

Credit Valley Conservation

December 2011



Planning and Development Administrative Procedural Manual



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1. Introduction

This administrative procedural manual was developed to aid landowners, developers, consultants and other stakeholders who are interested in obtaining comments and/or approvals from Credit Valley Conservation Authority (CVC). Additionally, it is intended to improve clarity and transparency around CVC's administrative review procedures and technical submission requirements. The manual assists applicants in better understanding CVC's relationship with municipal planning approvals, as well as CVC's permitting approval processes. A brief description of the administrative processes associated with CVC's review of planning and development related applications are provided highlighting the importance of consultation.

Each section of this manual addresses different aspects of the role CVC plays in the review of development proposals. In particular, CVC's roles and responsibilities as a commenting agency under the *Planning Act*, and how CVC administers Ontario Regulation 160/06, Environmental Assessments and other development related review services. Relevant background information related to this document can be found in CVC's Watershed Planning and Regulation Policies (2010) and further context in the Policies and Procedures for Conservation Authority Plan Review and Permitting Activities developed by the Ministry of Natural Resources.

2. Planning Applications

Credit Valley Conservation (CVC) provides plan review and technical clearance services to member municipalities for planning and development related applications. CVC may also provide comments based on additional roles and responsibilities including as a watershed based management agency, landowner, regulatory body or other delegated or assigned responsibilities. For additional information refer to Conservation Ontario's Memorandum of Understanding with the Province (see Appendix A).

CVC reviews applications to ensure they meet CVC, municipal and provincial guidelines related to natural heritage protection, natural hazard management and water management. When an applicant submits a planning application to a municipality, municipal staff may screen the application to determine whether it is within the area of interest of CVC based on service agreements and/or screening protocols developed in partnership (service agreements with municipal partners may be found at www.creditvalleyca.ca/resource-library or are available upon request). When an application is circulated to CVC, pre-consultation with municipal and CVC staff is encouraged to scope technical studies that may be required, provide guidance related to other responsibilities delegated or assigned to CVC and to ensure the application is complete.

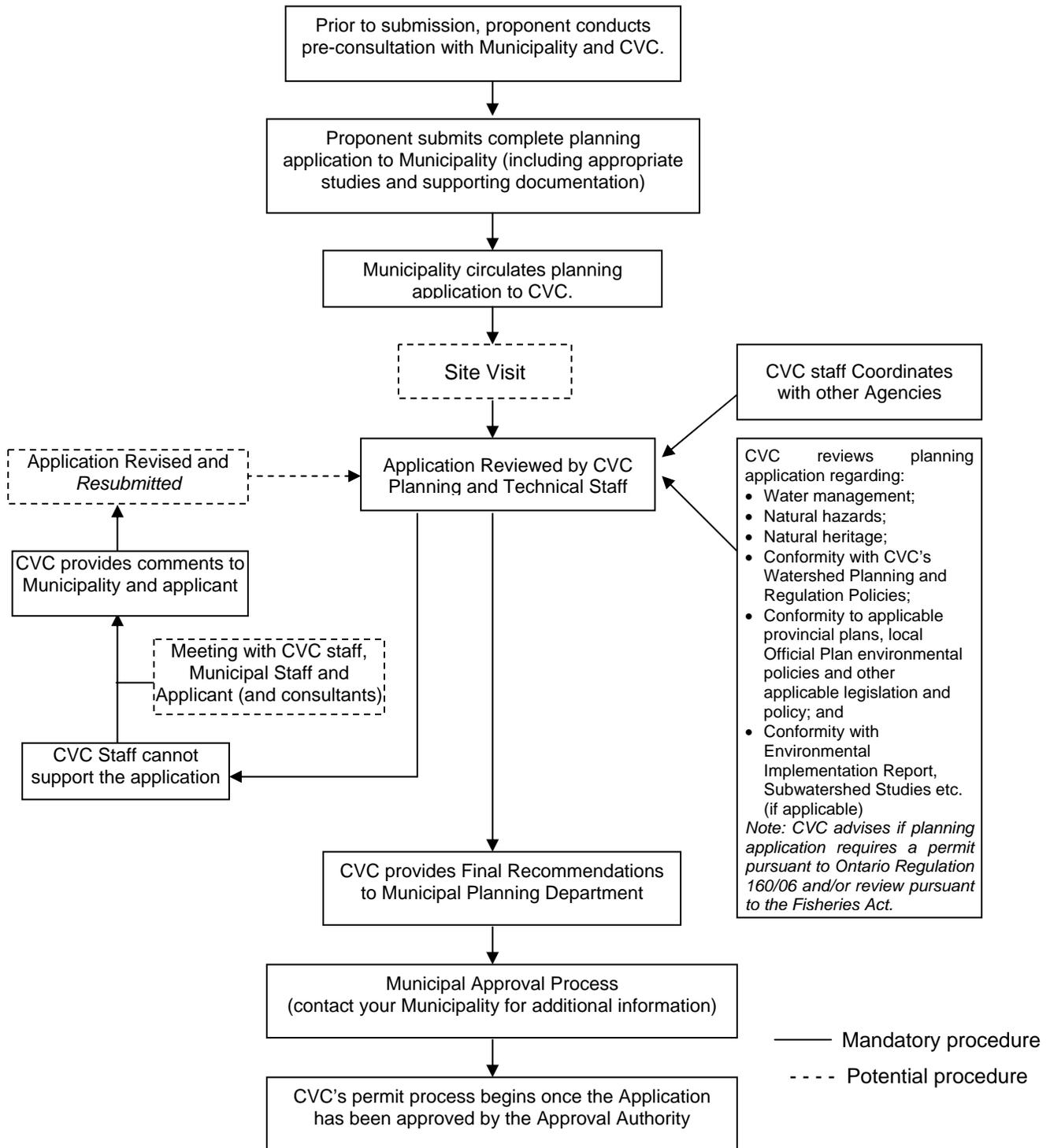
In general, planning and development related applications containing or adjacent to the waterfront, watercourses, other natural features and areas or hazardous lands (including CVC regulated areas) are circulated by municipalities to CVC for comment. Planning related applications circulated to CVC for review typically include:

