repealed.

(2) Section 1 of the Act is amended by adding the following definition:

“Tribunal” means the Local Planning Appeal Tribunal; (“Tribunal”)

60 The following provisions of the Act are amended by striking out “the Board” wherever it appears and substituting in each case “the Tribunal”:

1. Subsections 34.2 (1) and (2).
2. Clause 34.3 (1) (b).
3. Clause 34.5 (2) (b).
4. Subsections 41 (9) and (11).
5. Subsections 42 (6), (9), (13) and (14).
6. Section 68.2.

61 Section 25.1 of the Act is repealed and the following substituted:

L.P.A.T. hearings

25.1 (1) Despite section 3 of the *Local Planning Appeal Tribunal Act, 2017*, the Tribunal may appoint a member of the Review Board to sit on a panel of the Tribunal conducting an appeal under this Act for the duration of the appeal.

Same

- (2) If a member of the Review Board is appointed to sit on a Tribunal panel under subsection (1),
- (a) the member shall have all of the powers of a member of the Tribunal appointed under section 3 of the *Local Planning Appeal Tribunal Act, 2017* and shall be entitled to participate fully in the appeal; and
 - (b) for the purposes of any further proceeding or appeal under the *Local Planning Appeal Tribunal Act, 2017*, any decision or order made by a panel of the Tribunal that includes a Review Board member appointed under subsection (1) shall be deemed to be as valid as a decision or order made by a panel of the Tribunal constituted in accordance with the requirements of section 3 of the *Local Planning Appeal Tribunal Act, 2017*.

Conflict

(3) A member of the Review Board is not eligible to be appointed to sit on a Tribunal panel under subsection (1) if the member has participated in any hearing by the Review Board relating to the property that is the subject of the appeal being heard by the Tribunal panel.

62 Section 34.1 of the Act is repealed and the following substituted:

Appeal to Tribunal

34.1 (1) If the council of a municipality consents to an application subject to terms and conditions under subclause 34 (2) (a) (i.1) or refuses an application under subclause 34 (2) (a) (ii), the owner of the property that was the subject of the application may appeal the council’s decision to the Tribunal within 30 days of the day the owner received notice of the council’s decision.

Notice of appeal

(2) An owner of property who wishes to appeal the decision of the council of a municipality shall, within 30 days of the day the owner received notice of the council’s decision, give notice of appeal to the Tribunal and to the clerk of the municipality.

Content of notice

(3) A notice of appeal shall set out the reasons for the objection to the decision of the council of the municipality and be accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.

Hearing

(4) Upon receiving notice of an appeal, the Tribunal shall set a time and place for hearing the appeal and give notice of the hearing to the owner of the property and to such other persons or bodies as the Tribunal may determine.

Notice of hearing

(5) The Tribunal shall give notice of a hearing in such manner as the Tribunal determines necessary.

Powers of Tribunal

(6) After holding a hearing, the Tribunal may order,

- (a) that the appeal be dismissed; or
- (b) that the municipality consent to the demolition or removal of a building or structure without terms and conditions or with such terms and conditions as the Tribunal may specify in the order.

Decision final

(7) The decision of the Tribunal is final.

63 Subsection 40.1 (4) of the Act is repealed and the following substituted:

Appeal to Tribunal

(4) Any person who objects to a by-law passed under subsection (1) may appeal to the Tribunal by giving the clerk of the municipality, within 30 days after the date of publication under clause (3) (b), a notice of appeal setting out the objection to the by-law and the reasons in support of the objection, accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.

64 (1) Subsection 41 (4) of the Act is repealed and the following substituted:

Appeal to Tribunal

(4) Any person who objects to the by-law may appeal to the Tribunal by giving the clerk of the municipality, within 30 days after the date of publication under clause (3) (b), a notice of appeal setting out the objection to the by-law and the reasons in support of the objection, accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.

(2) Subsections 41 (6) to (8) of the Act are repealed and the following substituted:

If notice of appeal

(6) If a notice of appeal is given to the clerk within the time period specified in subsection (4), the Tribunal shall hold a hearing open to the public and, before holding the hearing, shall give notice of the hearing to such persons or bodies and in such manner as the Tribunal may determine.

Powers of Tribunal

(7) After holding the hearing, the Tribunal shall,

- (a) dismiss the appeal; or
- (b) allow the appeal in whole or in part and,
 - (i) repeal the by-law,
 - (ii) amend the by-law in such manner as the Tribunal may determine,
 - (iii) direct the council of the municipality to repeal the by-law, or
 - (iv) direct the council of the municipality to amend the by-law in accordance with the Tribunal's order.

Dismissal without hearing of appeal

(8) Despite the *Statutory Powers Procedure Act* and subsections (6) and (7), the Tribunal may, on its own motion or on the motion of any party, dismiss all or part of the appeal without holding a hearing on the appeal if,

- (a) the Tribunal is of the opinion that,
 - (i) the reasons set out in the notice of appeal do not disclose any apparent ground upon which the Tribunal could allow all or part of the appeal, or
 - (ii) the appeal is not made in good faith, is frivolous or vexatious, or is made only for the purpose of delay;
- (b) the appellant has not provided written reasons in support of the objection to the by-law;
- (c) the appellant has not paid the fee charged under the *Local Planning Appeal Tribunal Act, 2017*;
- (d) the appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal; or
- (e) the appellant has not participated in the public process for the adoption of the relevant heritage conservation district plan under section 41.1 by either making an oral submission at a public meeting or by submitting written submissions to the council of the municipality and the Tribunal believes there is no reasonable explanation for failing to do so.

(3) Clause 41 (10) (b) of the Act is repealed and the following substituted:

- (b) if the by-law is amended by the Tribunal under subclause (7) (b) (ii), the by-law, as amended by the Tribunal, comes into force on the day it is so amended; or

(4) Subsection 41 (12) of the Act is amended by striking out the portion before clause (a) and substituting the following:

Same

(12) If, on the day subsection 2 (25) of Schedule F to the *Government Efficiency Act, 2002* comes into force, a by-law designating a heritage conservation district has been passed by a municipality and the Tribunal has completed or has begun to hold a hearing under subsection (6) of this section, as it read before that day, but has not yet issued its formal order,

65 Subsections 42 (7) and (8) of the Act are repealed and the following substituted:

Notice of appeal

(7) To appeal to the Tribunal, the owner must give a notice of appeal to the Tribunal within 30 days after the owner receives notice that the council is refusing the application, or receives the permit with the terms and conditions attached, as the case may be.

Tribunal's powers

(8) The Tribunal shall hear the appeal and shall,

- (a) dismiss the appeal; or
- (b) direct that the permit be issued without terms and conditions or with such terms and conditions as the Tribunal by its order may direct.

66 Subsection 68.3 (1) of the Act is amended by striking out “made by a municipality, the Minister, Review Board or Board under this Act” at the end and substituting “made by a municipality, the Minister, Review Board or Tribunal under this Act”.

ONTARIO PLANNING AND DEVELOPMENT ACT, 1994

67 Clause 7 (4) (b) of the *Ontario Planning and Development Act, 1994* is repealed and the following substituted:

- (b) refer the matter to the Local Planning Appeal Tribunal to conduct a hearing with respect to the proposed amendment and make a written recommendation on it; or

68 Clause 8 (1) (b) of the Act is repealed and the following substituted:

- (b) refer the matter to the Local Planning Appeal Tribunal to conduct a hearing with respect to the proposed amendment and make a written recommendation on it;

69 Section 10 of the Act is repealed and the following substituted:

Hearing by L.P.A.T.

10 (1) If a matter is referred to the Local Planning Appeal Tribunal, it shall conduct a hearing.

Notice

(2) Notice of the hearing shall be given to such persons or bodies and in such manner as the Tribunal may determine and the Tribunal shall make a written recommendation to the Minister stating whether the Minister should approve the proposed amendment, in whole or in part, make modifications and approve the amendment as modified or refuse the proposed amendment, in whole or in part, and giving reasons for the recommendation.

70 Section 11 of the Act is amended by striking out “the Ontario Municipal Board” and substituting “the Local Planning Appeal Tribunal”.

ONTARIO WATER RESOURCES ACT

71 The definition of “Board” in subsection 1 (1) of the *Ontario Water Resources Act* is repealed.

72 (1) Subsection 54 (5) of the Act is repealed and the following substituted:

Application to L.P.A.T.

(5) If a registration under Part II.2 of the *Environmental Protection Act* is in effect or an environmental compliance approval has been issued in respect of a sewage works established or extended or to be established or extended by a municipality in or into another municipality or territory without municipal organization, the municipality undertaking the establishment or extension, before proceeding therewith, may apply to the Local Planning Appeal Tribunal for an order,

- (a) stopping up and closing any highway, road or road allowance, temporarily or permanently, for the purpose of allowing the establishment or extension to be carried on and vesting it in the municipality undertaking the establishment or extension, and providing for the opening of another highway, road or road allowance in lieu of the highway, road or road allowance so stopped up and closed, and subsection 88 (2) of the *Registry Act* does not apply;
- (b) ordering that any building restrictions, covenants running with the land or any limitations placed upon the estate or interest of any person in any lands upon or through which it is proposed that the establishment or extension may be constructed shall be terminated and shall be no longer operative or binding upon or against any person, and directing that any such order be registered under the *Registry Act*; and
- (c) fixing the compensation for lands taken or injuriously affected in the construction, maintenance or operation of the establishment or extension,

and notice of the application shall be given to the clerk of the municipality in or into which the sewage works are being established or extended and to the clerks of such other municipalities and to such other persons and in such manner as the Local Planning Appeal Tribunal may direct.

(2) Subsection 54 (12) of the Act is repealed and the following substituted:

Powers of L.P.A.T.

(12) The Local Planning Appeal Tribunal, as a condition of making an order under subsection (11), may impose such restrictions, limitations and conditions respecting the use of land for the extension of the sewage works, not inconsistent with the regulations made for the purposes of Part II.2 of the *Environmental Protection Act* or the terms and conditions in the environmental compliance approval, as to the Local Planning Appeal Tribunal may appear necessary or expedient.

73 The following provisions of the Act are amended by striking out “the Board” wherever it appears and substituting in each case “the Local Planning Appeal Tribunal”:

1. Subsections 54 (8) and (11).
2. Subsection 55 (4).
3. Subsection 62 (2).
4. Subsection 63 (5).
5. Subsection 74 (13).

74 Subsection 55 (5) of the Act is repealed and the following substituted:

Powers of L.P.A.T.

(5) The Local Planning Appeal Tribunal, as a condition of making an order under subsection (4), may impose such restrictions, limitations and conditions respecting the use of land for the establishment or extension of the sewage treatment works not inconsistent with the regulations made for the purposes of Part II.2 of the *Environmental Protection Act* or the terms and conditions in the environmental compliance approval, as to the Local Planning Appeal Tribunal may appear necessary or expedient.

75 Section 57 of the Act is repealed and the following substituted:

Powers of L.P.A.T., review of municipal sewage works

57 The Local Planning Appeal Tribunal may inquire into, hear and determine any application by or on behalf of any person complaining that any municipality constructing, maintaining or operating sewage works or having the control thereof,

- (a) has failed to do any act, matter or thing required to be done by any Act, by any regulation made under any Act, by any order or direction, or by any agreement entered into with the municipality; or
- (b) has done or is doing any such act, matter or thing improperly,

and that the same is causing deterioration, loss, injury or damage to property, and the Local Planning Appeal Tribunal may make any order, award or finding in respect of any such complaint as it considers just.

76 Subsection 74 (11) of the Act is repealed and the following substituted:

Determination of compensation

(11) Subject to this section, a claim for compensation, if not agreed upon by the Agency and the person making the claim, shall be determined by the Local Planning Appeal Tribunal and not otherwise, and the *Local Planning Appeal Tribunal Act, 2017*, except section 36, applies as far as is practicable to every such claim.

PLANNING ACT

77 (1) The definition of “Municipal Board” in subsection 1 (1) of the *Planning Act* is repealed.

(2) Subsection 1 (1) of the Act is amended by adding the following definition:

“Tribunal” means the Local Planning Appeal Tribunal. (“Tribunal”)

78 The following provisions of the Act are amended by striking out “the Municipal Board” wherever it appears and substituting in each case “the Tribunal”:

1. Section 2.
2. Subsection 3 (5).
3. Subsection 8.1 (22).
4. Subsections 12 (6) and (7).
5. Subsections 14.3 (3) and (4).
6. Subsections 14.6 (4) and (5).
7. Subsections 17 (24), (36), (40.3) and (43) and paragraph 2 of subsection 17 (44.2).
8. Subsections 22 (6.4), (6.5), (7) and (7.4).
9. Subsection 23 (5).
10. Subsection 33 (18).
11. Subsections 34 (10.7) and (10.8), paragraph 2 of subsection 34 (24.2) and subsections 34 (31) and (32).
12. Subsections 41 (4) and (4.3).
13. Clauses 45 (1.0.4) (c) and (e) and subsections 45 (17.1), (18) and (18.1).
14. Subsections 51 (19.4), (34), (36), (39), (43), (48), paragraph 2 of subsection 51 (52.2) and subsections 51 (54) and (56.2).
15. Subsections 53 (4.2), (14), (16), (19), (29), (32), (33), (36), (37) and (38).
16. Section 63.
17. Section 65.
18. Subsection 73 (2).
19. Subsection 75 (3).

79 The following provisions of the Act are amended by striking out “the fee prescribed under the *Ontario Municipal Board Act*” wherever it appears and substituting in each case “the fee charged under the *Local Planning Appeal Tribunal Act, 2017*”:

1. Clauses 17 (25) (c), (37) (c) and (41) (b).
2. Clause 22 (8) (b).
3. Subsections 51 (34), (39), (43) and (48).
4. Subsections 53 (14), (19) and (27).

80 The following provisions of the Act are amended by striking out “the secretary of the Municipal Board” wherever it appears and substituting in each case “the Tribunal”:

1. Subsections 17 (30) and (39).
2. Subsection 34 (11.1).
3. Subsections 51 (51) and (55).

81 Subsection 5 (1) of the Act is amended by striking out “to the Municipal Board” and substituting “to the Tribunal”.

82 (1) Subsections 8.1 (12), (14), (15), (17), (20) and (23) of the Act are repealed and the following substituted:

Exception, related appeals

(12) Despite subsection (7), an appeal under a provision listed in subsection (6) shall be made to the Tribunal, not to the local appeal body, if a related appeal,

- (a) has previously been made to the Tribunal and has not yet been finally disposed of; or
- (b) is made to the Tribunal together with the appeal under a provision listed in subsection (6).

Dispute

(14) A person may make a motion for directions to have the Tribunal determine a dispute about whether subsection (12) or (16) applies to an appeal.

Final determination

(15) The Tribunal's determination under subsection (14) is not subject to appeal or review.

Same

(17) When the Tribunal assumes jurisdiction as described in subsection (16), the local appeal body,

- (a) shall immediately forward to the Tribunal all information and material in its possession that relates to the appeal; and
- (b) shall not take any further action with respect to the appeal.

Effect of withdrawal

(20) If an order is made under subsection (18),

- (a) the Tribunal shall hear all appeals to which the order applies; and
- (b) the local appeal body to which the order relates shall forward to the Tribunal all information and material in its possession that relates to any appeal to which the order applies.

Effect of revocation

(23) If an order is made under subsection (21),

- (a) the local appeal body shall hear all appeals to which the order applies; and
- (b) the Tribunal shall forward to the local appeal body all information and material in its possession that relates to any appeal to which the order applies.

(2) Subsection 8.1 (23.2) of the Act is amended by striking out “the Municipal Board” wherever it appears and substituting in each case “the Tribunal”.

(3) Subsection (2) only applies if Bill 68 (*Modernizing Ontario's Municipal Legislation Act, 2017*), introduced on November 16, 2016, receives Royal Assent.

83 Subsection 12 (5) of the Act is repealed and the following substituted:

Where apportionment not satisfactory

(5) If the council of any municipality is not satisfied with the apportionment, it may, within fifteen days after receiving the notice under subsection (4), notify the planning board and the Tribunal that it desires the apportionment to be made by the Tribunal.

84 Subsection 14.3 (2) of the Act is repealed and the following substituted:

Determination by Tribunal

(2) If the council of any municipality is not satisfied with the apportionment, it may, within 15 days after receiving the notice, notify the municipal planning authority and the Tribunal that it desires the apportionment to be made by the Tribunal.

85 (1) Clauses 17 (29) (b) and (d) of the Act are repealed and the following substituted:

- (b) the record, the notice of appeal and the fee charged under the *Local Planning Appeal Tribunal Act, 2017* are forwarded to the Tribunal within 15 days after the last day for filing a notice of appeal;

- (d) such other information or material as the Tribunal may require in respect of the appeal is forwarded to the Tribunal.

(2) Subsection 17 (29.1) of the Act is amended by striking out “to the Municipal Board” and substituting “to the Tribunal”.

(3) Subsection 17 (42) of the Act is repealed and the following substituted:

Documents to L.P.A.T.

(42) If an approval authority receives a notice of appeal under subsection (36) or (40), it shall ensure that,

- (a) a record is compiled which includes the prescribed information and material;

(b) the record, notice of appeal and the fee charged under the *Local Planning Appeal Tribunal Act, 2017* are forwarded to the Tribunal within 15 days after the last day for filing a notice of appeal under subsection (36) or within 15 days after the notice of appeal under subsection (40) was filed, as the case may be; and

(c) such other information or material as the Tribunal may require in respect of the appeal is forwarded to the Tribunal.

(4) Subsection 17 (42.1) of the Act is amended by striking out “to the Municipal Board” at the end and substituting “to the Tribunal”.

(5) Subsections 17 (44), (45.1), (46.1), (47) and (48) of the Act are repealed and the following substituted:

Hearing

(44) On an appeal to the Tribunal, the Tribunal shall hold a hearing of which notice shall be given to such persons or such public bodies and in such manner as the Tribunal may determine.

.

Same

(45.1) Despite the *Statutory Powers Procedure Act* and subsection (44), the Tribunal may, on its own initiative or on the motion of the municipality, the appropriate approval authority or the Minister, dismiss all or part of an appeal without holding a hearing if, in the Tribunal’s opinion, the application to which the appeal relates is substantially different from the application that was before council at the time of its decision.

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Dismissal

(46.1) Despite the *Statutory Powers Procedure Act*, the Tribunal may dismiss all or part of an appeal after holding a hearing or without holding a hearing on the motion under subsection (45) or (45.1), as it considers appropriate.

Dismissal

(47) If the Tribunal dismisses all appeals made under subsection (24) or (36) in respect of all or part of a decision without holding a hearing and if the time for filing notices of appeal has expired, the Tribunal shall notify the clerk of the municipality or the approval authority and,

(a) the decision or that part of the decision that was the subject of the appeal is final; and

(b) any plan or part of the plan that was adopted or approved and in respect of which all the appeals have been dismissed comes into effect as an official plan or part of an official plan on the day after the day the last outstanding appeal has been dismissed.

Same

(48) If the Tribunal dismisses an appeal under subsection (40) without holding a hearing and if there is no other appeal in respect of the same matter, the Tribunal shall notify the approval authority and the approval authority may then proceed to make a decision under subsection (34) in respect of all or part of the plan, as the case may be.

(6) Subsection 17 (54) of the Act is amended by striking out “of the Municipal Board” and substituting “of the Tribunal”.

86. (1) Subsection 22 (6.2) of the Act is amended by striking out the portion before clause (a) and substituting the following:

Motion re dispute

(6.2) Within 30 days after a negative notice is given under subsection (6.1), the person or public body or the council or planning board may make a motion for directions to have the Tribunal determine,

.

(2) Subsections 22 (9) and (10) of the Act are repealed and the following substituted:

Record

(9) The clerk of a municipality or the secretary-treasurer of a planning board who receives a notice of appeal under subsection (7) shall ensure that,

(a) a record is compiled which includes the prescribed information and material;

(b) the notice of appeal, the record and the fee are forwarded to the Tribunal,

(i) in the case of an appeal brought in accordance with paragraph 1 or 2 of subsection (7.0.2), within 15 days after the notice is filed,

- (ii) in the case of an appeal brought in accordance with paragraph 3 or 4 of subsection (7.0.2), within 15 days after the last day for filing a notice of appeal;
- (c) the notice of appeal and the record are forwarded to the appropriate approval authority, whether or not the plan is exempt from approval,
 - (i) in the case of an appeal brought in accordance with paragraph 1 or 2 of subsection (7.0.2), within 15 days after the notice is filed,
 - (ii) in the case of an appeal brought in accordance with paragraph 3 or 4 of subsection (7.0.2), within 15 days after the last day for filing a notice of appeal; and
- (d) such other information or material as the Tribunal may require in respect of the appeal is forwarded to the Tribunal.

Other information

(10) A person or public body that files a notice of appeal under subsection (7) shall provide to the Tribunal the prescribed information or material and such other information as the Tribunal may require.

(3) Subsection 22 (11.4) of the Act is amended by striking out “of the Municipal Board” and substituting “of the Tribunal”.

(4) Subsections 22 (12) and (13) of the Act are repealed and the following substituted:

Withdrawal of appeal

(12) If all appeals under subsection (7) brought in accordance with paragraph 1 or 2 of subsection (7.0.2) are dismissed by the Tribunal without holding a hearing or are withdrawn, the Tribunal shall notify the council or the planning board and the council or the planning board may proceed to give notice of the public meeting or adopt or refuse to adopt the requested amendment, as the case may be.

