

COMMITTEE OF THE WHOLE MARCH 6, 2006

**TORONTO AND REGION CONSERVATION AUTHORITY
GENERIC REGULATIONS CONFORMITY EXERCISE
GENERAL FILE 22.8.11**

Recommendation

The Commissioner of Planning recommends:

THAT the following report BE RECEIVED for information.

Economic Impact

There are no requirements for new funding associated with this report.

Purpose

The purpose of this report is to update Council on the TRCA's Generic Regulation Conformity Exercise, which is currently underway, and will be finalized by May 1, 2006. The result of this exercise will be an update to the TRCA's existing Ontario Regulation 158 to conform with Ontario Regulation 97/04.

Background - Analysis and Options

Each of Ontario's 36 Conservation Authorities are required to bring their "Fill, Construction, and Alteration to Waterways" regulation into conformity with Ontario Regulation 97/04 (Development, Interference with Wetlands and Alterations to Shorelines and Watercourses) referred to as the "Generic Regulation" by May 1, 2006. The development of the generic regulation and the development of local regulations to implement the generic regulation are requirements of Section 28 of the *Conservation Authorities Act*.

The development of the generic regulation are direct requirements of the amendments to the *Conservation Authorities Act* which were a result of the Province's *Red Tape Reduction Act* which is intended to streamline the regulatory framework for development approvals. The purpose of the Red Tape Commission was to ensure that the regulations under the *Conservation Authorities Act*, as with other provincial legislation, were consistent across the Province, and also complemented the Provincial policies respecting natural hazards and natural heritage.

As a result of this review, the Commission proposed amendments to Section 28(1) of the *Conservation Authorities Act* which deals with regulations related to lands which are located in areas that are prone to flood and/or erosion hazards. The amendments also provided for one Generic Regulation to be approved for all conservation authorities. The generic regulation was approved on May 1, 2004. The Generic Regulation forms the template from which all of the local Conservation Authorities will draft their own individual regulation to implement the new requirements.

The *Conservation Authorities Act* states that subject to the approval of the Minister, a Conservation Authority may make regulations:

- a) restricting and regulating the use of water in or from rivers, streams, inland lakes, ponds, wetlands and natural or artificially constructed depressions in rivers or streams;
- b) prohibiting, regulating or requiring the permission of the authority for straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse, or for changing or interfering in any way with a wetland;

- c) prohibiting, regulating, or requiring the permission of the authority for development if, in the opinion of the authority, the control of flooding, erosion, dynamic beaches or pollution or the conservation of land may be affected by the development.

Ontario Regulation 158

Currently, the TRCA regulates, under Ontario Regulation 158, the Fill, Construction, and Alteration to Waterways Regulation, construction within a floodplain, the placement or removal of fill within the fill regulated area, and the alteration to a watercourse regulation.

This regulation will be superseded by the new generic regulation.

Fill Line Extension Program

The TRCA embarked on the Fill Line Extension Program in 1991, and the mapping for the program was completed in 1995. This program was intended to complement the Ontario Regulation 158, by expanding the registered fill lines beyond the area covered in Ontario Regulation 158. Although this area was not formally regulated for fill placement or removal, since the finalization of the mapping in 1995, the mapping was used as a screening tool for applications for construction within the floodplain or alterations to a watercourse.

As a component of the generic regulation mapping, the fill line extension mapping has been refined and updated, and will be included within the "regulated area".