- Official Plans and Official Plan Amendments;
- Zoning By-laws and Zoning By-law Amendments;
- Plans of Subdivision and Plans of Condominium;
- Consents (severances and lot-line adjustments);
- Minor Variances; and
- Site Plans.

Through a comprehensive stakeholder engagement process CVC developed Watershed Planning and Regulation Policies which are the basis for CVC's comments and provides technical guidance to applicants. For more information on specific policies pertaining to Planning Applications refer to CVC's Watershed Planning and Regulation Policies (may be found at http://www.creditvalleyca.ca/wp-content/uploads/2011/01/004-CVC-WPR-Policies_APR-2010.pdf or is available upon request).

2.1. CVC's General Plan Review Process

The following diagram illustrates CVC's general plan review process.



2.2. Screening and Circulation Process

In coordination between municipal and CVC staff, screening maps have been developed to help determine when an application may require review by CVC. In general, CVC's area of interest

includes lands containing or adjacent to the waterfront, watercourses and other natural features and areas (including CVC regulated areas); within areas requiring special water management related measures or properties adjacent to CVC owned property. Where a service agreement between municipal partners and CVC has been developed, the general screening and circulation process is described in detail. Where no service agreement between the municipality and CVC exists, informal or formal screening and circulation processes are developed based on legal obligations and best practices.

2.3. Pre-Consultation and Processing Timelines

In addition to consulting with municipal staff, it is important for applicants to discuss development related proposals with CVC staff prior to submitting a formal application. For complex applications, this preliminary consultation is often done in coordination with the municipality to ensure all interests are met. Preliminary consultation should be done as early in the planning process as possible to determine how proposals may be affected by CVC's programs and policies, including other partnering agencies such as Fisheries and Oceans Canada (DFO) or the Ministry of Natural Resources (MNR). In this regard, Appendix B provides a review of CVC's Level II Agreement with DFO. During the preliminary consultation process CVC staff will inform applicants of the general review process, indicate what components of the proposal are of interest, discuss potential study requirements and subsequent anticipated processing timelines. Preliminary consultation also allows CVC staff to confirm what constitutes a complete application based on the preliminary discussions and assess the submission based on CVC's checklists and technical guidelines.

Processing timelines will vary based on the completeness of the submission, nature and complexity of the proposal (minor or major) and quality of the technical submissions. Credit Valley Conservation staff are committed to providing a thorough and expeditious review of planning related proposals in an effort to meet the processing timelines as established by the approval authority, in consultation with CVC and other relevant agencies. The submission of a complete application provides CVC staff an opportunity to review the application in a comprehensive, efficient and timely manner. In addition, it is very important that applicants ensure the quality of the submission meets good practice and industry standards to minimize the extent and number of resubmissions and avoid unnecessary delay. Please note that it is the responsibility of the applicant to undertake due diligence to determine all required planning and permitting approvals beyond those provided by CVC staff.

2.4. Submission Requirements

To ensure CVC's interests are met, and to appropriately assess the technical aspects of the proposal, the submission of a number of information items may be required. The level of detail required for most study and report requirements can vary depending on the location of the property and the nature of the proposal. In this regard, technical requirements may vary from brief discussions between qualified experts, to a letter of opinion, while in other cases a scoped or comprehensive environmental study such as an environmental impact study or comprehensive environmental management plan may be necessary. Pre-consultation meetings with CVC and municipal staff prior to submission of an application will help to establish the requirements for, and the scope of, reports and studies where needed.

Credit Valley Conservation has developed checklists, technical manuals and guidelines outlining study content expectations and to help in facilitating the scoping process. In addition, a complete

application checklist has been developed which should be included with initial submissions (after pre-consultation) to reduce requests for additional information and help increase efficiencies in the review process (see Appendix C). Applicable fees are due upon application submission and initial fees are often collected by the municipality and additional fees collected directly by CVC where necessary (see Appendix D).

2.5. Review Procedures

Through the plan review and plan input programs CVC staff provides watershed partners with technical advice on issues related to natural hazard management, natural heritage protection and water management. The policies contained in CVC's Watershed Planning and Regulation Policies provide the basis for CVC staff's review and comment. This technical and scientific expertise provided by CVC supports the environmental planning functions of municipalities.

When a planning application is received by CVC, its review is managed by a planner in the Planning Department. The planner reviews the application to confirm what CVC's interests in the proposal are, and determines if the submission is complete based on guidance provided during the pre-consultation discussions and/or based on CVC's policies, checklists and technical guidelines. Where determined necessary through the pre-consultation process, or pre-consultation with CVC staff had not occurred, a preliminary site visit to confirm CVC's interests in the proposal may be needed. Subsequent to this preliminary review, the application is internally circulated to the necessary CVC technical staff for a thorough technical review. Depending upon the location and nature of the proposal, the application may be circulated to CVC's water resources engineers, geotechnical engineers, geoscientists (hydrogeologists and geomorphologists), ecologists and/or CVC Lands staff.