Same

(13) If all appeals under subsection (7) brought in accordance with paragraph 3 or 4 of subsection (7.0.2) are dismissed by the Tribunal without holding a hearing or are withdrawn, the Tribunal shall notify the council or the planning board and the decision of the council or the planning board is final on the day that the last outstanding appeal has been withdrawn or dismissed.

87 (1) Subsections 23 (2) and (4) of the Act are repealed and the following substituted:

Hearing by L.P.A.T.

(2) Where the Minister proposes to make an amendment to an official plan under subsection (1), the Minister may, and on the request of any person or municipality shall, request the Tribunal to hold a hearing on the proposed amendment and the Tribunal shall thereupon hold a hearing as to whether the amendment should be made.

Notice

(4) Where the Minister has requested the Tribunal to hold a hearing as provided for in subsection (2), notice of the hearing shall be given in such manner and to such persons as the Tribunal may direct, and the Tribunal shall hear any submissions that any person may desire to bring to the attention of the Tribunal.

(2) Subsection 23 (6) of the Act is amended by striking out “of the Municipal Board” and substituting “of the Tribunal”.

88 Subsection 24 (4) of the Act is repealed and the following substituted:

Deemed conformity

(4) If a by-law is passed under section 34 by the council of a municipality or a planning board in a planning area in which an official plan is in effect and, within the time limited for appeal no appeal is taken or an appeal is taken and the appeal is withdrawn or dismissed or the by-law is amended by the Tribunal or as directed by the Tribunal, the by-law shall be conclusively deemed to be in conformity with the official plan, except, if the by-law is passed in the circumstances mentioned in subsection (2), the by-law shall be conclusively deemed to be in conformity with the official plan on and after the day the by-law was passed, if the amendment to the official plan comes into effect.

89 Subsection 28 (12) of the Act is amended by striking out “of the Municipal Board” and substituting “of the Tribunal”.

90 Subsections 33 (4), (5), (10) and (15) of the Act are repealed and the following substituted:

Appeal to L.P.A.T.

(4) Where the council refuses to issue the permit or neglects to make a decision thereon within thirty days after the receipt by the clerk of the municipality of the application, the applicant may appeal to the Tribunal and the Tribunal shall hear the appeal and either dismiss the same or direct that the demolition permit be issued, and the decision of the Tribunal shall be final.

Notice of appeal

(5) The person appealing to the Tribunal under subsection (4) shall, in such manner and to such persons as the Tribunal may direct, give notice of the appeal to the Tribunal.

Appeal to L.P.A.T.

(10) Where an applicant for a demolition permit under subsection (6) is not satisfied as to the conditions on which the demolition permit is proposed to be issued, the applicant may appeal to the Tribunal for a variation of the conditions and, where an appeal is brought, the Tribunal shall hear the appeal and may dismiss the same or may direct that the conditions upon which the permit shall be issued be varied in such manner as the Tribunal considers appropriate, and the decision of the Tribunal shall be final.

Appeal to L.P.A.T.

(15) Any person who has made application to the council under subsection (11) may appeal from the decision of the council to the Tribunal within twenty days of the mailing of the notice of the decision, or where the council refuses or neglects to make a decision thereon within thirty days after the receipt by the clerk of the application, the applicant may appeal to the Tribunal and the Tribunal shall hear the appeal and the Tribunal on the appeal has the same powers as the council has under subsection (14) and the decision of the Tribunal shall be final.

91 (1) Subsection 34 (10.5) of the Act is repealed and the following substituted:**Motion re dispute**

(10.5) Within 30 days after a negative notice is given under subsection (10.4), the person or public body or the council may make a motion for directions to have the Tribunal determine,

- (a) whether the information and material have in fact been provided; or
- (b) whether a requirement made under subsection (10.2) is reasonable.

(2) Subsection 34 (18) of the Act is amended by striking out “of the Municipal Board” and substituting “of the Tribunal”.

(3) Subsection 34 (23.1) of the Act is repealed and the following substituted:

Withdrawal of appeals

(23.1) If all appeals to the Tribunal under subsection (19) are withdrawn and the time for appealing has expired, the Tribunal shall notify the clerk of the municipality and the decision of the council is final and binding.

(4) Subsection 34 (23.2) of the Act is amended by striking out “to the Municipal Board” and substituting “to the Tribunal”.

(5) Subsection 34 (23.3) of the Act is amended by striking out “to the Municipal Board” and substituting “to the Tribunal”.

(6) Subsection 34 (24) of the Act is repealed and the following substituted:

Hearing and notice thereof

(24) On an appeal to the Tribunal, the Tribunal shall hold a hearing of which notice shall be given to such persons or bodies and in such manner as the Tribunal may determine.

(7) Subsection 34 (25.2) of the Act is repealed and the following substituted:

Dismissal

(25.2) Despite the *Statutory Powers Procedure Act*, the Tribunal may dismiss all or part of an appeal after holding a hearing or without holding a hearing on the motion under subsection (25) or (25.1.1), as it considers appropriate.

(8) Subsection 34 (29.1) of the Act is amended by striking out “of the Municipal Board” and substituting “of the Tribunal”.

(9) Subsections 34 (33) and (34) of the Act are repealed and the following substituted:

Notice and hearing

(33) The Tribunal may,

- (a) dispense with giving notice of a motion under subsection (32) or require the giving of such notice of the motion as it considers appropriate; and
- (b) make an order under subsection (31) after holding a hearing or without holding a hearing on the motion, as it considers appropriate.

Notice

(34) Despite clause (33) (a), the Tribunal shall give notice of a motion under subsection (32) to any person or public body who filed with the Tribunal a written request to be notified if a motion is made.

92 Subsections 36 (3.1), (3.3) and (3.4) of the Act are repealed and the following substituted:

Matters of provincial interest

(3.1) Where an appeal is made to the Tribunal under subsection (3), the Minister, if he or she is of the opinion that a matter of provincial interest is, or is likely to be, adversely affected by the by-law, may so advise the Tribunal in writing not later than 30 days before the day fixed by the Tribunal for the hearing of the appeal and the Minister shall identify,

- (a) the part or parts of the by-law by which the provincial interest is, or is likely to be, adversely affected; and
- (b) the general basis for the opinion that a matter of provincial interest is, or is likely to be, adversely affected.

No order to be made

(3.3) If the Tribunal has received notice from the Minister under subsection (3.1) and has made a decision on the by-law, the Tribunal shall not make an order under subsection (3) in respect of the part or parts of the by-law identified in the notice.

Action of L.G. in C.

(3.4) The Lieutenant Governor in Council may confirm, vary or rescind the decision of the Tribunal in respect of the part or parts of the by-law identified in the notice and in doing so may repeal the by-law in whole or in part or amend the by-law in such a manner as the Lieutenant Governor in Council may determine.

93 Subsection 38 (6.1) of the Act is repealed and the following substituted:

Where by-law appealed

(6.1) If the period of time during which an interim control by-law is in effect has expired and the council has passed a by-law under section 34 consequent on the completion of the review or study within the period of time specified in the interim control by-law, but there is an appeal of the by-law under subsection 34 (19), the interim control by-law continues in effect as if it had not expired until the date of the order of the Tribunal or until the date of a notice issued by the Tribunal under subsection 34 (23.1) unless the interim control by-law is repealed.

94 Subsection 41 (4.2) of the Act is repealed and the following substituted:

Dispute about scope of site plan control

(4.2) The owner of land or the municipality may make a motion for directions to have the Tribunal determine a dispute about whether a matter referred to in paragraph 1 or 2 of subsection (4) is subject to site plan control.

95 (1) Subsections 42 (10) and (11) of the Act are repealed and the following substituted:

Disputes

(10) In the event of a dispute between a municipality and an owner of land on the value of land determined under subsection (6.4), either party may apply to the Tribunal to have the value determined and the Tribunal shall, in accordance as nearly as may be with the *Expropriations Act*, determine the value of the land and, if a payment has been made under protest under subsection (12), the Tribunal may order that a refund be made to the owner.

Same

(11) In the event of a dispute between a municipality and an owner of land as to the amount of land or payment of money that may be required under subsection (9), either party may apply to the Tribunal and the Tribunal shall make a final determination of the matter.

(2) Subsection 42 (12) of the Act is amended by striking out “to the Municipal Board” and substituting “to the Tribunal”.

(3) Subsection 42 (13) of the Act is amended by striking out “to the Municipal Board” and substituting “to the Tribunal”.

96 (1) Clause 45 (1.0.4) (d) of the Act is repealed and the following substituted:

- (d) if the Tribunal allows an appeal in respect of the by-law and amends the by-law, on the day after the last day on which the Tribunal makes a decision disposing of the appeal; or

(2) Subsection 45 (10) of the Act is amended by striking out “to the Municipal Board” in the portion after clause (c) and substituting “to the Tribunal”.

(3) Subsections 45 (12) and (13) of the Act are repealed and the following substituted:

Appeal to L.P.A.T.

(12) The applicant, the Minister or any other person or public body who has an interest in the matter may within 20 days of the making of the decision appeal to the Tribunal against the decision of the committee by filing with the secretary-treasurer of the committee a notice of appeal setting out the objection to the decision and the reasons in support of the objection accompanied by payment to the secretary-treasurer of the fee charged by the Tribunal under the *Local Planning Appeal Tribunal Act, 2017* as payable on an appeal from a committee of adjustment to the Tribunal.

Record

(13) On receiving a notice of appeal filed under subsection (12), the secretary-treasurer of the committee shall promptly forward to the Tribunal, by registered mail,

- (a) the notice of appeal;
- (b) the amount of the fee mentioned in subsection (12);
- (c) all documents filed with the committee relating to the matter appealed from;
- (d) such other documents as may be required by the Tribunal; and
- (e) any other prescribed information and material.

(4) Subsection 45 (13.1) of the Act is amended by striking out “to the Municipal Board” and substituting “to the Tribunal”.

(5) Subsections 45 (15), (16), (17), (17.2) and (18.1.1) of the Act are repealed and the following substituted:

Where appeals withdrawn

(15) Where all appeals to the Tribunal are withdrawn, the decision of the committee is final and binding and the Tribunal shall notify the secretary-treasurer of the committee who in turn shall notify the applicant and file a certified copy of the decision with the clerk of the municipality.

Hearing

(16) On an appeal to the Tribunal, the Tribunal shall, except as provided in subsections (15) and (17), hold a hearing of which notice shall be given to the applicant, the appellant, the secretary-treasurer of the committee and to such other persons or public bodies and in such manner as the Tribunal may determine.

Dismissal without hearing

(17) Despite the *Statutory Powers Procedure Act* and subsection (16), the Tribunal may dismiss all or part of an appeal without holding a hearing, on its own initiative or on the motion of any party, if,

- (a) it is of the opinion that,
 - (i) the reasons set out in the notice of appeal do not disclose any apparent land use planning ground upon which the Tribunal could allow all or part of the appeal,
 - (ii) the appeal is not made in good faith or is frivolous or vexatious,
 - (iii) the appeal is made only for the purpose of delay, or
 - (iv) the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process;
- (b) the appellant has not provided written reasons for the appeal;
- (c) the appellant has not paid the fee charged under the *Local Planning Appeal Tribunal Act, 2017*; or
- (d) the appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal.

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Dismissal

(17.2) The Tribunal may dismiss all or part of an appeal after holding a hearing or without holding a hearing on the motion under subsection (17), as it considers appropriate.

Exception

(18.1.1) The Tribunal is not required to give notice under subsection (18.1) if, in its opinion, the amendment to the original application is minor.

(6) Subsections 45 (18.2), (18.3) and (18.4) of the Act are amended by striking out “the Board” wherever it appears and substituting in each case “the Tribunal”.

(7) Subsection 45 (19) of the Act is repealed and the following substituted:

Notice of decision

(19) When the Tribunal makes an order on an appeal, the Tribunal shall send a copy thereof to the applicant, the appellant and the secretary-treasurer of the committee.

(8) Subsection 45 (20) of the Act is amended by striking out “of the Municipal Board” and substituting “of the Tribunal”.

97 (1) Subsections 51 (19.2), (19.5) and (32) of the Act are repealed and the following substituted:

Motion re dispute

(19.2) Within 30 days after a negative notice is given under subsection (19.1), the applicant or the approval authority may make a motion for directions to have the Tribunal determine,

- (a) whether the information and material have in fact been provided; or
- (b) whether a requirement made under subsection (18) is reasonable.

Final determination

(19.5) The Tribunal’s determination under subsection (19.2) is not subject to appeal or review.

Lapse of approval

(32) In giving approval to a draft plan of subdivision, the approval authority may provide that the approval lapses at the expiration of the time period specified by the approval authority, being not less than three years, and the approval shall lapse at the expiration of the time period, but if there is an appeal under subsection (39) the time period specified for the lapsing of approval does not begin until the date the Tribunal’s decision is issued in respect of the appeal or from the date of a notice issued by the Tribunal under subsection (51).

(2) Clause 51 (35) (b) of the Act is amended by striking out “to the Municipal Board” and substituting “to the Tribunal”.

(3) Subsection 51 (35.1) of the Act is amended by striking out “to the Municipal Board” and substituting “to the Tribunal”.

(4) Clause 51 (50) (b) of the Act is amended by striking out “to the Municipal Board” and substituting “to the Tribunal”.

(5) Subsection 51 (50.1) of the Act is amended by striking out “to the Municipal Board” and substituting “to the Tribunal”.

(6) Subsections 51 (52), (52.5) and (52.6) of the Act are repealed and the following substituted:

Hearing

(52) On an appeal, the Tribunal shall hold a hearing, notice of which shall be given to such persons or public bodies and in such manner as the Tribunal may determine.

Notice to approval authority

(52.5) The Tribunal shall notify the approval authority that it is being given an opportunity to,

- (a) reconsider its decision in light of the information and material; and
- (b) make a written recommendation to the Tribunal.

Approval authority's recommendation

(52.6) The Tribunal shall have regard to the approval authority's recommendation if it is received within the time period mentioned in subsection (52.4), and may but is not required to do so if it is received afterwards.

(7) Subsection 51 (53) of the Act is amended by striking out the portion before clause (a) and clauses (a), (d) and (e) and substituting the following:

Dismissal without hearing

(53) Despite the *Statutory Powers Procedure Act* and subsection (52), the Tribunal may dismiss an appeal without holding a hearing on its own initiative or on the motion of any party, if,

- (a) it is of the opinion that,
 - (i) the reasons set out in the notice of appeal do not disclose any apparent land use planning ground upon which the Tribunal could give or refuse to give approval to the draft plan of subdivision or determine the question as to the condition appealed to it,
 - (ii) the appeal is not made in good faith or is frivolous or vexatious,
 - (iii) the appeal is made only for the purpose of delay, or
 - (iv) the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process;
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- (d) the appellant has not paid the fee charged under the *Local Planning Appeal Tribunal Act, 2017*; or
- (e) the appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal.

(8) Subsections 51 (53.1), (54.1), (56) and (56.1) of the Act are repealed and the following substituted:

Same

(53.1) Despite the *Statutory Powers Procedure Act* and subsection (52), the Tribunal may, on its own initiative or on the motion of the municipality, the appropriate approval authority or the Minister, dismiss all or part of an appeal without holding a hearing if, in the Tribunal's opinion, the application to which the appeal relates is substantially different from the application that was before council at the time of its decision.

Dismissal

(54.1) Despite the *Statutory Powers Procedure Act*, the Tribunal may dismiss all or part of an appeal after holding a hearing or without holding a hearing on the motion under subsection (53) or (53.1), as it considers appropriate.

Powers

(56) On an appeal under subsection (34) or (39), the Tribunal may make any decision that the approval authority could have made on the application and on an appeal under subsection (43) or (48) shall determine the question as to the conditions appealed to it.

Final approval

(56.1) If, on an appeal under subsection (34) or (39), the Tribunal has given approval to a draft plan of subdivision, the Tribunal may, by order, provide that the final approval of the plan of subdivision for the purposes of subsection (58) is to be given by the approval authority in which the land is situate.

98 (1) Subsection 53 (4.1) of the Act is repealed and the following substituted:

Motion re dispute

(4.1) The applicant, the council or the Minister may make a motion for directions to have the Tribunal determine,

- (a) whether the information and material required under subsections (2) and (3), if any, have in fact been provided; or
- (b) whether a requirement made under subsection (3) is reasonable.

(2) Clause 53 (15) (b) of the Act is amended by striking out "to the Municipal Board" and substituting "to the Tribunal".

(3) Subsection 53 (16.1) of the Act is amended by striking out "to the Municipal Board" and substituting "to the Tribunal".

(4) Clause 53 (28) (b) of the Act is amended by striking out “to the Municipal Board” and substituting “to the Tribunal”.

(5) Subsection 53 (29.1) of the Act is amended by striking out “to the Municipal Board” and substituting “to the Tribunal”.

(6) Subsections 53 (30), (31), (32.1), (34), (35), (35.1), (39) and (41) of the Act are repealed and the following substituted:

Hearing

(30) On an appeal, the Tribunal shall hold a hearing, of which notice shall be given to such persons or public bodies and in such manner as the Tribunal may determine.

Dismissal without hearing

(31) Despite the *Statutory Powers Procedure Act* and subsection (30), the Tribunal may dismiss an appeal without holding a hearing, on its own initiative or on the motion of any party, if,

- (a) it is of the opinion that,
 - (i) the reasons set out in the notice of appeal do not disclose any apparent land use planning ground upon which the Tribunal could give or refuse to give the provisional consent or could determine the question as to the condition appealed to it,
 - (ii) the appeal is not made in good faith or is frivolous or vexatious,
 - (iii) the appeal is made only for the purpose of delay, or
 - (iv) the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process;
- (b) the appellant did not make oral submissions at a public meeting or did not make written submissions to the council or the Minister before a provisional consent was given or refused and, in the opinion of the Tribunal, the appellant does not provide a reasonable explanation for having failed to make a submission;
- (c) the appellant has not provided written reasons for the appeal;
- (d) the appellant has not paid the fee charged under the *Local Planning Appeal Tribunal Act, 2017*; or
- (e) the appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal.

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Dismissal

(32.1) The Tribunal may dismiss an appeal after holding a hearing or without holding a hearing on the motion under subsection (31), as it considers appropriate.

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Powers

(34) On an appeal under subsection (14) or (19), the Tribunal may make any decision that the council or the Minister, as the case may be, could have made on the original application and on an appeal of the conditions under subsection (27), the Tribunal shall determine the question as to the condition or conditions appealed to it.

Amended application

(35) On an appeal, the Tribunal may make a decision on an application which has been amended from the original application if, at any time before issuing its order, written notice is given to the persons and public bodies prescribed under subsection (10) and to any person or public body conferred with under subsection (11) on the original application.

No written notice

(35.1) The Tribunal is not required to give written notice under subsection (35) if, in the opinion of the Tribunal, the amendment to the original application is minor.

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Consent

(39) If the decision of the Tribunal under subsection (34) is that a provisional consent be given, the council or the Minister shall give the consent, but if conditions have been imposed, the consent shall not be given until the council or the Minister is satisfied that the conditions have been fulfilled.

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Conditions not fulfilled

(41) If conditions have been imposed and the applicant has not, within a period of one year after notice was given under subsection (17) or (24), whichever is later, fulfilled the conditions, the application for consent shall be deemed to be refused but, if there is an appeal under subsection (14), (19) or (27), the application for consent shall not be deemed to be refused for failure to fulfil the conditions until the expiry of one year from the date of the order of the Tribunal issued in respect of the appeal or from the date of a notice issued by the Tribunal under subsection (29) or (33).

99 Subsections 69 (3) and (4) of the Act are repealed and the following substituted:

Payment under protest: appeal to L.P.A.T.

(3) Any person who is required to pay a fee under subsection (1) for the processing of an application in respect of a planning matter may pay the amount of the fee under protest and thereafter appeal to the Tribunal against the levying of the fee or the amount of the fee by giving written notice of appeal to the Tribunal within thirty days of payment of the fee.

Hearing

(4) The Tribunal shall hear an appeal made under subsection (3) and shall dismiss the appeal or direct that a refund payment be made to the appellant in such amount as the Tribunal determines.

100 Clause 70.2 (2) (e) of the Act is repealed and the following substituted:

- (e) set out procedures for appealing to the Tribunal in respect of a development permit or a condition in a permit, including prescribing persons or public bodies that may appeal to the Tribunal in that regard;

101 (1) Clause 74 (4) (a) of the Act is amended by striking out “to the Municipal Board” and substituting “to the Tribunal”.

(2) Clause 74 (6) (a) of the Act is amended by striking out “to the Municipal Board” and substituting “to the Tribunal”.

PUBLIC TRANSPORTATION AND HIGHWAY IMPROVEMENT ACT

102 (1) The definition of “Board” in section 1 of the *Public Transportation and Highway Improvement Act* is repealed.

(2) Section 1 of the Act is amended by adding the following definition:

“Tribunal” means the Local Planning Appeal Tribunal. (“Tribunal”)

103 Subsection 14 (2) of the Act is repealed and the following substituted:

Determination of compensation

(2) Every such claim for compensation not agreed upon by the Minister and the claimant shall be determined by the Tribunal and not otherwise, and the *Local Planning Appeal Tribunal Act, 2017*, except section 37, applies so far as is practicable to every such claim that is referred to the Tribunal.

104 The following provisions of the Act are amended by striking out “the Board” wherever it appears and substituting in each case “the Tribunal”:

1. Subsections 14 (3) and (4).
2. Subsections 37 (2) and (6).

105 Subsection 16 (2) of the Act is repealed and the following substituted:

Where interest may be withheld

(2) Where the Tribunal is of the opinion that any delay in determining the compensation or damages is attributable in whole or in part to the person entitled to the compensation or damages or any part of it, the Tribunal may refuse to allow the person interest for the whole or any part of the time for which the person might otherwise be entitled to interest, or may allow interest at such rate less than 5 per cent per year as appears just.