New Generic Regulation

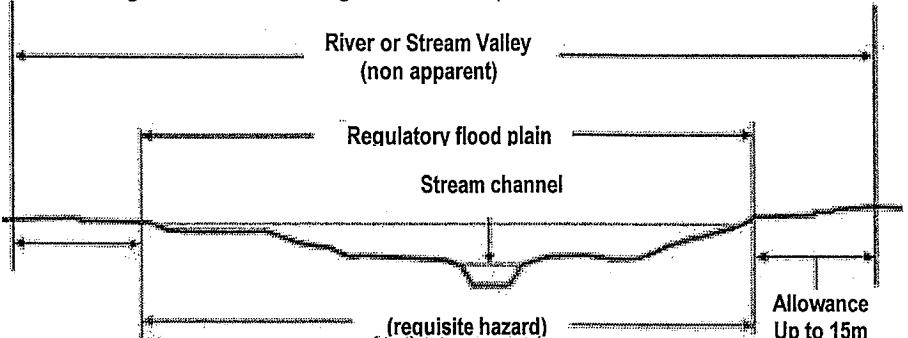
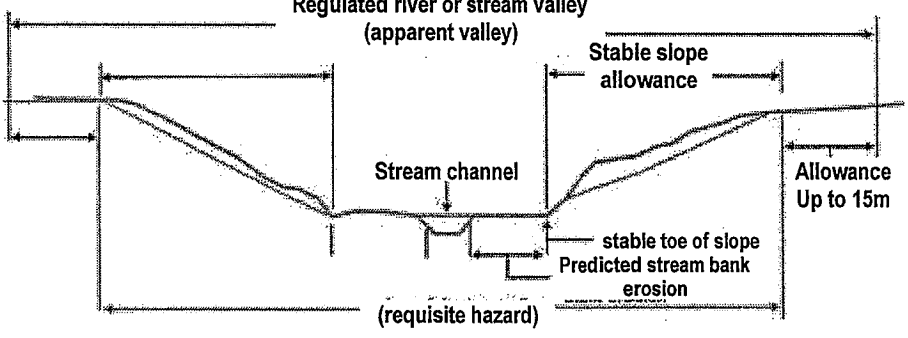
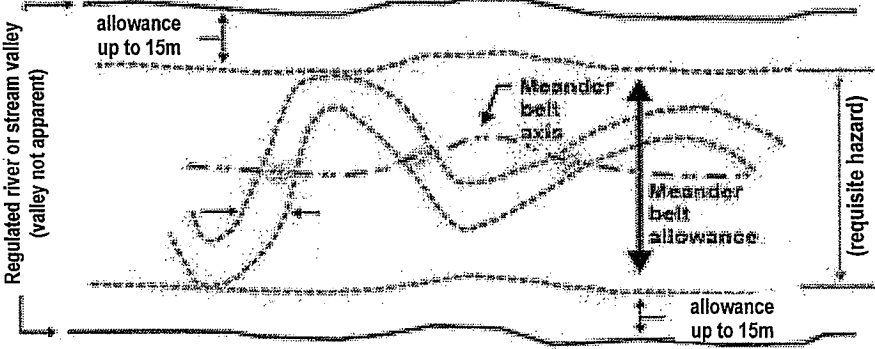
The Generic Regulation is referred to as the 'Development, Interference of Wetlands and Alterations to Shorelines and Watercourses Regulation'. As stated above, the TRCA, must amend their existing Ontario Regulation 158 to conform to the Province's Generic Regulation by May 1, 2006.

The generic regulation would apply to the following development activities:

1. The construction or reconstruction, erection or placing of a building or structure of any kind;
2. Any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure, or increasing the number of dwelling units;
3. Site grading; or
4. The temporary or permanent placing, dumping, or removal of any material, originating from on the site or elsewhere within the "Regulation Limit".

A permit would be required from the Conservation Authority to undertake any of the above defined activities within the areas subject to the regulation. A permit from the Conservation Authority does not replace building permits or any other permits that may be issued by the municipality. TRCA permits will be processed in the same manner as currently, reviewed at a staff level, and approved by the TRCA's Executive Committee. Implementation policies are being examined to address the transition from the TRCA's existing Regulation, to the implementation of the new updated Regulation.

The Generic Regulation affects what and where a Conservation Authority can regulate. The following chart details the "Regulation Limit" or the areas which will be regulated by the TRCA, and how these areas will be defined.

Areas Subject to Generic Regulation ("Regulation Limit")	Definition
1. Hazardous Land	... land that could be unsafe for development because of naturally occurring processes associated with flooding, erosion, dynamic beaches, or unstable soil or bedrock.
2. Stream Valley Systems	<p>Defined as:</p> <p>a) flood hazard:</p> <ul style="list-style-type: none"> ▪ regulatory flood plain ▪ Engineered or semi-engineered flood plain  <p>b) erosion hazard:</p> <ul style="list-style-type: none"> ▪ apparent valleys: stable top of slope, toe erosion allowance, stable slope allowance  <ul style="list-style-type: none"> ▪ non-apparent valleys: meander belt allowance  <p>c) PLUS regulation allowance of 15 metres.</p> <ul style="list-style-type: none"> ▪ Flood Hazard ▪ Erosion Hazard: Bluffs, Dynamic Beaches ▪ Regulation Allowance of 15 metres
3. Lake Ontario Shoreline	<ul style="list-style-type: none"> ▪ Flood Hazard ▪ Erosion Hazard: Bluffs, Dynamic Beaches ▪ Regulation Allowance of 15 metres

4. Watercourses	Defined as: <ul style="list-style-type: none"> ▪ "an identifiable depression in the ground in which a flow of water regularly or continuously occurs" ▪ Watercourses may be regulated regardless of upstream or downstream drainage area; ▪ criteria applied to watercourses with a minimum drainage area of 50 hectares; ▪ Watercourses captured by Ontario Regulation 158 and Fill Line Extension Program form the basis of Stream Valley System Regulation Limit.
5. Wetlands	<ul style="list-style-type: none"> ▪ Wetlands identified by the Ministry of Natural Resources, the Oak Ridges Moraine Conservation Plan, and the TRCAs Ecological Land Classification (ELC) data that are larger than 0.5ha and conform to the Conservation Authorities Act.
6. Other Areas (as may be permitted by the Minister)	Areas of Interference around wetlands: <ul style="list-style-type: none"> ▪ An area of 120m around all Provincially Significant Wetlands and Oak Ridges Moraine wetlands; and ▪ An area of 30m around all other wetlands.
The greatest extent of all of the above equals the REGULATION LIMIT for the Generic Regulation	Greatest extent of: <ul style="list-style-type: none"> ▪ Stream Valley System Hazard Limit ▪ Lake Ontario Shoreline Hazard Limit ▪ 15 metre allowance on all Stream Valley and Shoreline Hazard Limits ▪ All wetlands ▪ All areas of interference adjacent to all wetlands.