Upon completion of the technical review and all necessary site visits have been conducted, a letter from the planner is issued to the affected municipality and applicant outlining CVC's comments. It is important to note that based on the initial review, additional technical studies, reports and/or a revised application may be needed prior to CVC staff providing final comments – in particular, where pre-consultation with CVC staff did not occur.

2.6. Level of Service

Credit Valley Conservation staff are committed to meeting reasonable review times for all planning applications that are submitted. Review times for planning related applications are generally established by the municipality, and are on the premise that an appropriate level of pre-consultation has been conducted to ensure the submission is complete. In general, applications are reviewed based on the order they are submitted and/or as requested by the municipality recognizing CVC is responsible to provide a consistent level of service to multiple watershed partners for all programs.

It should be recognized that review times and resubmission requirements are directly affected by the completeness and quality of the submission. It is the applicant's responsibility to ensure an appropriate level of pre-consultation has occurred and that technical submissions meet good practice and industry standards to minimize the extent and number of resubmissions and avoid unnecessary delay.

3. Environmental Assessments

Environmental Assessment (EA) is a planning and decision-making process used to promote environmentally responsible decision making. In Ontario, this process is defined and finds its authority in the Environmental Assessment Act (EAA). The purpose of the EAA is to provide for the protection, conservation and wise management of Ontario's environment. The environment is broadly defined to include the natural, social, economic, cultural and built environments. All projects undertaken by a provincial ministry, municipality or designated public body are subject to the requirements of the EA Act, unless explicitly exempt.

For applications made pursuant to the Environmental Assessment Act, CVC provides technical review on issues related to natural hazards and natural heritage. The policies contained in CVC's Watershed Planning and Regulation Policies, the Provincial Policy Statement, the Oak Ridges Moraine Conservation Plan, the Niagara Escarpment Plan, and the Greenbelt Plan, along with other applicable legislation, and CVC Technical Guidelines provide the basis for staff review and comment.

More information on Environmental Assessments and the Ontario Environmental Assessment Act may be found at www.ene.gov.on.ca/en/eaab/index.php.

3.1. Municipal Class Environmental Assessments

The Municipal Class EA is one of ten approved Class EAs in Ontario and covers a range of municipal projects and activities including municipal road, water, wastewater and transit projects.

The Municipal Class EA provides a planning process and ensures that projects falling within the class of undertakings will be planned in accordance with the approved planning process and other procedures set out in the Class EA. Projects can proceed without seeking further approval if they have been planned in accordance with the planning process outlined in the approved Class EA. This allows for a planning process that is appropriate for the project and which can be completed in a timelier manner.

3.2. Preliminary Consultation

Similar to the plan review process, it is important for applicants to discuss their project with CVC staff early in the process. This preliminary consultation process helps to identify how the proposal may be affected by CVC's policies, including other partnering agencies such as DFO or the MNR. During the pre-consultation process CVC staff will inform applicants of the general review and approvals process, discuss potential study requirements and indicate whether the proposal is supported in principle and anticipated processing timelines. Preliminary consultation also allows CVC staff to confirm what constitutes a complete application and assess the submission based on CVC's checklists and technical guidelines.

Processing timelines will vary based on the completeness of the submission, nature and complexity of the proposal (minor or major) and quality of the technical submissions. Credit Valley Conservation staff are committed to providing a thorough and expeditious review of EA applications in an effort to meet processing timelines. It is very important that applicants ensure the quality of the submission meets good practice and industry standards to minimize the extent and number of resubmissions and avoid unnecessary delay.

3.3. CVC Municipal Class EA Review Process

When the Notice of Commencement is received, its review is facilitated by the EA Planner. The planner first reviews the submission and confirms CVC interest in the project. An initial letter detailing CVC's areas of interest, typically together with digital information on natural features and regulatory limits, is provided to the proponent. Typically, the EA Planner and technical staff, as required, will participate on a Technical Advisory Committee that meets at strategic points throughout the course of the project. Where appropriate, CVC staff will attend public meetings to provide technical support.

When the technical background studies for the EA are prepared, they are submitted to CVC for review and comment. The EA planner will circulate the submission to CVC technical staff for review. Depending on the type of project, a submission may need to be reviewed by CVC's water resources engineers, planning ecologists, hydrogeologists, Lands and Natural Heritage staff, and/or Restoration and Stewardship staff. Once a submission is reviewed by technical staff, and all necessary site visits are conducted, the EA planner coordinates the review comments and composes a letter detailing CVC's issues, concerns or recommendations. The proponent will then typically update the relative studies using CVC comments as input. A meeting may be requested in order to facilitate addressing CVC comments.

Depending on the type (schedule) of project, CVC staff requests the proponent submit a draft final report for comment. The report outlines the planning process followed and justifies how conclusions were reached. CVC's EA planner will review the report and compose a response letter to the proponent listing any outstanding issues, concerns or recommendations. Technical staff may review technical aspects of the report, as required.

When the proponent files the final report with the Ministry of Environment the CVC EA planner will review the report to ensure that all CVC comments have been addressed satisfactorily.