106 Subsections 37 (3) and (4) of the Act are repealed and the following substituted:

Application for approval

(3) The Tribunal may direct that notice of an application for approval of the closing of a road under this section shall be given at such time, in such manner and to such persons, including municipalities and local boards, as defined in the *Municipal Affairs Act*, as the Tribunal determines, and may further direct that particulars of objections to the closing shall be filed with the Tribunal and the Minister within such time as the Tribunal directs.

Powers of Tribunal

(4) Upon the hearing of the application, the Tribunal may make an order refusing its approval or granting its approval upon such terms and conditions as it considers proper.

RETAIL BUSINESS HOLIDAYS ACT

107 (1) Subsections 4.3 (1), (3), (4) and (7) of the *Retail Business Holidays Act* are repealed and the following substituted:

Appeal to L.P.A.T.

(1) Any person who objects to a by-law made by the council of a municipality under section 4 may appeal to the Local Planning Appeal Tribunal by filing a notice of appeal with the Tribunal setting out the objection to the by-law and the reasons in support of the objection.

Dismissal without hearing

(3) The Tribunal may, if it is of the opinion that the objection to the by-law set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing, but before doing so shall notify the appellant and afford the appellant an opportunity to make representations as to the merits of the appeal.

Powers of L.P.A.T.

(4) The Local Planning Appeal Tribunal may,

- (a) dismiss the appeal;
- (b) dismiss the appeal on the condition that the council amend the by-law in a manner specified by the Tribunal; or
- (c) quash the by-law.

Local Planning Appeal Tribunal Act, 2017, s. 35

(7) Section 35 of the *Local Planning Appeal Tribunal Act, 2017* does not apply to an appeal under this section.

(2) Subsections 4.3 (2), (5), (6) and (8) of the Act are amended by striking out “the Board” wherever it appears and substituting in each case “the Tribunal”.

SHORTLINE RAILWAYS ACT, 1995

108 (1) Subsection 8 (2) of the *Shortline Railways Act, 1995* is repealed and the following substituted:

Contents of notice

(2) The notice shall set out the reasons for the refusal, suspension or revocation and advise that an appeal may be made to the Local Planning Appeal Tribunal by filing a request for a hearing with the Tribunal and with the registrar within 15 days after the notice is served under subsection (1).

(2) Subsections 8 (4) and (5) of the Act are amended by striking out “the Ontario Municipal Board” wherever it appears and substituting in each case “the Local Planning Appeal Tribunal”.

(3) Subsection 8 (7) and (8) of the Act are repealed and the following substituted:

Order

(7) The Local Planning Appeal Tribunal may, by order, affirm the refusal, suspension or revocation of the licence or may make such other order consistent with this Act that the Tribunal considers appropriate.

Decision final

(8) The decision of the Local Planning Appeal Tribunal is final.

109 Section 9 of the Act is repealed and the following substituted:

Non-application

9 (1) Sections 5.1 and 21.2 of the *Statutory Powers Procedure Act* and sections 35 and 36 and subsections 37 (1) and (3) of the *Local Planning Appeal Tribunal Act, 2017* do not apply to any hearing under this Act.

Same

(2) Part V of the *Local Planning Appeal Tribunal Act, 2017* does not apply to the Local Planning Appeal Tribunal in respect of shortline railways.

COMMENCEMENT

Commencement

110 This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

CONSERVING OUR FUTURE

A Modernized Conservation
Authorities Act

Bill 139-First Reading

NPCA Board of Directors Meeting June 28, 2017

PURPOSE

To provide the NPCA Board with an update of proposed changes to the *Conservation Authorities Act* included in Bill 139 – *Building Better Communities and Conserving Watersheds Act* (2017).

INTRODUCTION

- ▶ In 2015, the Ministry of Natural Resources and Forestry (MNRF) posted a discussion paper to gain feedback on the governance, funding mechanisms, and roles and responsibilities of Conservation Authorities (CA's).
- ▶ In Spring 2016 the MNRF released a second Discussion Paper that identified priorities for changes to the CA Act.
- ▶ On May 30, 2017 Bill 139, the *Building Better Communities and Conserving Watersheds Act, 2017* was introduced into the legislature and passed First Reading.

INTRODUCTION

HOW A BILL BECOMES LAW

1

First Reading

Purpose of Bill explained

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Second Reading

Bill is debated in principle

3

Review by Committee

Public Hearings may be held and Amendments considered

4

Report to House Committee

Reports bill with any amendments

5

Third Reading

Bill is voted on for final approval

6

Royal Assent

Lieutenant Governor signs bill and it becomes law

SUMMARY OF PROPOSED CHANGES

Oversight and
Accountability


Clarity &
Consistency

Collaboration
&
Engagement


Funding
Mechanisms

Housekeeping


OVERSIGHT & ACCOUNTABILITY

- ▶ Updating appointment processes and requirements;
 - ▶ Updating conservation authority governance practices;
 - ▶ Enabling the MNRF to conduct program and operational reviews;
 - ▶ Updating guidance on the use of dispute-resolution mechanisms;
 - ▶ Confirming expectations for conservation authority restructuring decisions.
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CLARITY AND CONSISTENCY PROGRAM AND SERVICES

- ▶ Clarifying the role of Conservation Authorities;
 - ▶ Clarifying expectations for Provincially-mandated programs and services;
 - ▶ Clarifying expectations for municipally-assigned programs and services;
 - ▶ Clarifying expectations for watershed-specific programs and services.
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CLARITY AND CONSISTENCY REGULATORY REQUIREMENTS

- ▶ Clarifying the scope of activities subject to conservation authority approval;
 - ▶ Clarifying the scope of a conservation authority's review;
 - ▶ Updating compliance mechanisms and enforcement tools;
 - ▶ Enabling the Province to regulate other activities within the conservation authority's area of jurisdiction in the future.
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COLLABORATION AND ENGAGEMENT

- ▶ Increasing Indigenous, public and stakeholder outreach and engagement;
 - ▶ Increasing Indigenous community participation in conservation authorities;
 - ▶ Increasing coordination between Provincial ministries;
 - ▶ Increasing collaboration between conservation authorities and the Province;
 - ▶ Increasing collaboration and engagement on service delivery standards.
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MODERNIZING FUNDING MECHANISMS

- ▶ Updating how costs are apportioned among participating municipalities;
 - ▶ Increasing clarity and consistency in the development and use of fees;
 - ▶ Exploring options for updating Provincial funding levels.
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HOUSEKEEPING

1. Removing references to procedural rules for adjourning meetings in the absence of quorum;
2. Removing requirements for conservation authorities to obtain Ontario Municipal Board approval for board per diems;
3. Removing requirements for conservation authorities to obtain Minister's approval of interest rates to be paid by an authority if borrowing money until funds from Provincial grants or municipal levies are received;
4. Removing references to authority projects 'approved' under the act as not being subject to the *Lakes and Rivers Improvement Act*;
5. Consolidating regulations regarding lands owned by conservation authorities into a single Minister's regulation

NEXT STEPS

1. The Province will accept comments on the proposed legislative changes to the CA Act as posted on the Environmental Registry (ontario.ca/ebr ER #013-0561) until July 31, 2017.
2. Bill 139 is on the 'Orders and Notices Paper' for the next session of Parliament scheduled to commence Monday, September 11, 2017. It accompanies approximately 72 other Bills that will start at the Second Reading stage.
3. Establishment of a multi-ministry working group to develop proposed regulatory changes and options for increasing Provincial funding levels.
4. Establishment of a Service Delivery Review Committee to support MNRF in the development of proposed policies and procedures.
5. Proposed regulatory and policy changes outlined within this document will be subject to additional public and stakeholder consultation as appropriate.

REPORTS FOR CONSIDERATION

- ❖ **REPORT 66-17** *Virgil Dam, NOTL – Future Ownership and Management*
 - ❖ **REPORT 67-17** *NCDSB Lease Agreement for St. John's Valley Centre*
 - ❖ **REPORT 68-17** *MNRF Water and Erosion Control (WECl) Agreement*
 - ❖ **REPORT 69-17** *Ontario Power Generation Data Sharing Agreement*
 - ❖ **REPORT 70-17** *Land Care Niagara Agreement*
 - ❖ **REPORT 71-17** *Haldimand Stewardship Council Agreement*
- ❖ **REPORT 72-17** *Mickey DiFruscio and Family Legacy Pollinator Project*
 - ❖ **REPORT 73-17** *Canada's 150th Anniversary Schoolboard Project*
 - ❖ **REPORT 74-17** *Unsolicited Proposal- Burlington Beach Rentals*

Report To: Board of Directors

Subject: Virgil Dam, NOTL – Future Ownership and Management

Report No: 66-17

Date: June 28, 2017

RECOMMENDATION:

Whereas, the primary purpose of the Dams and subsequent impounding of water is to provide for agricultural irrigation, and

Whereas, the existing natural features on the property are not threatened, endangered, or of significant value; therefore,

Be it resolved that the Board DIRECT staff to enter negotiations for the transfer of ownership of the Virgil Dam and Reservoir properties to the Town of NOTL.

PURPOSE:

To seek the NPCA Board's direction on the future ownership and management of the Virgil Dams & Reservoirs located in NOTL.

Following the deferral of this report at the May 2017 Board meeting, NPCA staff had an opportunity to present this report to the NOTL Irrigation Committee on May 23, 2017. The Irrigation Committee received this presentation for information and NPCA staff understand that the Irrigation Committee will await the NPCA Board's direction on this matter before NPCA staff engage in more formal dialogue and negotiations.

BACKGROUND:

General

The NPCA Virgil Dams and Reservoirs Conservation Area, located across Four Mile Creek in the Town of Niagara-on-the-Lake (see Attachment #1), were originally constructed in 1968 with the primary purpose of providing water for agricultural irrigation. This primary purpose remains unchanged to this day. The Upper Dam and Reservoir is constructed just south of Township Line 3 west of Creek Road, and the Lower Dam and Reservoir was constructed between Niagara Stone Road and Township Line 3.

The Virgil Dams Conservation Area is also used by the public for passive recreational purposes such as hiking, fishing, and bird watching. The waters of the Reservoirs are warm and turbid only supporting fish species that can tolerate these conditions such as carp, catfish, and perch. The

Non-Provincially Significant Virgil Conservation Area Wetland Complex is found throughout the property in addition to established and successional woodland features along the shores.

Both dams are similar in design and construction. The structures consist of earth embankments with a 17m long concrete spillway section. Timber flashboards increase the storage level in the reservoirs and a low flow valve can provide downstream flow augmentation once the water level drops below the wooden flashboards. Both reservoirs are only 3 to 4 feet deep (due to sediment build-up over the years) with the depth increased by an additional 3 feet with the timber flashboards installed. The Ontario Dam Safety Guidelines classify the Virgil Dams as being SMALL dams with a LOW Hazard Potential.

The drainage area upstream of the reservoirs is approximately 22.6 km². During the growing season, water within Four Mile Creek and the Virgil Reservoirs is supplemented by water pumped (by the Town of NOTL) from the Adam Beck hydroelectric reservoir as dictated by the Town's Irrigation Committee. It is estimated that approximately 20 growers pump water directly from the Virgil Reservoirs. The NPCA does not currently have any agreements in place with these users. Upstream of the Upper Virgil Reservoir, an additional 30 growers (approx.) utilize the deeper water in Four Mile Creek (impounded by the Upper Virgil Dam) in order to irrigate their crops.

Dam Operations

There are no specific daily operations related to these Dams. Both Virgil Dams are intended to passively impound water as the low flow valves are in poor condition and have not been operated in several years. Due to the difficulty and risk to the workers of removing the wooden flashboards every season, the wooden flashboards have been left in place since approximately 2008.

There has never been a formal agreement with the Town with respect to maintenance and operation of these Dams. While this informal arrangement between the NPCA and the Town has often been undertaken without incident, there has been confusion lately regarding the operational responsibilities. This culminated in the inadvertent draining of the Lower Virgil Reservoir by Town staff in July 2015. Since this time, both NPCA and Town staff have expressed a strong desire to establish clear direction regarding roles and responsibilities pertaining to Virgil Dams.

Responsibilities Pursuant to the Renewed Permit to Take Water (PTTW)

The Ministry of Environment and Climate Change (MOECC) requires that large water takers and water users obtain a Permit to Take Water (PTTW) to allow the MOECC the ability to manage the consumption of surface water. The NPCA's PTTW for the Virgil Dams was recently renewed on March 27, 2017 and is valid until February 28, 2020. The Town of Niagara-on-the-Lake also has a blanket Permit to Take Water for its extensive irrigation network located throughout the municipality.

Condition 4.2 c) of the NPCA's recently renewed PTTW states that:

*"By September 30, 2017, the Permit Holder (NPCA) shall develop and submit for approval to the MOECC Director an **operational process** with the Town of Niagara-on-the-Lake to maintain appropriate flows within the system as needed."*

As such, should the Board decide that the NPCA should continue to maintain the Virgil Dams and Reservoirs with the primary purpose of providing irrigation water to local growers, it is

recommended that a formal agreement between the NPCA and the Town of NOTL be established for the ongoing operation of these assets as noted in Option 1a (below).

OPTIONS:

The following Options are presented to the Board for consideration:

- 1) The NPCA **continues to maintain ownership** of the lands comprising the Virgil Dams and Reservoirs, and would pursue one of the following courses of action;

- a. **The Virgil Dams and Reservoirs continue to be operated and maintained primarily for the purposes of irrigation.**

Should this option be pursued, it is recommended that the Board direct staff to enter negotiations with the Town of NOTL to develop a formal agreement between the two parties which clearly defines:

- i. General roles and responsibilities;
- ii. Operational roles and responsibilities;
- iii. Financial obligations;
- iv. Contact persons;
- v. Financial capital obligations associated with future infrastructure upgrades

- * All of which would be sent to the MOECC by September 30, 2017 to meet the requirements of the NPCA's Permit to Take Water.

- ** The locations of all users pumping water from the Virgil reservoirs to be determined and formal agreements be undertaken with these growers.

- b. **The Virgil Dams and Reservoirs may or may not continue to be operated and maintained primarily for the purposes of irrigation.**

Should this option be considered, it is recommended that the Board;

- i. Direct staff to allocate capital resources over the next 2 to 5 years to create a Master Plan for the property which would review the overall existing use and operation as well as identify any potential opportunities for recreation uses and ecological enhancements, and;
- ii. Direct staff to enter negotiations with the Town of NOTL in order to develop a formal agreement between the two parties (as per Option 1a) until such time as any potential change of use is approved, pursuant to any recommendations arising from the commissioned Master Plan.

- c. **The Virgil Dams and Reservoirs not be maintained for the purposes of irrigation.**

Should this option be considered, it is recommended that staff be directed to solicit a work plan and a preliminary budget to remove these structures and construct a natural creek system through the property. This would serve to remove the existing barriers to spawning salmon and trout and would reconnect the natural Four Mile Creek system to that which exists both upstream and downstream of the Virgil Reservoirs.

- 2) The NPCA **does not continue to maintain ownership** of the lands comprising the Virgil Dams and Reservoirs, and would pursue one of the following courses of action;
- a. The NPCA direct staff to enter negotiations with the Town of NOTL with the intent to transfer ownership and operation of the Virgil Reservoir properties to the Town in order to enhance the capacity of the existing NOTL irrigation infrastructure network.
 - b. Should negotiations with the Town to transfer ownership of the property prove fruitless, staff would report back to the Board seeking further direction.

STAFF RECOMMENDATION:

Given that the primary purpose of the Dams and subsequent impounding of water is to provide for agricultural irrigation, and given that the existing natural features on the property are not threatened, endangered, or of significant value, the NPCA staff preferred option is to transfer ownership of the Virgil Reservoir properties to the Town of NOTL. It is envisioned that the Town would then add the Virgil Reservoirs to its existing irrigation network under the provisions of the Town's existing Permit to Take Water and be managed by the Town's Irrigation Committee.

FINANCIAL IMPLICATIONS:

Pursuing the Staff Recommended course of action will result in the reduction of operating costs for ongoing maintenance and repairs along with the avoidance of future pending capital costs that will be required to upgrade the dam structures and related infrastructure.

RELATED REPORTS AND APPENDICES:

1. Virgil Dams and Reservoir Conservation Area
2. Photographs of Virgil Dams & Reservoirs

Prepared by:

Reviewed by: Steve Miller, P.Eng.
Manager, Water Resources &
Restoration



Peter Graham, P.Eng. MBA
Director, Watershed Management

Submitted by:


Mark Brickell
Acting Chief Administrative Officer / Secretary Treasurer

This report was completed with consultative input from Gregg Furtney – Acting Director, Operations.

Report To: Board of Directors

Subject: Lease Agreement with the Niagara Catholic District School Board for the use of St. John's Valley Center

Report No: 67-17

Date: June 28, 2017

RECOMMENDATION:

That the NPCA Board of Directors, DIRECT the CAO to enter a (5) five-year Lease Agreement with the Niagara Catholic District School Board to operate educational programming at St. John's Valley Center property, owned by the NPCA.

PURPOSE:

NPCA staff and staff from the Niagara Catholic District School Board wish to terminate the existing Memorandum of Understanding, for the use of the St. John's Valley Center for educational programming, to enter into a formal (5) five-year Lease Agreement, with an option to renew the Agreement for an additional (5) five-years.

DISCUSSION:

At the May 2015 NPCA Full Authority Meeting, staff asked, through Report No. 53-15, to be authorized to issue an Expression of Interest (EOI) to the public for the future use of the St. John's Valley Center property. That request was approved.

At the September 2015 NPCA Full Authority Meeting, NPCA staff was given further authorization from the Board of Directors to enter negotiations with the four respondents to the Expression of Interest (EOI).

At the November 2015 NPCA Full Authority Meeting, staff prepared a report outlining the final proposals of each of the four respondents and made a recommendation to the Board of Directors that the Proposal submitted by the Niagara Catholic District School Board in partnership with Brock University, Niagara College, and the Niagara Native Center, be approved. Further at that meeting, the Board of Directors authorized staff to structure a Lease Agreement with the Niagara Catholic District School Board.

Due to the developing nature of the proposal and the partners, the NPCA signed a Memorandum of Understanding with the Niagara Catholic District School Board for the Lease of the St. John's Valley Center Property in June of 2016. The Memorandum of Understanding was meant as an interim agreement until the final Lease Agreement between the two parties had been completed.

The final Draft Lease Agreement for the use of the St. John's Valley Center property for educational purposes, under the direction of the Niagara Catholic District School Board and its partners, is attached.

FINANCIAL IMPLICATIONS:

The Niagara Catholic District School Board has agreed to pay \$24,000 annually for rent as well as 100% of all utilities, taxes, and any NPCA approved renovations within or around any facility structures or on the general property, to suit their own needs. The Niagara Catholic District School Board has also agreed to allow the NPCA access to the property for up to 20 weekends throughout the calendar year for appropriate educational and/or special events.

The NPCA has agreed to continue to mow the grass.

RELATED REPORTS AND APPENDICES:

1. Memorandum of Understanding
2. Proposed Lease Agreement
3. Letter of Support: Niagara Regional Native Center
4. Letter of Support: Brock University

Prepared by:



Gregg Furtney
Acting Director, Operations & Strategic Initiatives

Submitted by:



Mark Brickell
Acting Chief Administrative Officer /
Secretary Treasurer



**NIAGARA PENINSULA
CONSERVATION
AUTHORITY**

April 22, 2016

MEMORANDUM OF UNDERSTANDING

BETWEEN

NIAGARA PENINSULA CONSERVATION AUTHORITY (NPCA)

And

NIAGARA CATHOLIC DISTRICT SCHOOL BOARD (NCDSB)

1.0) PURPOSE

1.1 This Memorandum of Understanding establishes a strategic alliance between the Niagara Peninsula Conservation Authority (NPCA) and the Niagara Catholic District School Board (NCDSB). This Memorandum of Understanding is also a bridge and interim agreement between the two parties for the future Landlord and Tenant Agreement/ Lease for the use of St. John's Valley Center Properties located at 3024-3054 Orchard Hill Road, Thorold, Ontario, for educational purposes.

2.0) OBJECTIVE AND SCOPE

2.1 The Niagara Peninsula Conservation Authority (NPCA) owns two properties, side by side, at 3024 and 3054 Orchard Hill Road, Thorold, Ontario. The property is currently vacant.

2.2 The Niagara Catholic District School Board (NCDSB) has expressed interest in leasing both properties for educational purposes, 3024 Orchard Hill Drive, Thorold (0.35 acres) and 3054 Orchard Hill Drive, Thorold (18.4 acres).

2.3 The Niagara Peninsula Conservation Authority (NPCA) is amenable to the intended educational usage as well as the idea of allowing the Niagara Catholic District School Board to sublet and partner with other community and educational partners for the intended use of both properties. Community and educational partners that have been identified are the Niagara Native Center, Brock University, and Niagara College.

3.0) RESPONSIBILITIES

3.1 Responsibilities and specific terms will be outlined in the formal Lease Agreement between the Niagara Catholic School Board and the Niagara Peninsula Conservation Authority, at a later date. There is an intent to enter into a 5 year formal agreement with an option to renew that agreement for a further 5 years.