The text of the regulation will be filed and approved by the Minister of Natural Resources by May 1, 2006. The regulation text will define the areas to be regulated, prohibited actions, and the process of obtaining permits to undertake works prohibited by the regulation.

There will be mapping which will accompany the text of the regulation, however, the mapping will not be formally registered with the text of the regulation, as was previously provided in Ontario Regulation 158. The mapping will provide a tool to implement the regulation, and the text will define which features will be regulated, and will take precedence over the mapping in the implementation of the regulation. For example, if the TRCA has not mapped a feature, or the mapping is incorrect, the text of the regulation which describes the areas to be regulated prevails, and the mapping can be updated, as necessary.

The "regulation limit" or area of interest of the generic regulation will be displayed on 2002 ortho photo base mapping and will be available in a digital format to the local municipalities.

Key Changes

The primary difference between the existing regulation (Ontario Regulation 158), and the generic regulation is the regulation of wetlands and hazards associated with the shoreline of Lake Ontario as regulated areas. The following chart summarizes the differences between what is regulated currently in Ontario Regulation 158, and the new generic regulation.

Current Regulation (O. Regulation 158)	Generic Regulation
Ontario Regulation 158 regulates the following: <ol style="list-style-type: none"> a) Construction within any area subject to flooding in a regulatory storm event; b) Placement of fill within the regulated fill lines or schedules fill areas; and c) Interference and alterations to watercourses. 	Generic Regulation permits the regulation of the following activities: <ol style="list-style-type: none"> a) Development within a regulated area; b) Interference & alterations to watercourses; c) Interference & alterations to wetlands; and d) Interference & alterations to shorelines.

A further difference is the inclusion of the definition of "development" within the regulation, which is defined as:

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

As the generic regulation permits the regulation of "development" within a regulated area, the above noted activities are regulated within the regulated area.

Regulatory Process interface with Planning Process

The Generic Regulation will be implemented in a similar manner to the existing regulation. Where there is a related planning approval, the TRCA permit is reviewed in conjunction with the planning application. A TRCA permit is usually a condition of approval. Where there is an application for a building permit, the TRCA permit must be obtained prior to applying for a building permit.

Development Planning staff have been advised that the TRCA's policy, Valley and Stream Corridor Management Program (1994), will be reviewed and updated as required to ensure conformity with the Generic Regulation. While there have been no specific modifications proposed to date, staff will continue to monitor the progress of any updates to "Valley and Stream", and will advise Council as necessary.

The TRCA is also examining options for the administration and implementation of the generic regulation which could involve the delegation of certain types of permit approvals to a staff level (TRCA) rather than all permits being approved by the TRCA's Executive Committee, as is the current practice, or exempting certain activities, such as minor works. The TRCA will be exploring these options with the local municipalities in the future.

Consultation Process

The TRCA has undertaken a consultation process both with municipal staff and the general public on the update to their regulation. On October 6th and 7th, 2005, Municipal Information Sessions were held, which was attended by Development Planning, Policy Planning, and Building Department staff. Subsequently, Development Planning staff have consulted with TRCA staff to have more detailed discussions on the regulation update.

On January 25, 2006, the TRCA held a Public Information Session at the Vellore School, which was also attended by municipal staff and members of the public.

Relationship to Vaughan Vision 2007

This report is consistent with the priorities set forth in Vaughan Vision 2007, particularly 'A-5', "Plan and Manage Growth", and 'A-3' "Safeguard Our Environment".

Conclusion

The TRCA is undertaking a conformity exercise to update their existing Fill, Construction, and Alteration to Waterways Regulation (158) as required by Ontario Regulation 97/04 (Development, Interference with Wetlands and Alterations to Shorelines and Watercourses). The new "generic

regulation" will be approved by May 1, 2006. This report is provided as information to Council to advise Council of this update.

Attachments

N/A

Report prepared by:

Karen Antonio-Hadcock, Senior Planner, ext. 8630
Grant Uyeyama, Manager of Development Planning, ext. 8635

Respectfully submitted,

JOHN ZIPAY
Commissioner of Planning

MARCO RAMUNNO
Director of Development Planning

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