3.4. Submission Requirements

To ensure CVC's interests are met, and to appropriately assess the technical aspects of the proposal, the submission of a number of information items may be required. The level of detail required for most study and report requirements can vary depending on the location of the project and the nature of the proposal. In this regard, technical requirements may vary from brief discussions between qualified experts, to a letter of opinion, while in other cases a scoped or comprehensive environmental study such as an environmental impact study or comprehensive environmental management plan may be necessary. Pre-consultation meetings with CVC and other agency staff prior to submission of an application will help to establish the requirements for, and the scope of, reports and studies where needed.

Credit Valley Conservation has developed checklists and technical manuals and guidelines outlining study content expectations and to help in facilitating the scoping process. In addition, a complete application checklist has been developed which should be included with initial submissions (after pre-consultation) to reduce requests for additional information and help increase efficiencies in the review process. Currently CVC does not charge review fees for review of applications submitted under the Environmental Assessment Act, however fees may apply if a permit is required during the detailed design and implementation portion of the project.

3.5. Level of Service

Credit Valley Conservation staff are committed to meeting reasonable review times for all Environmental Assessment applications that are submitted. Review times for EA related applications are established on the premise that an appropriate level of pre-consultation has been conducted to ensure the submission is complete. In general, applications are reviewed based on the order they are submitted and/or as requested by the proponent recognizing CVC is responsible to provide a consistent level of service to multiple watershed partners for all programs.

It should be recognized that review times and resubmission requirements are directly affected by the completeness and quality of the submission. It is the applicant's responsibility to ensure an appropriately level of pre-consultation has occurred and that technical submissions meet good practice and industry standards to minimize the extent and number of resubmissions and avoid unnecessary delay.

4. Permit Applications

Credit Valley Conservation administers Ontario Regulation 160/06: Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses (see Appendix E). This regulation program is based on a risk management framework associated with natural hazard management and watershed health.

Natural hazard management involves planning for the risks associated with naturally occurring processes such as *flood hazards, erosion hazards, dynamic beach hazards* and other *hazardous land*. These risks include the potential for loss of life, property damage and social disruption as well as environmental impacts. Reducing the impacts of natural hazards to prevent or eliminate these risks is the key goal and is based on four main components:

- Prevention of new development located within areas subject to potential loss of life and property damage from natural hazards;
- Protection of existing development from natural hazards through implementation of structural and non-structural mitigation measures, including the acquisition of lands prone to natural hazards;
- Emergency Response and Recovery Measures to evacuate residents and prepare mitigation measures through flood forecasting and warning systems, including disaster relief; and
- Co-ordination between natural hazard management and planning and development related activities to ensure decision makers are well informed.

Since it is typically not possible to eliminate the threats of natural hazards, managing them is based on a risk management approach. This approach recognizes there is always a risk associated with natural hazard processes and establishes an appropriate level of risk for a community to be exposed to. The minimum standards for acceptable levels of risk to the public are set by the Province.

4.1. Ontario Regulation 160/06

The administration of Ontario Regulation 160/06 is pursuant to Section 28 of the *Conservation Authorities Act*. Pursuant to this Regulation, a permit is required from CVC prior to any of the following works taking place:

- a. 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;
- b. 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.

Development is defined in Section 28 of the *Conservation Authorities Act* as:

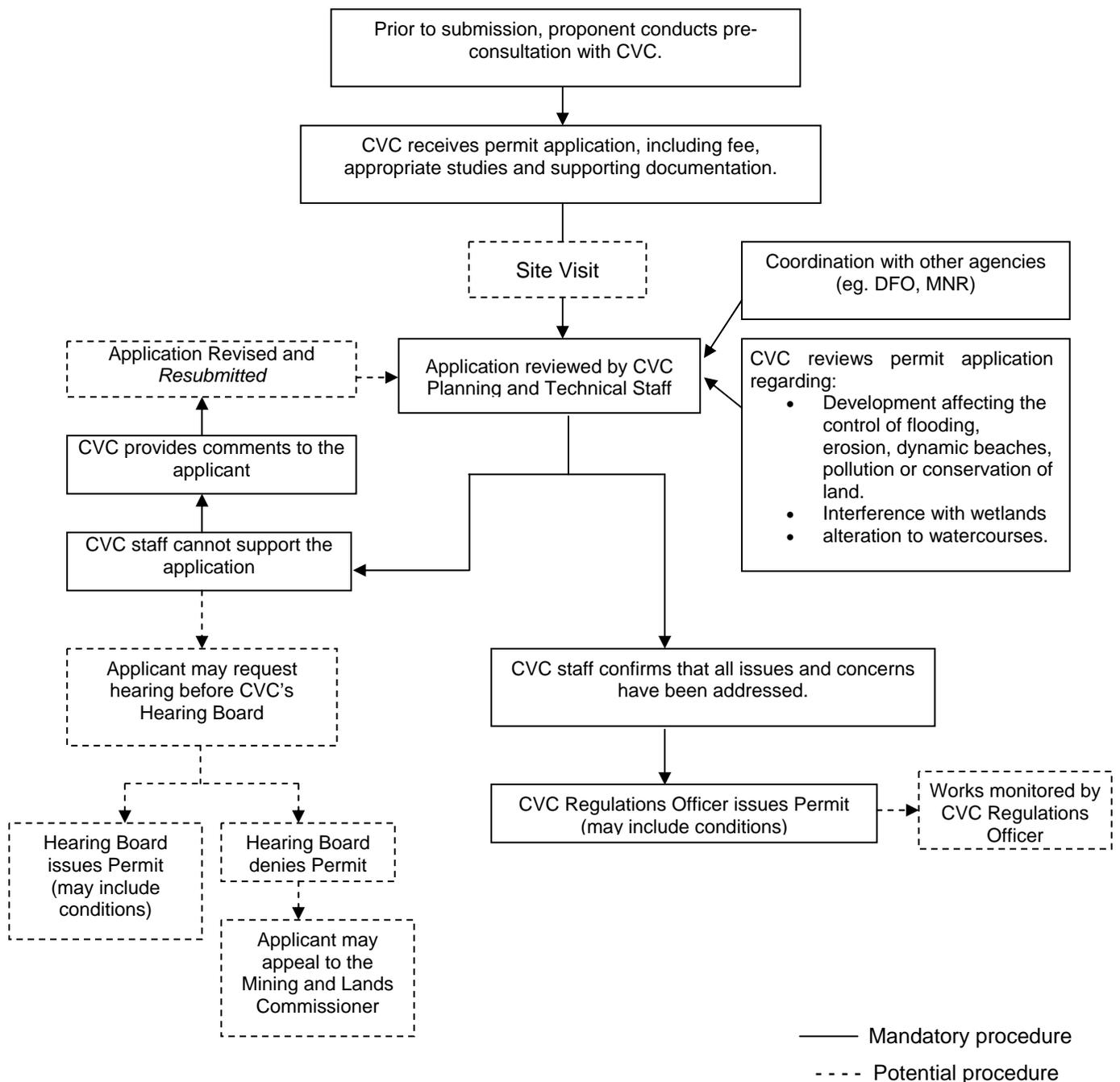
- the construction, reconstruction, erection or placing of a building or structure of any kind;