3.2 The Niagara Peninsula Conservation Authority will covenant:

- I. the quiet enjoyment of the Lands and Premises;
- II. to maintain adequate insurance coverage for loss of damage of contents of premises by fire;

- III. to maintain the current name of the property until which time a new name is discussed between parties and is formally approved by the NPCA Board of Directors.

3.3 The Niagara Catholic District School Board will covenant:

- I. to comply with all local ordinance and regulations of the Niagara Peninsula Conservation Authority, City of Thorold, including requirements within the Niagara Escarpment Plan;
- II. to use the property in a manner consistent with the anticipated uses;
- III. if they choose, to partner in educational programming with Brock University, Niagara College, and the Niagara Native Center;
- IV. to maintain the Lands and Premises, including the grounds, gardens, and all buildings at a standard, consistent with the Niagara Catholic District School Board standards and uses;
- V. to pay for any interior renovations or alterations with NPCA prior notice and approval, in writing;
- VI. to pay for any exterior facility additions or renovations with NPCA prior notice and approval, in writing;
- VII. to keep the Lands and Premises insured for public liability and property damaging the amount of \$5,000,000 Dollars and to name the NPCA as an additional insured therein and provide the NPCA with a copy of said insurance policy;
- VIII. to ensure all the other parties conducting "business" on the property shall keep the Lands and Premises insured for public liability and property damage in an amount not less than \$2,000,000 Dollars and that the NPCA be named as an additional insured therein and provide the NPCA with a copy of said insurance policy, upon request;
- IX. to pay to the NPCA \$35,000 as a deposit to help pay ongoing maintenance costs related to the site;
- X. to pay applicable taxes on both properties as outlined by the Municipal Tax Bill through the City of Thorold;
- XI. to allow the NPCA, and or its partners, to have access to the Lands and Premises after 5:00 p.m. This will be coordinated between staff within both agencies;
- XII. to allow the NPCA, or its partners, to have access to the Land and Premises on weekends for special events or education related activities up to 10 times per year between May and October and an additional 10 times per year between November and April. This will be coordinated between staff within both agencies.
- XIII. to commit to establishing a joint "Partner's Committee" of all parties included in this joint venture, which includes the NPCA.

4.0 POINTS OF CONTACT

4.1 All notices and communications related to this MOU will be addressed as follows:

4.1.1 For Niagara Peninsula Conservation Authority to:

Mr. Mark Brickell
Director of Operations and Strategic Initiatives
Niagara Peninsula Conservation Authority
250 Thorold Road West, 3rd Floor, Welland, ON, L3C 3W2
Phone: (905) 788-3135 Ext. 233

4.1.2 For Niagara Catholic District School Board to:

Mr. John Crocco
Director of Education and Secretary-Treasurer
Niagara Catholic District School Board
427 Rice Road, Welland, ON, L3C 7C1
Phone: (905) 735-0240 Ext. 220

5.0 SETTLEMENT OF DISPUTES

5.1 Any disputes regarding the interpretation or implementation of this MOU will be resolved only by consultation between the Participants and will not be referred to a national tribunal or any other third party for settlement.

5.2 This MOU is not a contract, and is not intended to be, legally enforceable in a court of law or otherwise. For greater certainty, the MOU does not create legal relations between the Participants but acts as a starting point for the development of a legal and binding Lease Agreement and Partnership between Parties.

5.3 This MOU is subject to applicable law. In the event of any inconsistency or conflict between this MOU and any applicable law, the applicable law will prevail to the extent of the inconsistency conflict.

6.0 AMENDMENT

6.1 This MOU may only be amended with the mutual written consent of the Participants


7.0 DURATION, WITHDRAWAL, AND TERMINATION

7.1 This MOU will be in effect until a formal, legal, and binding Lease Agreement can be written, reviewed, and authorized by both Parties.


7.2 This MOU may be terminated with the mutual written consent of the Participants

8.0 EFFECTIVE DATE AND SIGNATURE

8.1 This MOU will enter into effect on the date the later signature.


Mark Brickell
Director of Operations and Strategic Initiatives
Niagara Peninsula Conservation Authority

Date: April 14, 2016


John Crocco
Director of Education and Secretary-
Treasurer
Niagara Catholic District School Board

Date: 17-06-15

THIS *AGREEMENT* made on the 1st day of January, 2017

BETWEEN NIAGARA PENINSULA CONSERVATION AUTHORITY (NPCA) *in accordance with the provisions of the Short Forms of Leases Act R.S.O. 1990 c.S.11*

The “Landlord”

AND

NIAGARA CATHOLIC DISTRICT SCHOOL BOARD (NCDSB)

The “Tenant”

IN CONSIDERATION of the mutual covenants contained herein, the Landlord and Tenant hereby agree as follows:

1. Grant and Term

The Landlord hereby **provides** to the Tenant the Lands and Premises known as the St. Johns Centre Property, located at 3024-3054 Orchard Hill Road, Thorold, Ontario for educational purposes.

The term of the Agreement will be for a period of five years beginning on January 1, 2017.

An option to renew for an additional five (5) year period unless renewed or extended by the parties in writing.

Niagara Catholic District School Board will give the Landlord a notice in writing no later than ninety (90) days prior to the expiry of the Agreement that it wishes to renew the Agreement for a further term.

Notwithstanding, either party may terminate this Agreement upon ninety (90) days written notice.

2. Rent

The Tenant agrees to pay rent on the 1st day of February, each year of this Agreement, the amount of \$1.00.

Other Considerations:

Niagara Catholic District School Board shall financially contribute twenty four thousand dollars annually for continued programming delivered by Niagara Peninsula Conservation Authority based on annual receipt of Outdoor Education funds provided to Niagara Catholic District School Board through Ministry of Education.

The contribution will be paid annually, on October 31st to Niagara Peninsula Conservation Authority.

If funding discontinues by the Ministry of Education to the NCDSB, the Agreement and any extension thereof shall terminate automatically when funding terminates.

3. Landlord covenants

The Landlord covenants with the Tenant;

- (a) the quiet enjoyment of the Lands and Premises;
- (a) **NPCA will provide Niagara Catholic District School Board with a copy of public liability and property insurance in an amount no less than \$5,000,000 Dollars and name Niagara Catholic District School Board as an additional**

insured therein and provide a copy of the insurance certificate upon execution of the Agreement.

- (b) to ensure that all other parties conducting “business” on the property shall keep the Lands and Premises insured for public liability and property damage in an amount not less than \$2,000,000 and that the Landlord be named as additionally insured *and provide the NPCA with a copy of said insurance policy upon request.*

4. Tenant’s Covenants

The Tenant covenants with the Landlord;

- (b) to pay all amounts payable by the Tenant to the Landlord under this Agreement *including but not limited to rent as set out in paragraph 2 hereof;*
- (c) to pay all realty taxes and local improvement charges levied against the property which comprises the Agreement premises *during the currency of the term;*
- (d) to pay all utilities *charges for hydro, gas and water during the currency of the term*
- (e) to observe and perform all the covenants and obligations of the Tenant herein;
- (f) to comply with all local ordinances and regulations *of the City of Thorold*, including requirements within the Niagara Escarpment Plan;
- (g) to use the property in a manner consistent with the *anticipated uses set out in Schedule A which forms part of this Agreement;*
- (h) If the Tenant so desires, to sublet to Brock University, Niagara College, the Niagara Native Centre and other parties approved by NPCA *only, no other sublet or assignment without leave and approval of the NPCA;*
- (i) to maintain the Lands and Premises, including grounds, gardens and all buildings at a standard, consistent with Niagara Catholic District School Board standards and its uses, in recent years, *during the term of the Agreement;*
- (j) to pay for any interior renovations or alterations with NPCA *prior notice and approval;*
- (k) to pay for any exterior facility additions or alterations with NPCA *prior notice and approval;*
- (l) to keep the Lands and Premises insured for public liability and property damage in the amount of \$5,000,000 Dollars and to name the Landlord as an additional insured therein *and provide the NPCA with a copy of said insurance policy on execution of this Agreement;*

5. Landlord and Tenants Covenants

- (a) Niagara Catholic District School Board shall work cooperatively with Niagara Peninsula Conservation Authority for all capital and non-capital repairs and maintenance of a mechanical HVAC, boiler, hot water systems, windows, doors and roof repairs. Rental funds shall be collected by Niagara Peninsula Conservation Authority and set aside as a reserve dedicated solely for this purpose and held by Niagara Peninsula Conservation Authority.

A committee shall be established with representatives as follows:

Niagara Catholic District School Board
 Niagara Peninsula Conservation Authority
 Niagara Regional Native Centre
 Brock University
 Niagara College

6. Other Considerations

- (a) Both parties agree to meet on a quarterly basis to discuss and problem solve around areas of challenges and opportunities;

- (b) Both parties agree that the Tenant *and the named subtenants set out in paragraph 4.(g)* shall be able to use the Lands and Premises on weekends for special events or education related activities up to 10 times per year between May and October and an additional 10 times per year between November and April. The Landlord shall have full access to the Lands and Premises all other weekends. The landlord shall be responsible for booking the premises. Both parties agree to develop a shared calendar to coordinate such usage. Said calendar shall be negotiated and confirmed in February *of* each year of the agreement;
- (c) All cleaning required and repair of damages caused by parties authorized by the Landlord on approved weekends will be at the cost of Niagara Peninsula Conservation Authority;
- (d) Both parties shall have access to the Lands after 5:00 p.m. and shall coordinate this access through the shared calendar referenced above;
- (e) All parties on the Lands and Premises shall be mindful of the adjacent landowners and the general quietness of the area. Pro-active communication with adjacent landowners is encouraged;
- (f) Both parties agree that all fixtures, furniture, appliances, artwork, tools and any other moveable assets located anywhere on the Lands and Premises at the time of possession (that are not owned by the Tenant) shall remain as property of the Landlord and shall not be removed for any reason without prior consent from the Landlord.

7. Events of Default

Upon the occurrence of any of the following events (an "Event of Default")

- (a) The Tenant fails to pay any rent or other sums due hereunder when due;
- (b) The Tenant has breached a covenant in this Agreement and on receipt of notice in writing from the Landlord the Tenant fails to remedy such breach within thirty (30) days of receipt of such written notice;
- (c) The Tenant has abandoned the Lands and Premises; then the Landlord may, at its option;
 - (i) re-enter upon and take possession of the Lands and Premises or any part thereof in the name of the whole and re-let the Lands and Premises or any part thereof on behalf of the Tenant or otherwise as the Landlord sees fit;
 - (ii) terminate this Agreement by giving the Tenant twenty (20) days prior written notice of the termination; or
 - (iii) re-enter into and upon the Premises or any part thereof in the name of the whole and repossess and enjoy the same as of the Landlord's former estate, anything herein contained to the contrary notwithstanding.

8. Option to Renew

By mutual agreement, the parties may opt to renew this agreement for an additional five (5) year period under the same terms and conditions.

9. Surrender

Upon the expiration or other termination of the term, the Tenant shall immediately quit and surrender possession of the Lands and Premises and upon surrender, all right, title and interest of the Tenant in the Lands and Premises shall cease.

10. Overholding

If the tenant continues to occupy the Lands and Premises after the expiration or other termination of the Term without any further written agreement and the Landlord accepts Rent, a tenancy from year to year shall not be created by implication of law or custom but the Tenant shall be a monthly tenant.

11. Entire Agreement

There is no promise, representation or undertaking by or binding upon the Landlord except such as are expressly set forth in this Agreement, and this Agreement including the Schedules contains the entire agreement between the parties hereto.

12. Registration

The Tenant may not register Notice of this Agreement.

13. Notice

(1) Any demand, notice, direction or other communication to be made or given hereunder (in each case, "Communication") shall be in writing and shall be made or given by personal delivery, by courier, by facsimile transmission, or sent by registered mail, charges prepaid, addressed as follows:

Landlord:
250 Thorold Road West
Welland, Ontario
L3C 3W2
Fax: 905-734-1121
E-mail

Tenant:
Niagara Catholic District School Board
427 Rice Road
Welland, Ontario
L3C 7C1
Fax: 905-734-8828

or to such address or facsimile number as any party may, from time to time, designate in accordance with this Section.

(2) A Communication will be considered to have been given or made on the day that it is delivered in person or by courier, or sent by facsimile or, if mailed, seventy-two (72) hours after the date of mailing. If the postal service is interrupted or substantially delayed, any Communication will only be delivered in person or by courier, or sent by facsimile, or E-mail.

14. Governing Law

This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the Province of Ontario.

15. Amendment or Modification

No amendment, modification or supplement to this Agreement shall be valid or binding unless set out in writing and executed by the Landlord and the Tenant.

16. Force Majeure

In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, labour troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Agreement, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

17. Severability

All of the provisions of this Agreement are to be construed as covenants and agreements. If any provision of this Agreement is illegal or unenforceable, it shall be considered separate and severable from the remaining provisions of this Agreement, which shall remain in force and be binding as though the provision had never been included.

18. Time of the Essence

Time shall be of the essence hereof.

19. Successors and Assigns

This Agreement shall ensure to the benefit of and be binding upon the heirs, executors and administrators and the successors and assigns of the Tenant.

IN WITNESS WHEREOF, the Landlord and the Tenant have executed this Agreement on the date set forth above.

SIGNED, SEALED AND DELIVERED
in the presence of

NIAGARA PENINSULA CONSERVATION AUTHORITY Per:

“I have the authority to bind the corporation”

NIAGARA CATHOLIC DISTRICT SCHOOL BOARD Per:

John Crocco – Director of Education and Secretary-Treasurer
“I have the authority to bind the corporation”



Niagara Regional Native Center

382 Airport Road, Niagara-On-Lake L0S1J0 | P: 905-688-6484 | F: 905-688-4033

June 8, 2017

I am writing this letter in support of the Aboriginal Secondary School Program “Soaring Eagles”.

This partnership with the Niagara Catholic District School Board began last year when a conversation surrounding the needs of alternative education for youth within the Niagara Region was brought to the fore front.

Through this conversation it was decided that there was a need for an alternative classroom to support our youth who were struggling in a traditional school setting.

Our vision became our reality when the opportunity to call St. Johns our home arose in April 2016.

When St. Johns was presented as potential site, it truly did complete the vision of what we wanted to offer to our youth. Location was a significant defining factor that was either going to make this opportunity successful or present challenges.

As Indigenous people, when you look at our traditional teachings and what we are thankful for, one of the main connections, is the connection to Mother Earth, the land. The use of this site gives the ability to use that connection to create grounding, stability and purpose for our youth.

Not only is the recognition, appreciation and connection to the land an important contributing factor to ones well-being as Indigenous people, but it has also been incorporated into various cultural teachings, educational teachings and assignments and presented the desire to the youth to want to attend school on a daily basis because, it is unique in its surroundings.

This year, we currently have 32 students enrolled at St. Johns who attend on a regular basis and demonstrate pride in their learnings and accomplishments. With that being said 13 of the 32 students will be graduating this year and a waitlist has been implemented for September.

In closing, St. Johns is more than just a location for our youth; it's a place they call home. It's our responsibility to continue to nourish and flourish our youth to strive for the best, set goals and obtain them and create future sustainability for themselves, which all falls back to education.

Children and youth are our future and together we can continue down an amazing journey with them, but not without the location of St. Johns, the location is a significant fundamental contributing factor.

In Friendship,

Chantelle Berry-Manager of Soaring Eagles Program



Office of the Vice Provost,
Teaching, Learning &
Student Success

Niagara Region
1812 Sir Isaac Brock Way
St. Catharines, ON
L2S 3A1 Canada
T 905 688 5550 x4361
alathrop@brocku.ca

May 23, 2017

Mr. Marco Magazzeni
Administrator of Alternative Programs and Community Partnerships
Niagara Catholic District School Board
427 Rice Road
Welland, Ontario
L3C 7C1

Dear Mr. Magazzeni,

My colleagues and I are pleased to write a letter of support on behalf of Brock University and our affiliation with the Saint Kateri Centre (formerly St. John Valley Outdoor Centre) located in the Short Hills of Pelham, Ontario. This outdoor education facility, with its unique access to the natural resources affiliated with the UNESCO Biosphere Reserve in Niagara, has provided opportunities for a number of unique educational outreach initiatives between the Niagara Catholic District School Board and Brock University.

The Department of Recreation and Leisure Studies (RECL) at Brock University has a unique and valued symbiotic relationship with the Saint Kateri Centre as Ms. Liz Kirk holds the jointly held position of experiential education coordinator. Ms. Kirk, an outdoor education specialist, is responsible for the curricular programming of school children and youth to experience the richness of the natural environment. Concurrently, she supervises University RECL students engaged in practicum experiences which enable them to be closely mentored by an outdoor education expert.

Brock University is also committed to enhancing access to post-secondary education for students who attend Saint Kateri Centre. Brock University has recently provided access to two Principal Scholarship Awards to students from Saint Kateri Centre. These entrance scholarships are valued at \$2500. In addition, Brock University is currently working with the NCDSB on offering dual credits. A pilot is currently planned for September, 2017 to offer a dual credit in Introduction to Kinesiology (PSK4U) and a first year course in the Department of Kinesiology at Brock University. If successful, we would like to explore other dual credit opportunities between NCDSB and Brock University.

Finally, Brock University's Faculty of Education has had a very strong partnership with NCDSB with respect to teaching practicum opportunities for pre-service students. We have held initial discussions with representatives from the Saint Kateri Centre to participate in teaching practicum opportunities for pre-service students with instructors at the Centre. We view these teaching practicums as adding significant value to the preparation of our pre-service teachers under the mentorship of NCDSB teachers at the Saint Kateri Centre.

Respectfully,

A handwritten signature in black ink, appearing to read 'Anna Lathrop'.

Anna Lathrop, EdD
Vice Provost and Professor,
Teaching, Learning & Student Success
905 688 5550 x 4361

A handwritten signature in black ink, appearing to read 'James Mandigo'.

James Mandigo, PhD
Vice Provost & Professor
Enrolment Management & International
905 688 5550 x 4789

A handwritten signature in black ink, appearing to read 'Nancy R. Francis'.

Nancy R. Francis, EdD
Professor and Associate Dean
Faculty of Applied Health Sciences
905 688 5550 x 4366

Report To: Board of Directors

Subject: MNRF Water and Erosion Control Infrastructure (WECI) Agreement

Report No: 68-17

Date: June 28, 2017

RECOMMENDATION:

That the NPCA Board APPROVE the recommendation to enter into an agreement with the Ministry of Natural Resources and Forestry whereby both the MNRF and the NPCA would contribute \$40,000.00 toward the proposed St. John's Dam Safety Review pursuant to the MNRF's Water and Erosion Control Infrastructure (WECI) program.

PURPOSE:

The purpose of this report is to present to the Board for consideration an Ontario Transfer Payment Agreement between the Ministry of Natural Resources and Forestry and the NPCA whereby both the MNRF and the NPCA would contribute \$40,000.00 toward the proposed St. John's Dam Safety Review pursuant to the MNRF's Water and Erosion Control Infrastructure (WECI) program.

BACKGROUND:

The Ministry of Natural Resources and Forestry (MNRF) funds the provincial Water and Erosion Control Infrastructure (WECI) program. The WEIC program provides funding support to help ensure that major maintenance projects are undertaken on aging water control and erosion control infrastructure. MNRF typically contributes \$5 million dollars annually to this program. The WEIC program provides a grant of 50% of the total cost of all eligible projects.

In Ontario, Conservation Authorities own, operate, and maintain over 900 WEIC structures including dams, dykes, engineered channels, and erosion control works. In a typical year, projects are forwarded to the MNRF in February for consideration. The projects are then ranked by a WEIC Committee by those which have the highest potential for risk to people, property, and the environment. Applicants which are successful in obtaining funds under this program are typically informed in May. The funded projects are required to be completed by the following March.

REPORT:

The Niagara Peninsula Conservation Authority (NPCA) owns and maintains the St. John's Conservation Area in the City of Thorold. This 31.5 hectare site is situated within the Niagara Escarpment and provides a tranquil setting for wildlife and visitors. Renown for seasonal trout fishing, this Conservation Area is also popular for bird watching and contains one of the last few

local remaining examples of old growth Carolinian Forest. Please refer to the attached site plan for full layout of the property.

The NPCA originally acquired this property with the purpose of preserving this unspoiled section of the St. John's Valley and to protect and manage the headwaters of 12 Mile Creek contained within the site. In addition, the NPCA also wished to develop a stocked trout pond on the site to provide the public with a recreational fishing opportunity.

Construction of the 0.90 hectare, 2.75m deep trout pond was undertaken in 1964. The NPCA's 1980 'St. John's Master Plan' describes the facility as: 'a compacted earth dyke complete with a corrugated iron outlet pipe and a double stop log riser on the pond side (see Figure 1). This bottom draw system serves the dual purpose of (1) preventing the escape of trout from the stocked pond; and (2) allowing only the cooler waters from the bottom of the pond to continue downstream to the 12 Mile Creek.'