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

The regulation includes maps identifying the approximate areas regulated by CVC. The approximate regulation limit illustrated on the maps was established according to the specific criteria outlined in Section 2 of the Regulation. Copies of the maps are available at CVC's Administration Office. It is important to recognize that the regulation is a 'text' based regulation – in other words, the maps associated with the regulation represent regulated areas based on best available information at the time. Where there is a conflict between regulated areas described in the regulation text and those illustrated on the maps, the text prevails. It is also important to recognize that the regulation limit does not represent a 'limit of development'. Rather, the regulation limit represents the area in which a permit (permission) from CVC is required prior to any development or interference with a watercourse or wetland occurring.

4.2. CVC Permit Review Process

The following diagram illustrates CVC's general permit review process.



4.3. Pre-Consultation and Processing Timelines

Similar to the plan review process, it is important for applicants to discuss their development proposal with CVC staff prior to submitting a formal permit application. This preliminary consultation process helps to identify how the proposal may be affected by CVC's policies, including other partnering agencies such as DFO or the MNR. In this regard, Appendix B provides a review

of CVC's Level II Agreement with DFO. During the pre-consultation process CVC staff will inform applicants of the general review and approvals process, discuss potential study requirements and indicate whether the proposal is supported in principle and anticipated processing timelines. Preliminary consultation also allows CVC staff to confirm what constitutes a complete application and assess the submission based on CVC's technical guidelines as required.

Processing timelines will vary based on the completeness of the submission, nature and complexity of the proposal (minor or major) and quality of the technical submissions. Credit Valley Conservation staff are committed to providing a thorough and expeditious review of permit applications in an effort to meet processing timelines. Unlike processing timelines for the plan review program, it is CVC's responsibility to establish timelines for the review of permit applications. In general, CVC is consistent with the suggested process and timelines provided in the MNR's recommended Policies and Procedures for Conservation Authority Plan Review and Permitting Activities - May 2010 (Appendix F). It is very important that applicants ensure the quality of the submission meets good practice and industry standards to minimize the extent and number of resubmissions and avoid unnecessary delay. It is also the responsibility of the applicant to undertake due diligence to determine all required approvals beyond those needed from CVC.

4.4. Submission Requirements

For CVC staff to appropriately assess the technical aspects of the proposal, the submission of a number of information items may be required. At a minimum, a complete application must contain the following:

- Completed and signed application form;
- Required application fee;
- Three (3) copies of a plan of the area showing the type and location of the development and/or plan view and cross-section details of the proposed alteration;
- The proposed use of the buildings and structures following completion of the development;
- The start and completion dates of the development;
- The elevations of existing buildings, if any, and grades and the proposed elevations of buildings and grades after development;
- Drainage details before and after development;
- Erosion and Sediment Control plans;
- A complete description of the type of fill proposed to be placed or dumped; and
- Such other technical studies or plans as requested by the CVC.

The level of detail required for most study and report requirements can vary depending on the location of the property and the nature of the proposal. In this regard, technical requirements may vary from brief discussions between qualified experts, to a letter of opinion, while in other cases a scoped or comprehensive environmental study such as an environmental impact study, geotechnical report or flood analysis may be necessary. Pre-consultation meetings with CVC staff and other appropriate agencies will help to establish the requirements for, and the scope of, reports and studies where needed.

Credit Valley Conservation has developed checklists and technical manuals and guidelines outlining study content expectations and to help facilitate the scoping process. In addition, a complete application checklist has been developed which should be included with initial submissions (after

pre-consultation) to reduce requests for additional information and help increase efficiencies in the review process (see Appendix C). Applicable fees are due upon application submission and the permit review fee schedule (see Appendix D).