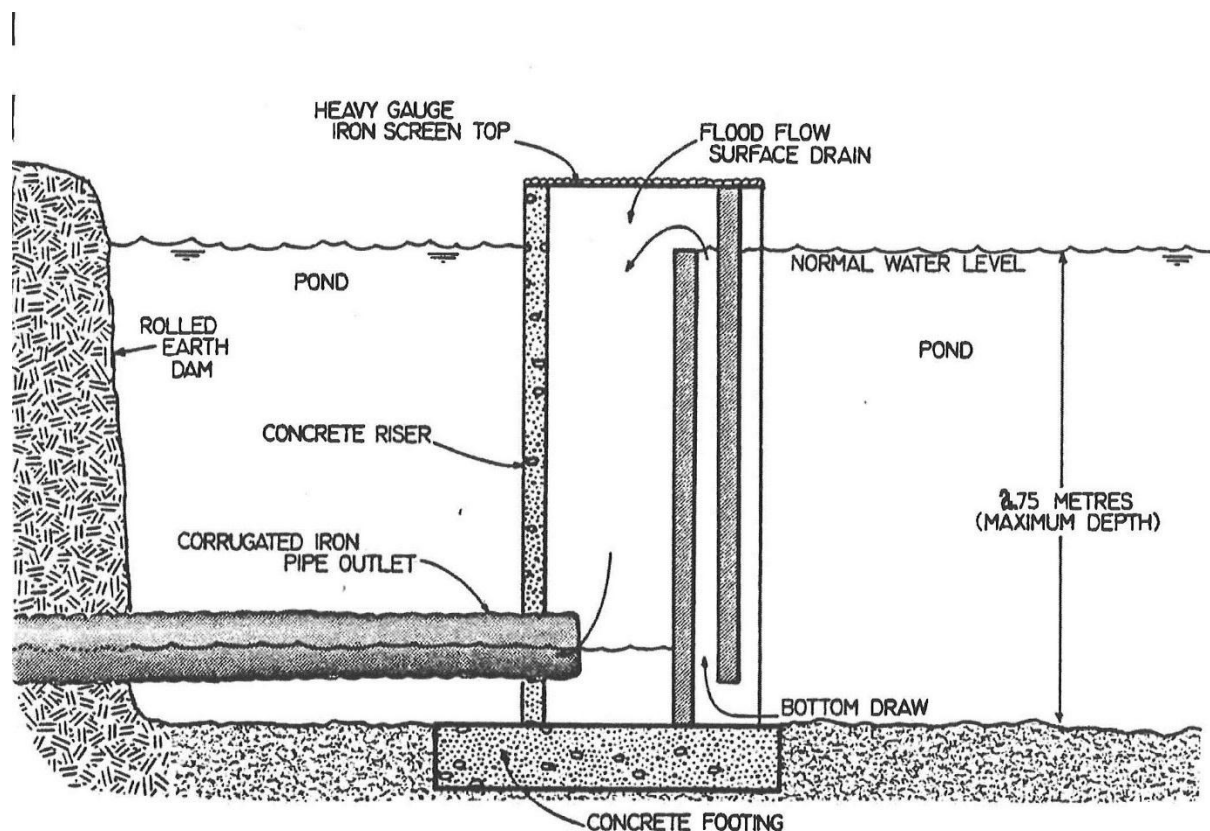


DIAGRAM ILLUSTRATING BOTTOM DRAW RISER AT ST. JOHNS CONSERVATION AREA
TROUT POND (not to scale)

Figure 1.



Photo 1. St. John's Dam (downstream face)



Photo 2. Outlet Pipe

Due to the date that this dam was constructed, the NPCA has no engineering drawings of the structure or details of construction. A search of the NPCA's records did not turn up any indication that a review of the stability, operation, or capability of this structure had ever been undertaken. The NPCA has noted that the failure of this dam could potentially result in devastating impacts to the sensitive downstream 12 Mile Creek cold water ecosystem. The NPCA has also noted that downstream residences and other structures may be significantly impacted should a dam breach occur. As such, the NPCA is proposing to undertake a Dam Safety Review of the St. John's Dam.

A Dam Safety Review is carried out by a qualified engineering firm who, by their background and experience in the design, construction, performance evaluation and operation of dams, are qualified to undertake such an assessment. A Dam Safety Review is a systematic evaluation of the safety of a dam, by means of comprehensive inspection of the structures, assessment of performance, and review of the original design and construction records to ensure that they meet current criteria. A review is also undertaken on the structure's operation, maintenance, surveillance, and emergency plans, in order to determine if they are safe in all respects, and if they are not, to determine required safety improvements.

FINANCIAL IMPLICATIONS:

Based upon quotes obtained in 2016, the NPCA has budgeted \$80,000 for the proposed St. John's Dam Safety Review. On May 19, 2017, the MNRF had informed the NPCA that this project was successful in obtaining a \$40,000 grant through the WECl program. The NPCA must provide the matching \$40,000 to fund this project.

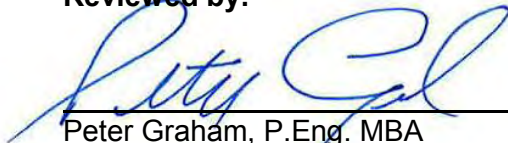
The \$40,000 required by the NPCA to fund the proposed St. John's Dam Safety Review was not allocated for in the NPCA's 2017 budget. As downstream landowners and the 12 Mile Creek ecosystem may be severely impacted should the St. John's Dam fail, it is recommended that funds be withdrawn from 'General Operating Reserves' to complete this Dam Safety Review.

RELATED REPORTS AND APPENDICES:

1. St. John's Conservation Area Site Plan
2. Ontario Transfer Payment Agreement

Prepared by: **Steve Miller, P.Eng.**
Manager, Water Resources & Restoration

Reviewed by:



Peter Graham, P.Eng. MBA
Director, Watershed Management

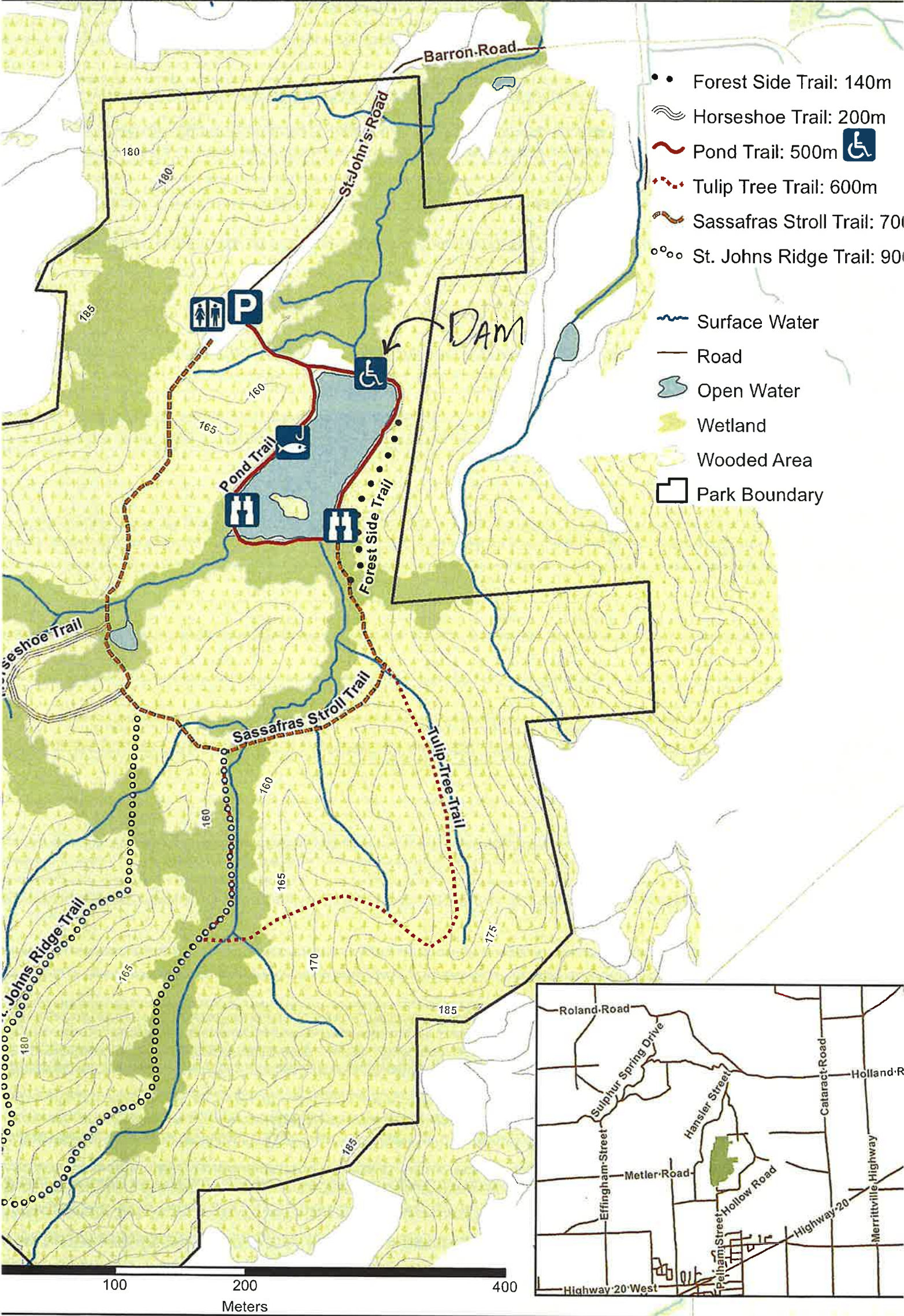
Submitted by:



Mark Brickell
Acting Chief Administrative Officer /
Secretary Treasurer

John's Conservation Area

NIAGARA PENINSULA
CONSERVATION
AUTHORITY



ONTARIO TRANSFER PAYMENT AGREEMENT

THE AGREEMENT is effective as of the _____ day of _____, 20____

B E T W E E N :

**Her Majesty the Queen in right of Ontario
as represented by the Minister of Natural Resources and
Forestry**

(the “**Province**”)

- and -

Niagara Peninsula Conservation Authority

(the “**Recipient**”)

CONSIDERATION

In consideration of the mutual covenants and agreements contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the Province and the Recipient agree as follows:

1.0 ENTIRE AGREEMENT

1.1 This Agreement, including:

Schedule “A” - General Terms and Conditions
Schedule “B” - Project Specific Information and Additional Provisions
Schedule “C” - Project Description
Schedule “D” - Budget
Schedule “E” - Payment Plan
Schedule “F” - Reports, and
any amending agreement entered into as provided for below,

constitutes the entire agreement between the Parties with respect to the subject matter contained in the Agreement and supersedes all prior oral or written representations and agreements.

2.0 COUNTERPARTS

- 2.1 The Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

3.0 AMENDING THE AGREEMENT

- 3.1 The Agreement may only be amended by a written agreement duly executed by the Parties.

4.0 ACKNOWLEDGEMENT

- 4.1 The Recipient acknowledges that:

- (a) by receiving Funds it may become subject to legislation applicable to organizations that receive funding from the Government of Ontario, including the *Broader Public Sector Accountability Act, 2010* (Ontario), the *Public Sector Salary Disclosure Act, 1996* (Ontario), and the *Auditor General Act* (Ontario);
- (b) Her Majesty the Queen in right of Ontario has issued expenses, perquisites, and procurement directives and guidelines pursuant to the *Broader Public Sector Accountability Act, 2010* (Ontario);
- (c) the Funds are:
 - (i) to assist the Recipient to carry out the Project and not to provide goods or services to the Province;
 - (ii) funding for the purposes of the *Public Sector Salary Disclosure Act, 1996* (Ontario);
- (d) the Province is not responsible for carrying out the Project; and
- (e) the Province is bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province in connection with the Project or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act.

- SIGNATURE PAGE FOLLOWS -

The Parties have executed the Agreement on the dates set out below.

**HER MAJESTY THE QUEEN IN RIGHT OF
ONTARIO as represented by Minister of Natural
Resources and Forestry**

Date

Name: Carrie Hayward
Title: Assistant Deputy Minister

Niagara Peninsula Conservation Authority

Date

Name: Mark Brickell
Title: A/CAO

I have authority to bind the Recipient.

Date

Name:
Title:

I have authority to bind the Recipient.

SCHEDULE "A"

GENERAL TERMS AND CONDITIONS

A1.0 INTERPRETATION AND DEFINITIONS

A1.1 Interpretation. For the purposes of interpretation:

- (a) words in the singular include the plural and vice-versa;
- (b) words in one gender include all genders;
- (c) the headings do not form part of the Agreement; they are for reference only and will not affect the interpretation of the Agreement;
- (d) any reference to dollars or currency will be in Canadian dollars and currency; and
- (e) "include", "includes" and "including" denote that the subsequent list is not exhaustive.

A1.2 Definitions. In the Agreement, the following terms will have the following meanings:

"Additional Provisions" means the terms and conditions referred to in section A9.1 and as specified in Schedule "B".

"Agreement" means this agreement entered into between the Province and the Recipient and includes all of the schedules listed in section 1.1 and any amending agreement entered into pursuant to section 3.1.

"Budget" means the budget attached to the Agreement as Schedule "D".

"Business Day" means any working day, Monday to Friday inclusive, excluding statutory and other holidays, namely: New Year's Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day and any other day on which the Province has elected to be closed for business.

"Effective Date" means the date set out at the top of the Agreement.

"Event of Default" has the meaning ascribed to it in section A14.1.

"Expiry Date" means the date on which the Agreement will expire and is the date provided for in Schedule "B".

“Funding Year” means:

- (a) in the case of the first Funding Year, the period commencing on the Effective Date and ending on the following March 31; and
- (b) in the case of Funding Years subsequent to the first Funding Year, the period commencing on April 1 following the end of the previous Funding Year and ending on the following March 31.

“Funds” means the money the Province provides to the Recipient pursuant to the Agreement.

“Indemnified Parties” means Her Majesty the Queen in right of Ontario, Her ministers, agents, appointees, and employees.

“Maximum Funds” means the maximum amount the Province will provide the Recipient under the Agreement as provided for in Schedule “B”.

“Notice” means any communication given or required to be given pursuant to the Agreement.

“Notice Period” means the period of time within which the Recipient is required to remedy an Event of Default pursuant to section 14.3(b), and includes any such period or periods of time by which the Province extends that time in accordance with section A14.4.

“Parties” means the Province and the Recipient.

“Party” means either the Province or the Recipient.

“Project” means the undertaking described in Schedule “C”.

“Reports” means the reports described in Schedule “F”.

A2.0 REPRESENTATIONS, WARRANTIES, AND COVENANTS

A2.1 General. The Recipient represents, warrants, and covenants that:

- (a) it is, and will continue to be, a validly existing legal entity with full power to fulfill its obligations under the Agreement;
- (b) it has, and will continue to have, the experience and expertise necessary to carry out the Project;

- (c) it is in compliance with, and will continue to comply with, all federal and provincial laws and regulations, all municipal by-laws, and any other orders, rules, and by-laws related to any aspect of the Project, the Funds, or both; and
- (d) unless otherwise provided for in the Agreement, any information the Recipient provided to the Province in support of its request for funds (including information relating to any eligibility requirements) was true and complete at the time the Recipient provided it and will continue to be true and complete.

A2.2 Execution of Agreement. The Recipient represents and warrants that it has:

- (a) the full power and authority to enter into the Agreement; and
- (b) taken all necessary actions to authorize the execution of the Agreement.

A2.3 Governance. The Recipient represents, warrants, and covenants that it has, will maintain in writing, and will follow:

- (a) a code of conduct and ethical responsibilities for all persons at all levels of the Recipient's organization;
- (b) procedures to enable the Recipient's ongoing effective functioning;
- (c) decision-making mechanisms for the Recipient;
- (d) procedures to enable the Recipient to manage Funds prudently and effectively;
- (e) procedures to enable the Recipient to complete the Project successfully;
- (f) procedures to enable the Recipient to identify risks to the completion of the Project and strategies to address the identified risks, all in a timely manner;
- (g) procedures to enable the preparation and submission of all Reports required pursuant to Article A7.0; and
- (h) procedures to enable the Recipient to address such other matters as the Recipient considers necessary to enable the Recipient to carry out its obligations under the Agreement.

A2.4 Supporting Proof. Upon the request of the Province, the Recipient will provide the Province with proof of the matters referred to in this Article A2.0.

A3.0 TERM OF THE AGREEMENT

A3.1 Term. The term of the Agreement will commence on the Effective Date and will expire on the Expiry Date unless terminated earlier pursuant to Article A12.0, Article A13.0, or Article A14.0.

A4.0 FUNDS AND CARRYING OUT THE PROJECT

A4.1 Funds Provided. The Province will:

- (a) provide the Recipient up to the Maximum Funds for the purpose of carrying out the Project;
- (b) provide the Funds to the Recipient in accordance with the Payment Plan attached to the Agreement as Schedule “E”; and
- (c) deposit the Funds into an account designated by the Recipient provided that the account:
 - (i) resides at a Canadian financial institution; and
 - (ii) is in the name of the Recipient.

A4.2 Limitation on Payment of Funds. Despite section A4.1:

- (a) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides the certificates of insurance or other proof as the Province may request pursuant to section A11.2;
- (b) the Province is not obligated to provide instalments of Funds until it is satisfied with the progress of the Project;
- (c) the Province may adjust the amount of Funds it provides to the Recipient in any Funding Year based upon the Province’s assessment of the information the Recipient provides to the Province pursuant to section A7.1; and
- (d) if, pursuant to the *Financial Administration Act* (Ontario), the Province does not receive the necessary appropriation from the Ontario Legislature for payment under the Agreement, the Province is not obligated to make any such payment, and, as a consequence, the Province may:
 - (i) reduce the amount of Funds and, in consultation with the Recipient, change the Project; or
 - (ii) terminate the Agreement pursuant to section A13.1.

A4.3 Use of Funds and Carry Out the Project. The Recipient will do all of the following:

- (a) carry out the Project;
- (b) use the Funds only for the purpose of carrying out the Project;
- (c) spend the Funds only in accordance with the Budget;
- (d) not use the Funds to cover any cost that has or will be funded or reimbursed by one or more of any third party, ministry, agency, or organization of the Government of Ontario.

A4.4 Interest Bearing Account. If the Province provides Funds before the Recipient's immediate need for the Funds, the Recipient will place the Funds in an interest bearing account in the name of the Recipient at a Canadian financial institution.

A4.5 Interest. If the Recipient earns any interest on the Funds, the Province may:

- (a) deduct an amount equal to the interest from any further instalments of Funds; or
- (b) demand from the Recipient the repayment of an amount equal to the interest.

A4.6 Maximum Funds. The Recipient acknowledges that the Funds available to it pursuant to the Agreement will not exceed the Maximum Funds.

A4.7 Rebates, Credits, and Refunds. The Recipient acknowledges that the amount of Funds available to it pursuant to the Agreement is based on the actual costs to the Recipient to carry out the Project, less any costs (including taxes) for which the Recipient has received, will receive, or is eligible to receive, a rebate, credit, or refund.

A5.0 RECIPIENT'S ACQUISITION OF GOODS OR SERVICES, AND DISPOSAL OF ASSETS

A5.1 Acquisition. If the Recipient acquires goods, services, or both with the Funds, it will:

- (a) do so through a process that promotes the best value for money; and
- (b) comply with the *Broader Public Sector Accountability Act, 2010* (Ontario), including any procurement directive issued thereunder, to the extent applicable.

A5.2 Disposal. The Recipient will not, without the Province's prior written consent, sell, lease, or otherwise dispose of any asset purchased or created with the Funds or for which Funds were provided, the cost of which exceeded the amount as provided for in Schedule "B" at the time of purchase.

A6.0 CONFLICT OF INTEREST

A6.1 No Conflict of Interest. The Recipient will carry out the Project and use the Funds without an actual, potential, or perceived conflict of interest.

A6.2 Conflict of Interest Includes. For the purposes of this Article, a conflict of interest includes any circumstances where:

- (a) the Recipient; or
- (b) any person who has the capacity to influence the Recipient's decisions, has outside commitments, relationships, or financial interests that could, or could be seen to, interfere with the Recipient's objective, unbiased, and impartial judgment relating to the Project, the use of the Funds, or both.

A6.3 Disclosure to Province. The Recipient will:

- (a) disclose to the Province, without delay, any situation that a reasonable person would interpret as an actual, potential, or perceived conflict of interest; and
- (b) comply with any terms and conditions that the Province may prescribe as a result of the disclosure.

A7.0 REPORTS, ACCOUNTING, AND REVIEW

A7.1 Preparation and Submission. The Recipient will:

- (a) submit to the Province at the address referred to in section A18.1, all Reports in accordance with the timelines and content requirements provided for in Schedule "F", or in a form as specified by the Province from time to time;
- (b) submit to the Province at the address referred to in section A18.1, any other reports as may be requested by the Province in accordance with the timelines and content requirements specified by the Province;
- (c) ensure that all Reports and other reports are completed to the satisfaction of the Province; and

- (d) ensure that all Reports and other reports are signed on behalf of the Recipient by an authorized signing officer.

A7.2 Record Maintenance. The Recipient will keep and maintain:

- (a) all financial records (including invoices) relating to the Funds or otherwise to the Project in a manner consistent with generally accepted accounting principles; and
- (b) all non-financial documents and records relating to the Funds or otherwise to the Project.

A7.3 Inspection. The Province, any authorized representative, or any independent auditor identified by the Province may, at the Province's expense, upon twenty-four hours' Notice to the Recipient and during normal business hours, enter upon the Recipient's premises to review the progress of the Project and the Recipient's allocation and expenditure of the Funds and, for these purposes, the Province, any authorized representative, or any independent auditor identified by the Province may take one or more of the following actions:

- (a) inspect and copy the records and documents referred to in section A7.2;
- (b) remove any copies made pursuant to section A7.3(a) from the Recipient's premises; and
- (c) conduct an audit or investigation of the Recipient in respect of the expenditure of the Funds, the Project, or both.

A7.4 Disclosure. To assist in respect of the rights provided for in section A7.3, the Recipient will disclose any information requested by the Province, any authorized representatives, or any independent auditor identified by the Province, and will do so in the form requested by the Province, any authorized representative, or any independent auditor identified by the Province, as the case may be.