4.5. Review Procedures

Through the regulation program CVC staff administers Ontario Regulation 160/06. The policies contained in CVC's Watershed Planning and Regulation Policies provide the basis for CVC staff's review and comment. When a permit application is received by CVC, its review is managed by a Regulations Officer in the Planning Department. Often, a CVC permit is required for development or site alterations associated with planning applications. In these instances, the review of the detail designed component of the planning proposal and the permit applications are coordinated by the planner and typically runs concurrently.

Where determined necessary through the pre-consultation process, or pre-consultation with CVC staff had not occurred, a preliminary site visit to confirm a CVC permit is required and/or what CVC's interests in the proposal may be needed. Permit applications for works within a CVC regulated area are assessed to determine if the proposed works, in the opinion of CVC, will affect the control of flooding, erosion, dynamic beaches, pollution or the conservation of land and/or if the proposed interference with a watercourse or wetland is acceptable. Following the Regulation Officer's preliminary review, the application may be circulated to CVC's technical staff for a more detailed review. This may include a review by CVC's water resources engineers, geotechnical engineers, geoscientists (hydrogeologist and geomorphologists), ecologist or CVC Lands staff.

Upon completion of the technical review and all necessary site visits have been conducted, a letter from the Regulations Officer is issued to the applicant outlining CVC's comments. It is important to note that based on the initial review, additional technical studies, reports and/or a revised application may be needed prior to CVC staff supporting the application – in particular, where pre-consultation with CVC staff did not occur. Once all comments have been addressed to the satisfaction of CVC staff, the Regulations Officer issues the permit and stamps accompanying plans and supporting documents. One copy of the approved permit is sent to the applicant, one to the municipality and one is retained for CVC's records.

4.6. Approval or Refusal of a Permit

As previously described, permit applications are assessed to determine if the proposed works, in the opinion of CVC, will affect the control of flooding, erosion, dynamic beaches, pollution or the conservation of land and/or if the interference is acceptable to CVC. Where the permit application cannot be supported by CVC staff, comments are provided and the applicant is encouraged to redesign. Where the applicant is not willing to redesign or it is not possible to meet CVC policies, the applicant may appeal to CVC's Hearing Board for further consideration (see Appendix G). Requests for a hearing must be received by CVC staff in writing. Subsequent to this, CVC staff will provide a letter to the applicant clearly outlining which components of the application cannot be supported and why. The applicant will then be notified of the hearing date which they and/or their agent may attend and are expected to present their case.

Upon hearing the presentations and evidence provided by CVC staff and the applicant, the Hearing Board will make a decision. The Hearing Board may grant the permission with or without conditions, or refuse the permission. Where the application is refused the applicant will be notified

of the reasons at the meeting, as well as in writing shortly after. The applicant may appeal the decision of the Hearing Board to the Mining and Lands Commissioner, within 30 days of receiving its reasons for refusal in writing. The Mining and Lands Commissioner has been assigned the authority, duties and powers of the Minister of Natural Resources under the *Ministry of Natural Resources Act* to hear appeals from the decisions of conservation authorities regarding a refusal to grant permission to a property owner to undertake development, interfere with a wetland or alter a shoreline or watercourse. The Mining and Lands Commissioner may dismiss the appeal or grant permission at a hearing.

Where the application is granted by the Hearing Board, CVC staff will issue the permit once all of the final plans are received and any conditions imposed by the Hearing Board have been addressed.

4.7. Level of Service

Credit Valley Conservation staff are committed to meeting reasonable review times for all permit applications that are submitted. Review times for permit applications are established on the premise that an appropriate level of pre-consultation has been conducted to ensure submissions are complete. In general, applications are review based on the order in which they are submitted recognizing CVC is responsible to provide a consistent level of service for all programs offered throughout the jurisdiction. As previously noted, CVC is generally consistent with the suggested process and timelines provided in the MNR's recommended Policies and Procedures for Conservation Authority Plan Review and Permitting Activities.

In cases where re-submission of information is needed, it is helpful if a covering letter is provided that itemizes in detail how each of the comments provided has been addressed. This will help to clearly identify how the new or revised plans or studies has addressed each of CVC's comments and expedite the subsequent review process. It should also be recognized that review times and resubmissions are directly affected by the completeness and quality of the submission. It is the applicant's responsibility to ensure an appropriately level of pre-consultation has occurred and that technical submissions and resubmissions meet good practice and industry standards to minimize the extent and number of resubmissions needed and avoid unnecessary delay.

4.8. Violations of Ontario Regulation 160/06

A violation (or contravention) of Ontario Regulation 160/06 may occur as a result of development or activities related to an interference occurring within a CVC Regulated Area without written permission from CVC. In some instances, the landowner and/or individuals involved in the works may be unaware that permission was required from CVC. However, this does not absolve the landowner and/or individuals involved from requiring these necessary permissions.

Credit Valley Conservation staff, in coordination with municipal building and/or by-law enforcement staff, may carry out an initial investigation where the activity is clearly visible from a public road or property where access to private property is not required or permitted. Photographs and field notes of the activity taking place are taken and landowner contact is initiated. If the activity is not clearly visible from a public location, CVC staff will attempt to contact the landowner to arrange a site visit to discuss the matter. Subsequent to this, a determination regarding whether or not an offence has occurred is made and the appropriate action is taken. Where it is found that no violation occurred, no further action is taken.

In cases where CVC staff has determined an offence has occurred, subsequent to discussions with the landowner a Notice of Violation is typically sent to formally advise of the offence and how to proceed. It should be noted that the Notice of Violation is not a legal document, rather formal correspondence notifying the landowner the identified activities constitute a violation of Ontario Regulation 160/06 and how to proceed. The Notice of Violation identifies the specific activities that are subject to the infraction, specifies the particular section of the Regulation that has been contravened and requests the recipient to stop work until further discussions with CVC staff have occurred to resolve the matters. To ensure that the recipient receives the notice in a timely manner, it is typically delivered by personal delivery or sent by registered mail.

In general, where a violation has been identified the landowner has two options:

1. immediately stop the activity and contact CVC staff to obtain the necessary permit, provided the activity adheres to CVC requirements; or
2. remove the offending development or stop the activity and restore the area to its original condition by methods acceptable to CVC staff.

Where neither of the above two options are exercised to CVC's satisfaction, CVC may proceed to take the matter to court. Every person who contravenes the regulation is liable to a fine of not more than \$10,000 or to a term of imprisonment of not more than three months. In addition to any other remedy or penalty provided by law, the court may order the person convicted to:

1. remove; at the owner's expense, any development within such reasonable time as the court orders; and
2. rehabilitation of any watercourse or wetland in the manner and within the time the court orders.

It is the preference of CVC staff to avoid having to proceed to court and have the matters addressed through the permitting process (provided the activity adheres to CVC requirements) or voluntary removal and restoration. It should be recognized that all efforts to avoid pursuing legal action will be made by CVC, however, it is the responsibility of the landowner to be willing to work with CVC staff to reach an agreeable solution.

5. Other Review Services

5.1. Solicitor and Realtor Inquiries

Credit Valley Conservation offers a Solicitor and Realtor Inquiry service to assist in providing the public with the best information available regarding CVC's interests throughout the watershed. Through this service, lawyers and real estate agents, acting on behalf of their clients, request information about CVC's interests in a property. In responding to these requests, CVC staff screens the property and issues a letter stating whether a property is affected by CVC's regulatory program or any other interests or programs of CVC. In addition, the letter will outline where there may be an outstanding violation on the property and how to proceed to address the matter.

The letter provided serves as a formal record and provides valuable information to the client when making decisions about purchasing a property. However, the letter does not constitute a formal position on a planning or permit application nor does it replace the preliminary consultation process.

Solicitor and Realtor Inquiries should be made in writing and include the following:

- **Letter of Inquiry** – The Letter of Inquiry should note the location of the subject property, including street address, lot and concession number, municipality and outline what information is being requested.
- **Legal Survey** – The Legal Survey should be in its entirety and must depict the geographic location and extent of the property, with the property in question highlighted. In lieu of a survey, a site plan, Property Index Map, a municipal zoning schedule or an engineering drawing may be sufficient.
- **Review Fee** – refer to Plan Review Fee Schedule in Appendix F.

In general, applications are review based on the order in which they are submitted recognizing CVC is responsible to provide a consistent level of service for all programs offered throughout the jurisdiction.

5.2. Property Inquiries

Credit Valley Conservation also offers a Property inquiry service. Property inquiries are typically requests from land owners (or potential purchasers) looking to obtain detailed information on the development potential of a property. Both pre-consultation and site visits are very important in expediting the review period needed to provide this service. Where a landowner is interested in meeting with CVC staff to discuss CVC's interests in a property, it is most helpful if the inquirer first call CVC's office to discuss the matter with the appropriate staff member first. The CVC staff member will undertake a brief preliminary review of the request and advise as to CVC's interests in the matter. Where formal correspondence is needed to obtain municipal clearances or for other purposes, a fee is required and the submission should include similar information to that outlined in Section 5.1.

It is important to note that most Property Inquiries require a site visit to ensure CVC staff have a clear understanding of the proposal and the existing condition of the site. Prior to a site visit being scheduled CVC staff require the submission of a conceptual site plan, and in the case of a potential purchaser, written permission from the current land owner.

6. Checklists and Technical Guidelines

6.1. Checklists

To ensure all of the necessary information is submitted with planning or permit applications, CVC has developed a checklist that outlines the requirements of a complete submission (see Appendix C). A complete application checklist will be provided to the applicant at the time of pre-consultation. Where no pre-consultation has occurred, a complete application checklist may be provided where additional study requirements are needed or to confirm the submission has been deemed complete. A timely review by CVC staff can only take place when all of the submission requirements and technical studies have been submitted. It is the applicant's responsibility to ensure the content of all technical submissions meets good practice and industry standards. This will help to minimize the extent and number of resubmissions needed and avoid unnecessary delay or the application being deemed incomplete.