A7.5 No Control of Records. No provision of the Agreement will be construed so as to give the Province any control whatsoever over the Recipient's records.

A7.6 Auditor General. For greater certainty, the Province's rights under this Article are in addition to any rights provided to the Auditor General pursuant to section 9.1 of the *Auditor General Act* (Ontario).

A8.0 COMMUNICATIONS REQUIREMENTS

A8.1 Acknowledge Support. Unless otherwise directed by the Province, the Recipient will:

- (a) acknowledge the support of the Province for the Project; and
- (b) ensure that the acknowledgement referred to in section A8.1(a) is in a form and manner as directed by the Province.

A8.2 Publication. The Recipient will indicate, in any of its Project-related publications, whether written, oral, or visual, that the views expressed in the publication are the views of the Recipient and do not necessarily reflect those of the Province.

A9.0 FURTHER CONDITIONS

A9.1 Additional Provisions. The Recipient will comply with any Additional Provisions. In the event of a conflict or inconsistency between any of the requirements of the Additional Provisions and any requirements of this Schedule “A”, the Additional Provisions will prevail.

A10.0 INDEMNITY

A10.1 Indemnification. The Recipient hereby agrees to indemnify and hold harmless the Indemnified Parties from and against any and all liability, loss, costs, damages, and expenses (including legal, expert and consultant fees), causes of action, actions, claims, demands, lawsuits, or other proceedings, by whomever made, sustained, incurred, brought, or prosecuted, in any way arising out of or in connection with the Project or otherwise in connection with the Agreement, unless solely caused by the negligence or wilful misconduct of the Indemnified Parties.

A10.2 Recipient’s Participation. The Recipient will, at its expense, to the extent requested by the Province, participate in or conduct the defence of any proceeding against any Indemnified Parties and any negotiations for their settlement.

A10.3 Province's Election. The Province may elect to participate in or conduct the defence of any proceeding by providing Notice to the Recipient of such election without prejudice to any other rights or remedies of the Province under the Agreement, at law, or in equity. Each Party participating in the defence will do so by actively participating with the other's counsel.

A10.4 Settlement Authority. The Recipient will not enter into a settlement of any proceeding against any Indemnified Parties unless the Recipient has obtained the prior written approval of the Province. If the Recipient is requested by the Province to participate in or conduct the defence of any proceeding, the Province will co-operate with and assist the Recipient to the fullest extent possible in the proceeding and any related settlement negotiations.

A10.5 Recipient's Co-operation. If the Province conducts the defence of any proceedings, the Recipient will co-operate with and assist the Province to the fullest extent possible in the proceedings and any related settlement negotiations

A11.0 INSURANCE

A11.1 Recipient's Insurance. The Recipient represents, warrants, and covenants that it has, and will maintain, at its own cost and expense, with insurers having a secure A.M. Best rating of B+ or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person carrying out a project similar to the Project would maintain, including commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury, and property damage, to an inclusive limit of not less than the amount provided for in Schedule "B" per occurrence. The policy will include the following:

- (a) the Indemnified Parties as additional insureds with respect to liability arising in the course of performance of the Recipient's obligations under, or otherwise in connection with, the Agreement;
- (b) a cross-liability clause;
- (c) contractual liability coverage; and
- (d) a 30-day written notice of cancellation.

A11.2 Proof of Insurance. The Recipient will:

- (a) provide to the Province, either:
 - (i) certificates of insurance that confirm the insurance coverage as provided for in section A11.1; or
 - (ii) other proof that confirms the insurance coverage as provided for in section A11.1; and

- (b) upon the request of the Province, provide to the Province a copy of any insurance policy.

A12.0 TERMINATION ON NOTICE

A12.1 Termination on Notice. The Province may terminate the Agreement at any time without liability, penalty, or costs upon giving at least 30 days' Notice to the Recipient.

A12.2 Consequences of Termination on Notice by the Province. If the Province terminates the Agreement pursuant to section A12.1, the Province may take one or more of the following actions:

- (a) cancel all further instalments of Funds;
- (b) demand the repayment of any Funds remaining in the possession or under the control of the Recipient; and
- (c) determine the reasonable costs for the Recipient to wind down the Project, and do either or both of the following:
 - (i) permit the Recipient to offset such costs against the amount the Recipient owes pursuant to section A12.2(b); and
 - (ii) subject to section A4.7, provide Funds to the Recipient to cover such costs.

A13.0 TERMINATION WHERE NO APPROPRIATION

A13.1 Termination Where No Appropriation. If, as provided for in section A4.2(d), the Province does not receive the necessary appropriation from the Ontario Legislature for any payment the Province is to make pursuant to the Agreement, the Province may terminate the Agreement immediately without liability, penalty, or costs by giving Notice to the Recipient.

A13.2 Consequences of Termination Where No Appropriation. If the Province terminates the Agreement pursuant to section A13.1, the Province may take one or more of the following actions:

- (a) cancel all further instalments of Funds;
- (b) demand the repayment of any Funds remaining in the possession or under the control of the Recipient; and

- (c) determine the reasonable costs for the Recipient to wind down the Project and permit the Recipient to offset such costs against the amount owing pursuant to section A13.2(b).

A13.3 No Additional Funds. For greater clarity, if the costs determined pursuant to section A13.2(c) exceed the Funds remaining in the possession or under the control of the Recipient, the Province will not provide additional Funds to the Recipient.

A14.0 EVENT OF DEFAULT, CORRECTIVE ACTION, AND TERMINATION FOR DEFAULT

A14.1 Events of Default. Each of the following events will constitute an Event of Default:

- (a) in the opinion of the Province, the Recipient breaches any representation, warranty, covenant, or other material term of the Agreement, including failing to do any of the following in accordance with the terms and conditions of the Agreement:
 - (i) carry out the Project;
 - (ii) use or spend Funds; or
 - (iii) provide, in accordance with section A7.1, Reports or such other reports as may have been requested pursuant to section A7.1(b);
- (b) the Recipient's operations, or its organizational structure, changes such that it no longer meets one or more of the eligibility requirements of the program under which the Province provides the Funds;
- (c) the Recipient makes an assignment, proposal, compromise, or arrangement for the benefit of creditors, or a creditor makes an application for an order adjudging the Recipient bankrupt, or applies for the appointment of a receiver; or
- (d) the Recipient ceases to operate.

A14.2 Consequences of Events of Default and Corrective Action. If an Event of Default occurs, the Province may, at any time, take one or more of the following actions:

- (a) initiate any action the Province considers necessary in order to facilitate the successful continuation or completion of the Project;
- (b) provide the Recipient with an opportunity to remedy the Event of Default;

- (c) suspend the payment of Funds for such period as the Province determines appropriate;
- (d) reduce the amount of the Funds;
- (e) cancel all further instalments of Funds;
- (f) demand the repayment of any Funds remaining in the possession or under the control of the Recipient;
- (g) demand the repayment of an amount equal to any Funds the Recipient used, but did not use in accordance with the Agreement;
- (h) demand the repayment of an amount equal to any Funds the Province provided to the Recipient; and
- (i) terminate the Agreement at any time, including immediately, without liability, penalty or costs to the Province upon giving Notice to the Recipient.

A14.3 Opportunity to Remedy. If, in accordance with section A14.2(b), the Province provides the Recipient with an opportunity to remedy the Event of Default, the Province will provide Notice to the Recipient of:

- (a) the particulars of the Event of Default; and
- (b) the Notice Period.

A14.4 Recipient not Remediating. If the Province has provided the Recipient with an opportunity to remedy the Event of Default pursuant to section A14.2(b), and:

- (a) the Recipient does not remedy the Event of Default within the Notice Period;
- (b) it becomes apparent to the Province that the Recipient cannot completely remedy the Event of Default within the Notice Period; or
- (c) the Recipient is not proceeding to remedy the Event of Default in a way that is satisfactory to the Province,

the Province may extend the Notice Period, or initiate any one or more of the actions provided for in sections A14.2(a), (c), (d), (e), (f), (g), (h), and (i).

A14.5 When Termination Effective. Termination under this Article will take effect as provided for in the Notice.

A15.0 FUNDS AT THE END OF A FUNDING YEAR

A15.1 Funds at the End of a Funding Year. Without limiting any rights of the Province under Article A14.0, if the Recipient has not spent all of the Funds allocated for the Funding Year as provided for in the Budget, the Province may take one or both of the following actions:

- (a) demand the return of the unspent Funds; and
- (b) adjust the amount of any further instalments of Funds accordingly.

A16.0 FUNDS UPON EXPIRY

A16.1 Funds Upon Expiry. The Recipient will, upon expiry of the Agreement, return to the Province any Funds remaining in its possession or under its control.

A17.0 REPAYMENT

A17.1 Repayment of Overpayment. If at any time the Province provides Funds in excess of the amount to which the Recipient is entitled under the Agreement, the Province may:

- (a) deduct an amount equal to the excess Funds from any further instalments of Funds; or
- (b) demand that the Recipient pay an amount equal to the excess Funds to the Province.

A17.2 Debt Due. If, pursuant to the Agreement:

- (a) the Province demands the payment of any Funds or an amount equal to any Funds from the Recipient; or
- (b) the Recipient owes any Funds or an amount equal to any Funds to the Province, whether or not their return or repayment has been demanded by the Province,

such Funds or other amount will be deemed to be a debt due and owing to the Province by the Recipient, and the Recipient will pay or return the amount to the Province immediately, unless the Province directs otherwise.

A17.3 Interest Rate. The Province may charge the Recipient interest on any money owing by the Recipient at the then current interest rate charged by the Province of Ontario on accounts receivable.

A17.4 Payment of Money to Province. The Recipient will pay any money owing to the Province by cheque payable to the “Ontario Minister of Finance” and delivered to the Province as provided for in Schedule “B”.

A17.5 Fails to Repay. Without limiting the application of section 43 of the *Financial Administration Act* (Ontario), if the Recipient fails to repay any amount owing under the Agreement, Her Majesty the Queen in right of Ontario may deduct any unpaid amount from any money payable to the Recipient by Her Majesty the Queen in right of Ontario.

A18.0 NOTICE

A18.1 Notice in Writing and Addressed. Notice will be in writing and will be delivered by email, postage-prepaid mail, personal delivery, or fax, and will be addressed to the Province and the Recipient respectively as provided for Schedule “B”, or as either Party later designates to the other by Notice.

A18.2 Notice Given. Notice will be deemed to have been given:

- (a) in the case of postage-prepaid mail, five Business Days after the Notice is mailed; or
- (b) in the case of email, personal delivery, or fax, one Business Day after the Notice is delivered.

A18.3 Postal Disruption. Despite section A18.2(a), in the event of a postal disruption:

- (a) Notice by postage-prepaid mail will not be deemed to be received; and
- (b) the Party giving Notice will provide Notice by email, personal delivery, or fax.

A19.0 CONSENT BY PROVINCE AND COMPLIANCE BY RECIPIENT

A19.1 Consent. When the Province provides its consent pursuant to the Agreement, it may impose any terms and conditions on such consent and the Recipient will comply with such terms and conditions.

A20.0 SEVERABILITY OF PROVISIONS

A20.1 Invalidity or Unenforceability of Any Provision. The invalidity or unenforceability of any provision of the Agreement will not affect the validity or enforceability of any other provision of the Agreement. Any invalid or unenforceable provision will be deemed to be severed.

A21.0 WAIVER

A21.1 Waivers in Writing. If a Party fails to comply with any term of the Agreement, that Party may only rely on a waiver of the other Party if the other Party has provided a written waiver in accordance with the Notice provisions in Article A18.0. Any waiver must refer to a specific failure to comply and will not have the effect of waiving any subsequent failures to comply.

A22.0 INDEPENDENT PARTIES

A22.1 Parties Independent. The Recipient is not an agent, joint venturer, partner, or employee of the Province, and the Recipient will not represent itself in any way that might be taken by a reasonable person to suggest that it is, or take any actions that could establish or imply such a relationship.

A23.0 ASSIGNMENT OF AGREEMENT OR FUNDS

A23.1 No Assignment. The Recipient will not, without the prior written consent of the Province, assign any of its rights or obligations under the Agreement.

A23.2 Agreement Binding. All rights and obligations contained in the Agreement will extend to and be binding on the Parties' respective heirs, executors, administrators, successors, and permitted assigns.

A24.0 GOVERNING LAW

A24.1 Governing Law. The Agreement and the rights, obligations, and relations of the Parties will be governed by and construed in accordance with the laws of the Province of Ontario and the applicable federal laws of Canada. Any actions or proceedings arising in connection with the Agreement will be conducted in the courts of Ontario, which will have exclusive jurisdiction over such proceedings.

A25.0 FURTHER ASSURANCES

A25.1 Agreement into Effect. The Recipient will provide such further assurances as the Province may request from time to time with respect to any matter to which the Agreement pertains, and will otherwise do or cause to be done all acts or things necessary to implement and carry into effect the terms and conditions of the Agreement to their full extent.

A26.0 JOINT AND SEVERAL LIABILITY

A26.1 Joint and Several Liability. Where the Recipient is comprised of more than one entity, all such entities will be jointly and severally liable to the Province for the fulfillment of the obligations of the Recipient under the Agreement.

A27.0 RIGHTS AND REMEDIES CUMULATIVE

A27.1 Rights and Remedies Cumulative. The rights and remedies of the Province under the Agreement are cumulative and are in addition to, and not in substitution for, any of its rights and remedies provided by law or in equity.

A28.0 FAILURE TO COMPLY WITH OTHER AGREEMENTS

A28.1 Other Agreements. If the Recipient:

- (a) has failed to comply with any term, condition, or obligation under any other agreement with Her Majesty the Queen in right of Ontario or one of Her agencies (a “**Failure**”);
- (b) has been provided with notice of such Failure in accordance with the requirements of such other agreement;
- (c) has, if applicable, failed to rectify such Failure in accordance with the requirements of such other agreement; and
- (d) such Failure is continuing,

the Province may suspend the payment of Funds for such period as the Province determines appropriate.

A29.0 SURVIVAL

A29.1 Survival. The following Articles and sections, and all applicable cross-referenced sections and schedules, will continue in full force and effect for a period of seven years from the date of expiry or termination of the Agreement: Article 1.0, Article 3.0, Article A1.0 and any other applicable definitions, sections A4.2(d), A4.5, section A5.2, section A7.1 (to the extent that the Recipient has not provided the Reports or other reports as may have been requested to the satisfaction of the Province), sections A7.2, A7.3, A7.4, A7.5, A7.6, Article A8.0, Article A10.0, sections A12.2, sections A13.2, A13.3, sections A14.1, A14.2(d), (e), (f), (g) and (h), Article A16.0, Article A17.0, Article A18.0, Article A20.0, section A23.2, Article A24.0, Article A26.0, Article A27.0, Article A28.0 and Article A29.0.

- END OF GENERAL TERMS AND CONDITIONS -

SCHEDULE “B”
PROJECT SPECIFIC INFORMATION AND ADDITIONAL PROVISIONS

Maximum Funds	\$40,000.00
Expiry Date	March 31, 2018
Amount for the purposes of section A5.2 (Disposal) of Schedule “A”	\$5,000
Insurance	\$ 2,000,000
Contact information for the purposes of Notice to the Province	<p>Name: Ministry of Natural Resources and Forestry</p> <p>Address: 5th Floor South, 300 Water Street, Peterborough, ON K9J 3C7</p> <p>Attention: Kathy Woeller</p> <p>Fax: 705-755-1201</p> <p>Email: Kathy.Woeller@ontario.ca</p>
Contact information for the purposes of Notice to the Recipient	<p>Name: Niagara Peninsula Conservation Authority</p> <p>Address: 250 Thorold Road West, 3rd Floor, Welland, ON L3C 3W2</p> <p>Attention: Mark Brickell</p> <p>Email: mbrickell@npca.ca</p>
Contact information for the senior financial person in the Recipient organization (e.g., CFO, CAO) – to respond as required to requests from the Province related to the Agreement	<p>Name:</p> <p>Position:</p> <p>Fax:</p> <p>Email:</p>

Additional Provisions:

None

SCHEDULE “C” PROJECT DESCRIPTION

Background

To provide capital funding towards the Conservation Authority (CA) to undertake essential repairs and studies on existing Authority owned and/or operated water and erosion control infrastructure necessary to protect human life, property and communities from water-related hazards.

To be eligible under this program each Authority shall provide confirmation of local share of matching municipal funding in the year the project(s) are to be implemented as well as meet the defined criteria in the Water and Erosion Control Infrastructure Program (WECI) Guidelines.

At year end each Authority provides a project report at the completion of each project to demonstrate that the capital project was completed, and to verify the final project costs. This report should contain before and after photos of the project site.

The Provincial transfer payment is matched 50/50 through municipal funding.

Project Objectives

- 1) Natural Hazard prevention and public safety
- 2) Major maintenance of CA owned or managed flood and erosion control structures
- 3) Studies of CA owned or managed flood and erosion control structures that inform and scope future repairs

Scope of Project

Water and erosion control infrastructure repair and or study project(s) as listed in Schedule C. All work must be in accordance with the individual project proposal as submitted annually to the WECI Committee for approval.

Timelines

April 1, 2017 to March 31, 2018

Project ID: S.17. 008- St. John's Dam Safety Review

Background and Scope

St. John's Dam was constructed in 1965 by the installation of an earth dyke across 12 Mile Creek. The associated pond has an area of approximately 0.9 hectares and is approximately 3.0m deep.

A dam safety Review has never been carried out on this dam. In order to allow the NPCA to undertake our due diligence for this facility, matching funds are being sought to complete this study.

**SCHEDULE “D”
BUDGET**

Studies

Project ID	Project Name and Description	Total Cost	Local Share (50%)	Provincial Share (50%)
S.17.008	St. John's Dam Safety Review	\$80,000.00	\$40,000.00	\$40,000.00
Total				\$40,000.00

SCHEDULE “E”**PAYMENT PLAN****PAYMENT SCHEDULE**

The Crown agrees to distribute the capital funding in three payments: the first payment of 25% of the provincial share of the **estimated** project costs, at the start of the project; and, the second payment (where required), approximately 50% of the provincial share of project. This may be adjusted based on in year reporting information. The third payment of approximately 25% will be based on 4th quarter confirmation report results.

PAYMENT DATE or MILESTONE	AMOUNT
1.25% of the provincial share will be forwarded to the Authority upon submitting confirmation of municipal matched funding and signing of the Agreement by the Ministry of Natural Resources and the conservation authority.	\$10,000.00
2. 50% of the provincial share will be forwarded to the Authority based on the results of the In Year Report.	\$20, 000.00
3. Final payment, approximately 25% of the provincial share, will be released based on need and progress reporting in 4 th Quarter Confirmation Report.	\$10,000.00
4. Final Year End Report on project results and expenditures	

SCHEDULE “F”**REPORTS**

Name of Report	Due Date
1. In Year Status Report	October 16, 2017
2. 4 th Quarter Confirmation Report	January 12, 2018
3. Final Expenditure Report	March 15, 2018

Report Details

1. An in year status report signed by the Chief Administrative Officer or General Manager due October 16, 2017 indicating the progress of the project(s) and demonstration of need for the 2nd instalment (template attached).

2. A 4th Quarter confirmation report signed by the Chief Administrative Officer or General Manager due on January 12, 2018 to confirm status of project(s) and demonstration of need for the amount of final instalment (template attached).

3. By March 15, 2018, a Year End report package report signed by the Chief Administrative Officer or General Manager. The report shall include:

- Final Expenditure Report must be signed by the Chief Administrative Officer or General Manager confirming Project expenditures and that the expenditures are in accordance with the Authority's Transfer Payment Agreement. A template for this Expenditures Report is attached.
- Study report if applicable.
- Final invoices (from contractors, consultants, materials, etc.) and general ledger for staff time. If staff time is being included, please ensure that it doesn't duplicate any staff time being claimed under Section 39 funding. In addition, provide documentation notes that only the non-refundable amount of HST is included in the cost of the project.
- Detailed photos before and after of the repair projects
- Supporting documentation is to be organized by project into separate files

					In-Year WECI Report Template			
Project ID	Project Name	Total Budget	Provincial Transfer Payment	1st Installment 25%	Progress (October)	Spending to Date (October)	Refined Total Project Cost	Funds available to reallocate to the next highest scoring WECI project(s)
					<i>Provide specific details of project status</i>	<i>MNRF portion of the funding spent</i>		under/over (D-H)
<p>Note: All funds must be spent by March 15, 2018 .</p> <p>Please notify MNRF when project delay's or project savings occur that would prevent the CA from being on budget.</p> <p>I hereby certify that all expenditures are made in accordance with the Transfer Payment Agreement between the Province and the Authority, and that complete records have been kept for these program areas.</p>								
General Manager/Chief Administrative Officer					Date			

[illegible]

					WECI Year End Report Template 2017/18			
Project ID	Project Name and Description	Approved Provincial Transfer Payment	Adjusted Provincial Transfer Payment January	Final Expenditure	Results Achieved	Supporting Documentation	Municipality(ies)	Comments
					Provide high level project outcomes (see comment for examples)	Indicate Report Package includes report, invoices and photos	Funding Partners	(under/over)
Total								
I hereby certify that all expenditures are made in accordance with the Transfer Payment Agreement between the Province and the Authority, and that complete records have been kept for these program areas.								
General Manager/Chief Administrative Officer				Date				

Report To: Board of Directors

Subject: Ontario Power Generation Data Sharing Agreement

Report No: 69-17

Date: June 28, 2017

RECOMMENDATION:

That the NPCA Board **APPROVE** the recommendation to enter into an agreement with Ontario Power Generation (OPG) whereby the NPCA and OPG would share stream gauge data between the two organizations as per the attached 'Information Sharing – Flow and Elevation Data' Agreement.

PURPOSE:

The purpose of this report is to present to the Board for consideration an 'Information Sharing – Flow and Elevation Data' Agreement between the NPCA and OPG which would allow for the sharing of stream gauge data between the two organizations.

BACKGROUND:

One of the prime mandates of a Conservation Authority is to forecast where and when flooding is likely to occur in its watershed and issue appropriate messages to municipal emergency management officials, the public, and the media. Advanced warning of an impending flood allows municipalities and other government agencies to put emergency response plans into operation, and if necessary, evacuate communities.

To this end, the Niagara Peninsula Conservation Authority monitors stream flow, water level, rainfall, and other meteorological information recorded at NPCA gauge stations located across the watershed. To determine the current condition of the creeks, streams, and the Great Lakes within the watershed, the information from each station is transmitted to the NPCA's main office in near-real time where it is analyzed.

REPORT:

Ontario Power Generation (OPG) maintains its own network of water level and stream flow gauges within the Niagara River watershed in order to assist with the operation of their local Sir Adam Beck and DeCew hydropower generating stations (please see the attached OPG Hydrometeorologic Network diagram). Of all these many gauge stations, the NPCA has identified four (4) gauge stations which would serve to form a more comprehensive understanding of the condition of some of the watercourses in our watershed.

The OPG gauge stations of interest are described below:

- 1) *Niagara River at Black Creek* – data from this gauge station would allow the NPCA to monitor water level conditions that may impact the residents of Douglastown, a hamlet that is located at the mouth of Black Creek in Fort Erie.
- 2) *Niagara River at Frenchman's Creek* – data from this gauge station would allow the NPCA to monitor water level conditions that may impact the Industrial Drive neighbourhood located in a flood-prone area of Fort Erie along Frenchman's Creek.
- 3) *Niagara River at the Material Docks* – data from this gauge station would allow the NPCA to monitor water level conditions that may impact the residents living adjacent to the Welland River and Lyon's Creek in the village of Chippawa (in the City of Niagara Falls).
- 4) *Welland River at Montrose Road* – data from this gauge station would allow the NPCA to monitor water levels in the Welland River to gain a better understanding of the conditions occurring far downstream of the NPCA's existing stream gauge station located at the Old Siphon in the City of Welland. During a flood condition, the residents living adjacent to the Welland River in the community of Port Robinson (in the City of Thorold) and in the western portion of the City of Niagara Falls may be impacted.

NPCA staff have held initial discussions with senior OPG staff and have reached an agreement in principle which would provide for the sharing of stream gauge data between the two organizations. OPG has provided the NPCA with the attached draft Information Sharing Agreement for consideration.

Staff note that the attached 'Information Sharing – Flow and Elevation Data' Agreement between the NPCA and OPG has been reviewed by legal counsel - Ken Hill, Partner of HHL Law Firm (at the NPCA's request).

FINANCIAL IMPLICATIONS:

Should this data sharing agreement be approved, NPCA staff will then begin to collaborate with OPG technical staff in order to determine the most efficient and cost effective manner to obtain OPG stream gauge data.

Should a web-based solution be undertaken, then the NPCA's existing Information Technology infrastructure could be utilized at no additional cost to the NPCA.

Should an alternative method of data collection be required, any additional funding requirements will be identified for consideration in the NPCA's 2018 budget.

RELATED REPORTS AND APPENDICES:

1. Draft 'Information Sharing – Flow and Elevation Data' Agreement between NPCA and OPG
2. OPG's Niagara River Watershed Hydrometeorologic Network

Prepared by: Steve Miller, P.Eng.; Manager, Water Resources & Restoration

Reviewed by:



Peter Graham, P.Eng. MBA;
Director, Watershed Management

Submitted by:



Mark Brickell
Acting Chief Administrative Officer /
Secretary Treasurer



[insert address and contact information for signatory]

April 3, 2017

[Insert NPCA contact Information]

Dear [insert signatory for NPCA],

Information Sharing- Flow and Elevation Data

Ontario Power Generation Inc. ("OPG") and Niagara Peninsula Conservation Authority ("NPCA") (individually a "Party" and collectively the "Parties") desire to share information relating to meteorological, flow, and elevation data for the Niagara and Welland Rivers (the "Information").

The Parties agree to accept the Information on an "as is" basis. The Parties make no guarantees, representation or warranties with respect to the Information, express or implied, arising by law or otherwise, including with respect to the accuracy, effectiveness, completeness or fitness for purpose of the Information.

Neither OPG nor NPCA will have any liability to the other Party or to any third party in respect of the use of the Information. Each Party will indemnify and hold harmless the other Party (and its affiliates, shareholders, directors, officers, employees, servants, agents and contractors) from and against all claims, demands, actions, damages, liabilities, injuries (including death), costs, expenses and losses (including legal fees and expenses on a dollar for dollar full indemnification basis) arising in respect of the use of the Information.

Please contact Joan Frain, Senior Manager, Water Resources at 905-357-0322 ext.2679 if you have any concerns or issues.

Sincerely,

[Insert OPG Signatory]

Accepted by:

[Insert NPCA signatory]

Please note that the Niagara River watershed boundary on this map has been altered from the watershed boundary provided by the MNR. Additionally, the Welland Canal cuts across the Welland River watershed boundary and may impact hydrological analyses. The watershed boundaries on this map are not intended for analytical purposes.

OPG Owned Generating Station

OPG Owned Dam

OPG Intake

Other Owned Generating Station

Other Owned Control Dam

OPG Water Level Gauge

Other Water Level Gauge

Intake Tunnel

City, Town, Village

Road

Watershed Boundary

NIAGARA RIVER WATERSHED

HYDROMETEROLOGIC NETWORK

September 2014

Map 4 of 6

Scale - 1 : 115,000

Projection: UTM Nad 83, Zone 17N

Kilometres

0 1 2 4 6 8

N

W

E

S

Dwg : 210-D3H-10100-0003-0004

Created by: M. McNiven

Approved by: J. Frain

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Sir Adam Beck 2 GS
HW WSC Gauge ID: 02HA068
TW WSC Gauge ID: 02HA070
Data Type: Flow and Level
Real Time Data
Datum: IGLD85
HW Location: 43°08'47" N, 79°02'47" W
TW Location: 43°08'44" N, 79°02'38" W
Equipment
Float Gauges
Landline to SAB II

Sir Adam Beck 1 GS
HW WSC Gauge ID: 02HA066
TW WSC Gauge ID: 02HA069
Data Type: Flow and Level
Real Time Data
Datum: IGLD85
HW Location: 43°08'56" N, 79°02'41" W
TW Location: 43°08'40" N, 79°03'37" W
Equipment
Float Gauges
Landline to SAB II

Sir Adam Beck Pump GS
HW WSC Gauge ID: 02HA065A
TW WSC Gauge ID: 02HA065B
Data Type: Flow and Level
Real Time Data
Datum: CGD
HW Location: 43°08'41" N, 79°03'40" W
TW Location: 43°06'00" N, 79°03'37" W
Equipment
Float Gauges
Landline to SAB II

Canal Crossover
WSC Gauge ID: 02HA064
Data Type: Level
Real Time Data
Datum: IGLD85
Location: 43°08'24" N, 79°03'30" W
Equipment
Float Gauge
Landline to SAB II

Tunnel 3 Flow Meter
WSC Gauge ID: NA
Data Type: Flow
Real Time Data
Location: 43°08'39" N, 79°03'35" W
Equipment
Radio to Crossover gauge house

Ontario Power Tailwater
WSC Gauge ID: 02HA057B
Data Type: Level
Real Time Data
Datum: IGLD85
Location: 43°04'57" N, 79°04'35" W
Equipment
Bubbler
Unknown Telemetry??

Slater's Point
WSC Gauge ID: 02HA054
Data Type: Level
Real Time Data
Datum: IGLD85
Location: 43°03'23" N, 79°01'37" W
Equipment
Float Gauge
Landline

Black Creek
WSC Gauge ID: 02HA053
Data Type: Level
Real Time Data
Datum: IGLD85
Location: 42°59'01" N, 79°01'31" W
Equipment
Float Gauge
Landline

Frenchman's Creek
WSC Gauge ID: 02HA052
Data Type: Level
Real Time Data
Datum: CGD
Location: 42°56'43" N, 78°55'52" W
Equipment
Float Gauge
Landline

Fort Erie - WSC
WSC Gauge ID: 02HA013
Data Type: Level
Continuous Data
Datum: Assumed
Location: 42°55'49" N, 78°54'49" W

Buffalo - NOAA
NOAA Station ID: 9063020
Data Type: Level
Continuous Data
Datum: IGLD85
Location: 42°52'36" N, 78°53'24" W

Lewiston PGS
(New York Power Authority)

Ashland Avenue - NOAA/NYPA
NOAA Station ID: 9063009
Data Type: Level and Flow
Real Time Data
Datum: IGLD85
Location: 43°06'00" N, 79°03'36" W

American Falls - NOAA/NYPA
NOAA Station ID: 9063007
Data Type: Level
Real Time Data
Datum: IGLD85
Location: 43°04'48" N, 79°03'36" W

NYPA Intakes - NOAA/NYPA
NOAA Station ID: 9063007
Data Type: Level
Real Time Data
Datum: IGLD85
Location: 43°04'36" N, 79°00'48" W

Tonawanda - NYPA
Gauge ID: ??
Data Type: Level
Real Time Data
Datum: ??
Location: 43°01'29" N, 79°01'37" W

Huntley Station - NYPA
Gauge ID: ??
Data Type: Level
Real Time Data
Datum: ??
Location: ?? (Approximate Location Shown)

LaSalle - NYPA
Gauge ID: ??
Data Type: Level
Real Time Data
Datum: ??
Location: 43°04'27" N, 79°59'24" W

Material Docks
WSC Gauge ID: 02HA055
Data Type: Level and Flow
Real Time Data
Datum: IGLD85
Location: 43°03'40" N, 79°01'34" W
Equipment
Float Gauge
Landline

International Niagara River Control Dam

Chippawa Gate

SAB 2 Intakes

Montrose Gate

Beaverdams Dam

Beaverdams Pump House

Allanburg Intake 2

Allanburg Intake 1

Dixon Weir

Measuring Weir



Lake Erie

Report To: Board of Directors

Subject: Land Care Niagara Agreement

Report No: 70-17

Date: June 28, 2017

RECOMMENDATION:

That the NPCA Board **APPROVE** the recommendation that the NPCA to enter an agreement with Land Care Niagara whereby the NPCA would contribute \$7,150.00 toward the implementation of Land Care Niagara's six (6) rural tree planting projects as per the attached Memorandum of Agreement.

PURPOSE:

The purpose of this report is to present to the Board for consideration a Memorandum of Agreement between Land Care Niagara and the NPCA whereby the NPCA would contribute \$7,150.00 toward the implementation of Land Care Niagara's six (6) rural tree planting projects as per the attached Memorandum of Agreement.

BACKGROUND:

Land Care Niagara (LCN) is a not-for-profit community based organization which provides programs, services, and information to local landowners through educational outreach, training initiatives, and land stewardship activities.

LCN is one of the original 46 Stewardship Councils in Ontario that was formed by the Ontario Ministry of Natural Resources Ontario Stewardship Network. There are now only 14 councils remaining since the funding to the Ontario Stewardship Network was discontinued. LCN is one of the remaining Stewardship Groups that has survived owing to their dedicated volunteers.

REPORT:

The goal of LCN's Tree Planting program is to see hundreds of thousands of native trees strategically planted in the Niagara Region. As a delivery agent for the Forests Ontario '50 Million Trees Program' and by partnering with private contractors, other funders and agencies, Land Care Niagara works with rural landowners to promote and execute successful tree planting projects that increase forest interior and reconnect Niagara's fragmented natural areas.

LCN's Tree Planting program shares the same goal as the NPCA's 'Water Quality & Habitat Improvement Program' with the ultimate intent of reconnecting Niagara's natural areas. In the same manner that the NPCA's 'Water Quality & Habitat Improvement Program' is delivered, landowners voluntarily approach LCN to obtain resources to implement projects on their

property. When planning a project LCN, much like the NPCA, often approaches different agencies in order to form partnerships to obtain the necessary funds for the proposed project. These six (6) proposed LCN projects intend to plant a total of approximately 19,000 trees on 26 acres throughout the Niagara region.

The number of projects that the NPCA's successful 'Water Quality & Habitat Improvement Program' can implement is ultimately limited by the number of staff able to deliver the program. By contributing to the cost of these six (6) proposed tree planting projects, the NPCA is able to extend the number of environmental projects that are implemented, contributing to a healthier sustainable Niagara.

Staff note that the attached 'Memorandum of Agreement with Land Care Niagara' has been reviewed by legal counsel, Ken Hill, Partner of HHL Law Firm.

FINANCIAL IMPLICATIONS:

Project Description	Total Number of Projects	Cost to NPCA	Cost to Landowner & LCN
LCN Tree Planting	6	\$ 7,150.00	Approx. \$53,600

This funding contribution from the NPCA was included in the 2017 budget.

RELATED REPORTS AND APPENDICES:

1. Memorandum of Agreement between NPCA and LCN

Prepared by: Steve Miller, P.Eng
Manager, Water Resources & Restoration

Reviewed by:



Peter Graham, P.Eng. MBA
Director, Watershed Management

Submitted by:



Mark Brickell
Acting Chief Administrative Officer/Secretary Treasurer

MEMORANDUM OF AGREEMENT
Niagara Peninsula Conservation Authority (NPCA)
AND
Land Care Niagara (LCN)

Agreement made in duplicate this day of ____ June, 2017.

BETWEEN: **Niagara Peninsula Conservation Authority (NPCA)**
250 Thorold Road, West
Welland, Ontario, L3C 3W2
hereinafter called the "Corporation"

- and -

Land Care Niagara (LCN)
PO BOX 28099 Lakeport Road
St. Catharines, ON L2N 7P8
hereinafter referred to as "LCN"

WHEREAS the Corporation and LCN share a mutual interest in reforestation to the benefit of water quality, wildlife habitat and the overall health of the watershed within the jurisdiction of the Corporation.

AND WHEREAS LCN intends to implement reforestation restoration projects on privately owned lands listed on Schedule 'A'. The Corporation will provide funding and technical assistance to assist LCN for the implementation of each reforestation project conditional that LCN obtains from each cooperating landowner a LCN Conservation Agreement for the project.

NOW THEREFORE the Corporation and LCN agree as follows:

1. PROJECT BOUNDARIES

It is understood that all projects will be proposed to be undertaken on lands that fall within the boundaries of the Niagara Peninsula Conservation Authority watershed.

2. TERM

This Agreement shall commence on the ____ day of June, 2017 and terminate on the 31st day of December 2017.

3. DESIGNATED REPRESENTATIVES

- i) The LCN agrees that the Corporation, for the purposes of this Agreement, may act through any individual designated by the Corporation.
- ii) For the purposes of this Agreement the designated representative for the Corporation is:

Mark Brickell
A/ Chief Administrative Officer/Secretary-Treasurer
Niagara Peninsula Conservation Authority
(905) 788-3135 X 233

For LCN is: Olivia Groff
Land Care Niagara
(905)-348-5263

Both the Corporation and LCN agree that they may designate a different representative by providing notice in writing.

4. CORPORATION OBLIGATIONS

- i) The Corporation agrees to provide payment of \$7,150 upon execution of this agreement and after receipt of appropriate invoice(s) (dated no later than November 30, 2017) from LCN detailing the expenses incurred, up to the maximum amount available according to the Schedule 'A', to LCN in support of the implementation of the projects listed.
- ii) The Corporation agrees to provide to LCN upon request and within reason (at the discretion of the Corporation), technical assistance for the purposes of project design and regulatory compliance and approvals.

5. LCN OBLIGATIONS

- i) LCN agrees to participate as the project proponent and lead agency for the project implementation including obtaining any and all required permits and approvals. This may include municipal permits, Conservation Authority approvals, Permits to Take Water, Fisheries or other Federal approvals, consultation with First Nations, Ministry of Natural Resources and Forestry regulations and the Endangered Species Act assessments with registered mitigation plans whenever applicable.
- ii) LCN agrees to recognize the support of the Corporation in any publicly available document, signage or presentation that specifically refers to projects under this agreement.
- iii) The Corporation must obtain a LCN Conservation Agreement signed by the project's registered landowners for each project.

- iv) LCN agrees to invoice the Corporation by November 30th, 2017 for works completed or risk forfeiture of funds.
- v) LCN will secure quotations, hire contractors and equipment, undertake construction supervision, and provide all materials that may be required for the works.
- vi) At the Corporation's request, LCN shall provide photo documentation, inspection reports, invoices, and any other documentation required to satisfy the Corporation that each project under this agreement has been implemented and that all funds dispersed under this agreement have been spent.

6. JOINT OBLIGATIONS

- i) The parties agree to indemnify each other, keep indemnified and save each other harmless from and against all claims, demands, costs, actions, causes of action, expenses and legal fees, which may be taken or made against them arising from their existing and ongoing activities.

7. ENTIRE AGREEMENT

The parties hereto agree that this Agreement embodies the entire Agreement between the Corporation and LCN that in entering into this Agreement neither party will rely upon any previous oral or implied representation, inducement, agreement, or understanding of any kind or nature.

8. FURTHER ASSURANCES

Each of the parties hereto will, at its own expense, promptly and duly execute and deliver to the other party such further documents and assurances, and take such further action as the other party may from time to time request in order to more effectively carry out the intent and purpose of this Agreement and to establish and protect the rights, interests and remedies intended to be created in favour of the other party under this Agreement.

9 LIABILITY INSURANCE

LCN agrees to have inforce general liability insurance coverage of at least \$2,000,000 and shall provide proof of such insurance coverage to the Corporation. The general liability insurance will protect the LCN, the Corporation and its representatives as an additional named insured against any claims for property damage or personal injuries caused by or resulting from any work undertaken by the LCN or its agents or contractors pursuant to this contract.

10. TERMINATION of AGREEMENT

The NPCA shall have the right at any time, with or without cause, to cancel this agreement by giving LCN thirty (30) days prior written notice to that effect. In the event of termination of this agreement by the NPCA, either with or without cause, the NPCA shall reimburse LCN for all reimbursable costs incurred by LCN to the date of cancellation, provided however, that LCN shall not have the right to include as a cost of cancellation any profit or earnings that may have been realized by LCN had the work not been terminated.

11. AUTHORITY TO AMEND THE AGREEMENT

The NPCA shall authorize the Corporation's designated representative, Chief Administrative Officer / Secretary-Treasurer, to negotiate, modify, execute, and bind any changes that may be required to this agreement over the period of time that this agreement is in effect.

IN WITNESS WHEREOF the parties hereto have executed this Agreement

SIGNED, SEALED AND DELIVERED)	
in the presence of)	
)	
)	
)	
Witness as to execution by	)	Mark Brickell
Mark Brickell	)	Acting CAO / Secretary Treasurer
Acting CAO / Secretary Treasurer	)	Niagara Peninsula Conservation Authority
Niagara Peninsula Conservation Authority)	
)	
)	
Witness as to execution by	)	Authorized Signature
Olivia Groff	)	Olivia Groff
Land Care Niagara	)	Land Care Niagara
)	
)	
)	

Schedule 'A' to this Memorandum of Agreement with Land Care Niagara

This Schedule lists the NPCA funding commitments for reforestation projects to be implemented under this Agreement. The owner's name, the legal address, the estimated area of reforestation, and the funding amounts are listed for each project.

Reforestation Project

Property Owner: Burant

Address: 375 Mathews Road, North, Sherkston

Area to be Planted: 4.0 acres

Approximate Number of Trees: 3,200

The NPCA cash funding commitment to this project is: \$1,000.00

Reforestation Project

Property Owner: Hyatt

Address: 11824 Side Road 18, Wainfleet

Area to be Planted: 9.0 acres

Approximate Number of Trees: 7,500

The NPCA cash funding commitment to this project is: \$1,500.00

Reforestation Project

Property Owner: Gibson

Address: 2811 Oille Street, Pelham

Area to be Planted: 2.6 acres

Approximate Number of Trees: 1,400

The NPCA cash funding commitment to this project is: \$1,400.00

Reforestation Project

Property Owner: Leuhmann

Address: 9776 Goodale Road, West Lincoln

Area to be Planted: 3.0 acres

Approximate Number of Trees: 2,400

The NPCA cash funding commitment to this project is: \$1,000.00

Reforestation Project

Property Owner: Groen

Address: 770 Cream Street, Fenwick

Area to be Planted: 2.4 acres

Approximate Number of Trees: 1,920

The NPCA cash funding commitment to this project is: \$1,500.00

Reforestation Project

Property Owner: Eickmann

Address: 72170 Regional Road 27, Wainfleet

Area to be Planted: 5.0 acres

Approximate Number of Trees: 4,000

The NPCA cash funding commitment to this project is: \$750.00

The total NPCA funding contribution to these projects is \$7,150.00

Report To: Board of Directors

Subject: Haldimand Stewardship Council Agreement

Report No: 71-17

Date: June 28, 2017

RECOMMENDATION:

That the NPCA Board APPROVE the recommendation that the NPCA enter an agreement with the Haldimand Stewardship Council whereby the NPCA would contribute \$4,000.00 toward the implementation of the Haldimand Stewardship Council's four (4) rural tree planting projects as per the attached Memorandum of Agreement.

PURPOSE:

The purpose of this report is to present to the Board for consideration a Memorandum of Agreement between the Haldimand Stewardship Council and the NPCA whereby the NPCA would contribute \$4,000.00 toward the implementation of the Haldimand Stewardship Council's four (4) rural tree planting projects as per the attached Memorandum of Agreement.

BACKGROUND:

The Haldimand Stewardship Council (HSC) is a not-for-profit community based organization comprised of volunteers committed to responsible resource stewardship with the intent of working together for a healthier environment. Council members include farmers, woodlot owners, business owners, and other committed individuals. HSC has been active in Haldimand County since 1997.

REPORT:

The goal of HSC's Tree Planting program is to reduce large scale planting costs for landowners in order to stimulate an increase in tree planting activity in Haldimand County. HSC is a delivery agent for the Forests Ontario '50 Million Tree Program' and works in partnership with Trees Unlimited and other agencies to provide Haldimand's landowners access to affordable and professional tree planting services.

HSC's Tree Planting program shares the same goal as the NPCA's 'Water Quality & Habitat Improvement Program' with the ultimate intent of increasing the amount of forest cover in Haldimand. In the same manner that the NPCA's 'Water Quality & Habitat Improvement Program' is delivered, landowners voluntarily approach HSC to obtain resources to implement projects on their property. When planning a project HSC, much like the NPCA, often approaches different agencies in order to form partnerships to obtain the necessary

funds for the proposed project. These four (4) proposed HSC projects intend to plant a total of approximately 6,440 trees on 14.6 acres throughout the portion of Haldimand County located within NPCA's watershed.

The number of projects that the NPCA's successful 'Water Quality & Habitat Improvement Program' can implement is ultimately limited by the number of staff able to deliver the program. By contributing to the cost of these four (4) proposed tree planting projects, the NPCA can extend the number of environmental projects that are implemented, contributing to a healthier watershed.

Staff note that the attached 'Memorandum of Agreement with the Haldimand Stewardship Committee' has been reviewed by legal counsel, Ken Hill, Partner of HHL Law Firm.

FINANCIAL IMPLICATIONS:

Project Description	Total Number of Projects	Cost to NPCA	Cost to Landowner & HSC
HSC Tree Planting	4	\$ 4,000.00	Approx. \$17,900

This funding contribution from the NPCA was allocated for in the 2017 budget.

RELATED REPORTS AND APPENDICES:

1. Memorandum of Agreement between NPCA and HSC

Prepared by: Steve Miller, P.Eng.; Manager, Water Resources & Restoration

Reviewed by:


Peter Graham, P.Eng. MBA
Director, Watershed Management

Submitted by:


Mark Brickell
Acting Chief Administrative Officer /
Secretary Treasurer

MEMORANDUM OF AGREEMENT
Niagara Peninsula Conservation Authority (NPCA)
AND
Haldimand Stewardship Council (HSC)

Agreement made in duplicate this day of ____ June, 2017.

BETWEEN:

Niagara Peninsula Conservation Authority (NPCA)
250 Thorold Road, West
Welland, Ontario, L3C 3W2
hereinafter called the "Corporation"

- and -

Haldimand Stewardship Council (HSC)
15 Cayuga Street North
PO BOX 720
Cayuga, ON N0A 1E0
hereinafter referred to as "HSC"

WHEREAS the Corporation and HSC share a mutual interest in reforestation to the benefit of water quality, wildlife habitat and the overall health of the watershed within the jurisdiction of the Corporation.

AND WHEREAS HSC intends to implement reforestation restoration projects on privately owned lands listed on Schedule 'A'. The Corporation will provide funding and technical assistance to assist HSC for the implementation of each reforestation project conditional that HSC obtains from each cooperating landowner a HSC Conservation Agreement for the project.

NOW THEREFORE the Corporation and HSC agree as follows:

1. PROJECT BOUNDARIES

It is understood that all projects will be proposed to be undertaken on lands that fall within the boundaries of the Niagara Peninsula Conservation Authority watershed.

2. TERM

This Agreement shall commence on the ____ day of June, 2017 and terminate on the 31st day of December 2017.

3. DESIGNATED REPRESENTATIVES

- i) The HSC agrees that the Corporation, for the purposes of this Agreement, may act through any individual designated by the Corporation.
- ii) For the purposes of this Agreement the designated representative for the Corporation is:

Mark Brickell
A/ Chief Administrative Officer/Secretary-Treasurer
Niagara Peninsula Conservation Authority
Tel: (289) 788-3135 X 233

For HSC is:

D. Denise Hart, Resource Management Consultant
Haldimand Stewardship Council
Tel: (905)-772-2230

Both the Corporation and HSC agree that they may designate a different representative by providing notice in writing.

4. CORPORATION OBLIGATIONS

- i) The Corporation agrees to provide payment of \$4,000.00 upon execution of this agreement and after receipt of appropriate invoice(s) (dated no later than November 30, 2017) from HSC detailing the expenses incurred, up to the maximum amount available according to the Schedule 'A', to HSC in support of the implementation of the projects listed.
- ii) The Corporation agrees to provide to HSC upon request and within reason (at the discretion of the Corporation), technical assistance for the purposes of project design and regulatory compliance and approvals.

5. HSC OBLIGATIONS

- i) HSC agrees to participate as the project proponent and lead agency for the project implementation including obtaining any and all required permits and approvals. This may include municipal permits, Conservation Authority approvals, Permits to Take Water, Fisheries or other Federal approvals, consultation with First Nations, Ministry of Natural Resources and Forestry regulations and the Endangered Species Act assessments with registered mitigation plans whenever applicable.
- ii) HSC agrees to recognize the support of the Corporation in any publicly available document, signage or presentation that specifically refers to projects under this agreement.

- iii) The Corporation must obtain a HSC Conservation Agreement signed by the project's registered landowners for each project.
- iv) HSC agrees to invoice the Corporation by November 30th, 2017 for works completed or risk forfeiture of funds.
- v) HSC will secure quotations, hire contractors and equipment, undertake construction supervision, and provide all materials that may be required for the works.
- vi) At the Corporation's request, HSC shall provide photo documentation, inspection reports, invoices, and any other documentation required to satisfy the Corporation that each project under this agreement has been implemented and that all funds dispersed under this agreement have been spent.

6. JOINT OBLIGATIONS

- i) The parties agree to indemnify each other, keep indemnified and save each other harmless from and against all claims, demands, costs, actions, causes of action, expenses and legal fees, which may be taken or made against them arising from their existing and ongoing activities.

7. ENTIRE AGREEMENT

The parties hereto agree that this Agreement embodies the entire Agreement between the Corporation and HSC that in entering into this Agreement neither party will rely upon any previous oral or implied representation, inducement, agreement, or understanding of any kind or nature.

8. FURTHER ASSURANCES

Each of the parties hereto will, at its own expense, promptly and duly execute and deliver to the other party such further documents and assurances, and take such further action as the other party may from time to time request in order to more effectively carry out the intent and purpose of this Agreement and to establish and protect the rights, interests and remedies intended to be created in favour of the other party under this Agreement.

9 LIABILITY INSURANCE

HSC agrees to have inforce general liability insurance coverage of at least \$2,000,000.00 and shall provide proof of such insurance coverage to the Corporation. The general liability insurance will protect the HSC, the Corporation and its representatives as an additional named insured against any claims for property damage or personal injuries caused by or resulting from any work undertaken by the HSC or its agents or contractors pursuant to this contract.

10. TERMINATION of AGREEMENT

The NPCA shall have the right at any time, with or without cause, to cancel this agreement by giving HSC thirty (30) days prior written notice to that effect. In the event of termination of this agreement by the NPCA, either with or without cause, the NPCA shall reimburse HSC for all reimbursable costs incurred by HSC to the date of cancellation, provided however, that HSC shall not have the right to include as a cost of cancellation any profit or earnings that may have been realized by HSC had the work not been terminated.

11. AUTHORITY TO AMEND THE AGREEMENT

The NPCA shall authorize the Corporation's designated representative, Chief Administrative Officer / Secretary-Treasurer, to negotiate, modify, execute, and bind any changes that may be required to this agreement over the period of time that this agreement is in effect.

IN WITNESS WHEREOF the parties hereto have executed this Agreement

SIGNED, SEALED AND DELIVERED)	
in the presence of)	
)	
)	
)	
Witness as to execution by	)	Mark Brickell
Mark Brickell	)	Acting CAO / Secretary Treasurer
Acting CAO / Secretary Treasurer	)	Niagara Peninsula Conservation Authority
Niagara Peninsula Conservation Authority)	
)	
)	
Witness as to execution by	)	Authorized Signature
D. Denise Hart	)	D. Denise Hart
Haldimand Stewardship Council)	Haldimand Stewardship Council
)	
)	
)	

Schedule 'A' to this Memorandum of Agreement with Haldimand Stewardship Council

This Schedule lists the NPCA funding commitments for reforestation projects to be implemented under this Agreement. The owner's name, the legal address, the estimated area of reforestation, and the funding amounts are listed for each project.

Reforestation Project

Property Owner: Rowland
Address: Moulton Twp, Concession 1 LE Part Lots 14 & 15, Haldimand
Area to be Planted: 4.7 acres
Approximate Number of Trees: 1,880
The NPCA cash funding commitment to this project is: \$1,000.00

Reforestation Project

Property Owner: Moody
Address: 2609 Lakeshore Drive, Lowbanks, Haldimand
Area to be Planted: 3.5 acres
Approximate Number of Trees: 1,520
The NPCA cash funding commitment to this project is: \$1,000.00

Reforestation Project

Property Owner: Juriansz
Address: 1365 Indiana Road East, Canfield, Haldimand
Area to be Planted: 5.0 acres
Approximate Number of Trees: 1,920
The NPCA cash funding commitment to this project is: \$1,000.00

Reforestation Project

Property Owner: Hamilton
Address: 726 Indiana Road East, Cayuga, Haldimand
Area to be Planted: 1.4 acres
Approximate Number of Trees: 1,120
The NPCA cash funding commitment to this project is: \$1,000.00

The total NPCA funding contribution to these projects is \$4,000.00

Report To: Board of Directors

Subject: Mickey DiFruscio and Family Legacy Pollinator Project

Report No: 72-17

Date: June 28, 2017

RECOMMENDATION:

That Report No. 72-17 regarding the Pollinator Project be RECEIVED for information; and, That the NPCA Board of Directors APPROVE the Mickey DiFruscio Legacy Pollinator Project initiative, in principle.

PURPOSE:

The NPCA would like to honour Board Member Mickey DiFruscio and his family for their efforts to protect and restore the habitat of pollinators across the NPCA watershed by establishing a series of pollinator gardens on public lands, including municipal parks and conservation areas.

BACKGROUND:

Mickey DiFruscio has been an NPCA Board Member since 1993 and celebrated his 90th birthday in 2016. In 24 years on the NPCA Board, Mickey has attended countless community events and public meetings as an ambassador for the work of conservation. In recent years, Mickey has been a strong advocate for the protection and restoration of habitat for monarch butterflies and other pollinators. Mickey has gone a step further, leading by example, rolling up his sleeves and getting his hands dirty growing his famous milkweed plants every year in his home greenhouse. He donates these plants, the host plant for monarch butterflies, to restoration projects, NPCA staff and Board members and anyone who is willing to take them home and plant them.

The plan is to establish 2-3 pollinator gardens annually for the next 5 years. Each of the area municipalities will receive one on either Conservation Authority owned or publicly held land. In addition, a garden will be established in both Hamilton and Haldimand to cover NPCA's entire watershed jurisdiction.

Each garden plot will be roughly 200 square meters in size. It will contain only native species of plants that serve as either host or nectar sources for native pollinator species. Each plot will contain some of "Mickey's milkweed". The pollinator garden will be prepared by sod stripping and rototilling and will be woodchip mulched after planting to deter weed growth and hold moisture. Every effort will be made to partner with a local champion group to help maintain the gardens. Board Members and local politicians will be invited to attend planting events in their area municipality.

In addition to the planting, each plot will be complimented with an educational sign containing information on native pollinators and their associated habitat and information about Mr. DiFruscio and his family.

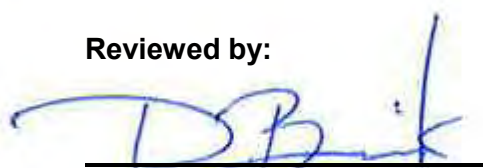
Each plot will cost between \$3,500 and \$4,000 including the planting and the sign. Below is a breakdown of the project costs and an example of project design.

Site preparation		\$1,000	In-kind NPCA
Woodchip mulch		\$200	In-kind NPCA
Native plants	1600/plot	\$2,000	cash
Educational sign		\$1,500-\$2,000	cash



Prepared by: Kerry Royer; Community Outreach & Volunteer Coordinator

Reviewed by:


David Barrick
 Director, Corporate Services

Submitted by:


Mark Brickell
 Acting Chief Administrative Officer /
 Secretary Treasurer

Report To: Board of Directors

Subject: Canada 150th Anniversary Schoolboard Project

Report No: 73-17

Date: June 28, 2017

RECOMMENDATION:

That Report No. 73-17 be RECEIVED for information; and,

That the NPCA Board AUTHORIZE staff to use up to \$25,000 from the OPG reserve account to fund the Canada 150th Anniversary Schoolboard Project as outlined in this report.

PURPOSE:

For the Board to consider and approve funding to cover the expense of the sugar maples and artwork to be distributed to participating schools within the NPCA watershed as a way to celebrate Canada's 150th Anniversary.

BACKGROUND:

Late Fall 2016, Member Baty was contacted by Mrs. Shirley Lazareth, a senior resident of Pelham, who was referred by the Office of M.P. Dean Allison. Mrs. Lazareth met with Member Baty and reviewed significant materials related to her patriotism and love of country and crown. She shared a poem created for Canada's 100th anniversary and proposed a rewording of that poem to initiate a cross-country project promoting maple trees and their relationship to our nation. Mrs. Lazareth was told that Member Baty did not have the resources to initiate a nationwide campaign and that it was likely too late in any case. However, Member Baty indicated that there might be an interest in initiating a watershed project which, through communication, might initiate interest in other parts of the country. Member Baty met with staff the next day, and a week later a meeting was held with a number of senior staff and conservation personnel to discuss the merits and parameters of a watershed project for Canada's 150th Anniversary. The project parameters are presented below.

DISCUSSION:

1. Canadian sugar maples are to be presented by the NPCA to participating schools in the Niagara Region, Haldimand and Hamilton throughout the summer and fall of 2017. This includes the DSBN, the Catholic School Board, the private and French school boards, Brock University and Niagara College. Ceremonial plantings will be scheduled for the

schoolboard headquarters, Brock University, Niagara College and the Region of Niagara.

2. The trees are approximately 125-150 cm feet tall in a 2 gallon pot, and instructions on how to plant the trees will be also be provided. The use of stakes was not recommended by the NPCA staff ecologist as the tree would have no benefit from the stake, and in fact could be harmed from its installation.
3. The schoolboards are aware that appropriate planning is necessary for the maintenance and watering of the trees.
4. A commemorative framed artwork will be presented by Board members to the participating schools in the fall, to be displayed publicly for all students. The piece will note the dedication of the trees and commemorate Canada's sesquicentennial while recognizing both the Comfort Maple Tree and the celebration poem provided by Shirley Lazareth (Appendix 1).
5. Thus far, the DSBN has committed participation from 49 schools. The Catholic School Board has opted to participate in the fall. Communication to the private and French boards has begun with their plantings anticipated to also be scheduled for the fall.

FINANCIAL IMPLICATIONS:

Cost for sugar maples approximately: \$4,000 total

Cost for framed artwork: \$16,500 total

Projected project cost: up to \$25,000

OPG reserve projected balance as of Dec. 31st, 2017: \$1,378,981

Projected balance after Canada 150 Schoolboard project: \$1,353, 981

RELATED REPORTS AND APPENDICES:

Appendix 1: Sample of artwork that includes the dedication statement, a picture of the Comfort Maple Tree provided by local photographer Anthony Gallaccio, and the poem by Pelham resident Shirley Lazareth.

Prepared by: Renee Bisson; Community Engagement Manager

Reviewed by:



David Barrick;
Director, Corporate Services

Submitted by:



Mark Brickell;
Acting CAO/Secretary Treasurer

The Comfort Maple

This tiny tree I give to you
To help you understand
The beauty and the majesty,
That is CANADA, your land.

For the maple is our emblem
It stands for dignity and pride,
It stands for tolerance and loyalty,
People working side by side.

Through the good times and the bad times,
United, we must stand,
Just as proudly as the maple,
For we are emblems of our land.

So plant your tree in CANADA'S honour,
Watch it flourish, watch it grow,
As our founding fathers did this country,
One Hundred and Fifty years ago.

In recognition of Canada's sesquicentennial, and in partnership with the Niagara Peninsula Conservation Foundation, the Niagara Peninsula Conservation Authority is pleased to present a sugar maple tree and memorial plaque to schools across the Niagara Region, Hamilton, and Haldimand. The Comfort Maple is a heritage designated tree symbolizing Canada's long history, accompanied by a poem celebrating the 150th birthday of our Nation written by Pelham resident Shirley Lazareth.



NIAGARA PENINSULA
CONSERVATION



Report To: Board of Directors

Subject: Unsolicited Proposal for Binbrook Conservation Area: Burlington Beach Rentals – Facility Use Agreement

Report No: 74-17

Date: June 28, 2017

RECOMMENDATION:

That the NPCA Board of Directors, DIRECT the CAO to enter into a one (1) year Facility Use Agreement with Burlington Beach Rentals, to operate at Binbrook Conservation Area.

PURPOSE:

Burlington Beach Rentals have put forward an unsolicited proposal (Appendix 1) to expand water-related activities, at the Binbrook Conservation Area. Both NPCA staff and the owner of Burlington Beach Rentals are interested in establishing a pilot-project to test this concept and determine if it is indeed viable. Staff is proposing a one season trial, commencing June 29, 2017 and terminating on September 30th, 2017.

As this is an unsolicited proposal, staff is seeking Board approval.

DISCUSSION:

Burlington Beach Rentals (BBR) is a beach equipment rental company that focuses on providing services, classes, products, and events to Beach and Park Patrons. The company strives to create a “staycation” atmosphere that would allow all Binbrook Conservation Area patrons to enjoy the same amenities that they would at a resort on a tropical vacation.

Burlington Beach Rentals (BBR) was first established in 2011. The company started operating at Beachway Park in Burlington in 2013 after they were the successful bidders of a City of Burlington Request for Proposal. The company has since built and operated a successful business at Beachway Park that has brought fun to the beach, engaged City residents, while growing tourism in the area. They have built relationships within the community including municipal, regional, and private organizations. They are heavily involved with The Hamilton Halton Brant Regional Tourism Association, and the company owner has a seat on the City of Burlington Tourism Marketing Committee and Tourism Cycling Committee.

To create the “staycation” atmosphere Burlington Boat Rentals (BBR) will offer rental equipment to Binbrook Conservation Area patrons which will include paddle boats, stand up paddle boards, kayaks, and turbo tube inflatable boats. In addition, they will offer certified in water classes such as stand up paddle boarding and stand up paddle board yoga, as well as on land classes such as outdoor yoga. To further the “staycation” feel, Burlington Beach Rentals (BBR) will also rent beach equipment such as resin Muskoka chairs, SportBrella’s, and personal lockers.

Burlington Beach Rentals (BBR) also plans to offer corporate and private group services which include guided paddles and hikes and special "Full Moon" events. Full Moon events/ activities are activities and classes done under a full moon.

Lastly, Burlington Beach Rentals (BBR) will also transform and expand our existing beach store into a full-service store that will include items to enhance the visitors experience such as sunscreen, towels, beach toys, as well as other beach needs.

Burlington Beach Rental (BBR) staff are all First Aid and CPR certified, with boating licenses. They will have 2 staff members on site at all times during park operating hours. All waivers that the company has their customers sign have been reviewed and approved by their legal team and will be updated to include and cover Binbrook Conservation Area and the Niagara Peninsula Conservation Authority. The company currently has \$3 Million insurance coverage with Lloyds of London. Their current insurance policy will be extended to cover the activities and business at Binbrook Conservation Area and cover the Niagara Peninsula Conservation Authority.

NPCA staff would like to start a relationship with Burlington Beach Rentals (BBR). Burlington Beach Rentals (BBR) offers a concept with rental equipment and outdoor classes that NPCA staff has been looking to provide its customers at Binbrook Conservation area. This concept also fits with the Strategic Initiatives team's "cradle to grave" concept which allows young children and seniors to be able to use and enjoy these services at NPCA facilities. This business concept will fit with the existing operating business at Binbrook Conservation Area and will certainly mesh with future plans and the Master Plan improvements proposed at the park.

FINANCIAL IMPLICATIONS:

The proposed monthly rent is \$1,100 per month, for 3 months a year, with the addition of potentially new or existing patrons using the park more frequently and paying our NPCA admission rates.

RELATED REPORTS AND APPENDICES:

Appendix 1 - Unsolicited Proposal from Burlington Beach Rentals

Prepared by:



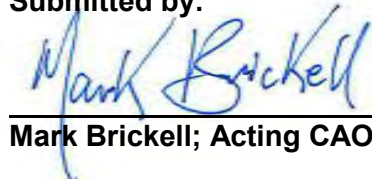
Adam Christie
Manager, Strategic Initiatives

Reviewed by:



Gregg Furtney
Acting Director, Operation & Strat.
Initiatives

Submitted by:



Mark Brickell; Acting CAO/Secretary Treasurer