6.2. Technical Guidelines

To assist applicants in fulfilling technical requirements, CVC has developed a number of technical guidelines. The appropriate technical guidelines will be provided to applicants to help clarify any study requirements and guide consultants – technical guidelines are also available electronically at www.creditvalleyca.ca/resource-library. Some of the more typical guidelines used include:

- Procedural Guideline for the Placement of Fill (2011)
- Technical Guidelines for Floodproofing (2011)
- Slope Stability Definition and Determination Guideline (2011)
- Fluvial Geomorphic Guidelines – Fact Sheets I through V (2010)
- Evaluation, Classification and Management of Headwater Drainage Features: Interim Guidelines (2009)
- Environmental Impact Study Terms of Reference (2008)
- Technical Guidelines for Pedestrian Bridge Crossings (2007)
- Erosion and Sediment Control Guideline for Urban Construction (2006)
- Guidelines for the Review of Golf Course Developments (2005)
- Stormwater Management Planning Guidelines (2003)
- CVC Stormwater Management Guidelines (1996)

7. Fees

7.1. Plan Review Fees

Credit Valley Conservation has a fee schedule to help in cost recovery for planning services provided (Appendix D). The plan review fees reflect the type and scale of the proposed development as well as the complexity of the application. Credit Valley Conservation's planning program fee schedules are reviewed by CVC staff on a yearly basis and updated as appropriate. The plan review fee schedules are approved by the CVC Board of Directors and are consistent with the MNR's Policies and Procedures for the Charging of Conservation Authority Fees.

7.2. Permit Fees

Similar to the plan review program, CVC has a fee schedule to help in cost recovery for the regulations program (Appendix D). The permit fee schedule is structured to distinguish between the type and scale of the proposed development, recognizing this typically relates to level of technical support needed to review applications. In coordination with the plan review fees, permit fees are reviewed on an annual basis and updated as appropriate. The permit fee schedules are approved by the CVC Board of Directors and are consistent with the MNR's Policies and Procedures for the Charging of Conservation Authority Fees.

APPENDIX A - Memorandum of Understanding between Conservation Ontario and Province

**CONSERVATION ONTARIO,
MINISTRY OF NATURAL RESOURCES &
MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING**

**MEMORANDUM OF UNDERSTANDING ON PROCEDURES TO ADDRESS
CONSERVATION AUTHORITY
DELEGATED RESPONSIBILITY**

PURPOSE OF THE MOU

The MOU defines the roles and relationships between Conservation Authorities (CAs), the Ministry of Natural Resources (MNR), and the Ministry of Municipal Affairs and Housing (MMAH) in planning for implementation of CA delegated responsibilities under the Provincial One Window Planning System.

BENEFITS TO SIGNATORY PARTIES

It is beneficial for all parties to enter into this agreement because it clarifies the roles of CAs and the unique status of CAs in relationship to the Provincial One Window Planning System.

DELEGATED RESPONSIBILITY FOR NATURAL HAZARDS

CAs were delegated natural hazard responsibilities by the Minister of Natural Resources. A copy of the delegation letter is attached. This letter (dated April 1995) went to all CAs and summarizes delegations from the MNR including flood plain management, hazardous slopes, Great Lakes shorelines, unstable soils and erosion which are now encompassed by Section 3.1 "Natural Hazards" of the Provincial Policy Statement (1997). In this delegated role, the CA is responsible for representing the "Provincial Interest" on these matters in planning exercises where the Province is not involved.

This role does not extend to other portions of the PPS unless specifically delegated or assigned in writing by the Province.

ROLES AND RESPONSIBILITIES

Ministry of Natural Resources

- a) MNR retains the provincial responsibility for the development of flood, erosion and hazard land management policies, programs and standards on behalf of the province pursuant to the *Ministry of Natural Resources Act*.
- b) Where no conservation authorities exist, MNR provides technical support to the Ministry of Municipal Affairs and Housing on matters related to Section 3.1 of the Provincial Policy Statement in accordance with the "Protocol Framework – One

Window Plan Input, Review and Appeals”.

- c) MNR, in conjunction with MMAH, co-ordinates the provincial review of applications for Special Policy Area approval under Section 3.1 of the PPS.

Ministry of Municipal Affairs and Housing

- a) MMAH coordinates provincial input, review and approval of policy documents, and development proposals and appeals to the Ontario Municipal Board in accordance with the “Protocol Framework One Window Plan Input Review and Appeals”.
- b) Where appropriate, MMAH will consult conservation authorities as part of its review of policy documents and development proposals to seek input on whether there was “regard to” Section 3.1 of the PPS.
- c) Where there may be a potential conflict regarding a Conservation Authority’s comments on a planning application with respect to Section 3.1 of the PPS and comments from provincial ministries regarding other Sections of the PPS, the Ministry of Municipal Affairs and Housing will facilitate discussions amongst the affected ministries and the Conservation Authority so that a single integrated position can be reached.
- d) Where appropriate, MMAH will initiate or support appeals to the OMB on planning matters where there is an issue as to whether there was “regard to” Section 3.1 of the PPS.
- e) MMAH, in conjunction with MNR, coordinates the provincial review of application for Special Policy Area approval under Section 3.1 of the PPS.

Conservation Authorities (CAs)

- a) The CAs will review policy documents and development proposals processed under the *Planning Act* to ensure that the application has appropriate regard to Section 3.1 of the PPS.
- b) Upon request from MMAH, CAs will provide comments directly to MMAH on planning matters related to Section 3.1 of the PPS as part of the provincial one window review process.
- c) Where there may be a potential conflict regarding a Conservation Authority’s comments on a planning application with respect to Section 3.1 of the PPS and comments from provincial ministries regarding other Sections of the PPS, the Ministry of Municipal Affairs and Housing will facilitate discussions amongst the affected ministries and the Conservation Authority so that a single integrated position can be reached.

- d) CAs will apprise MMAH of planning matters where there is an issue as to whether there has been “regard to” Section 3.1 of the PPS to determine whether or not direct involvement by the province is required.
- e) Where appropriate, CAs will initiate an appeal to the OMB to address planning matters where there is an issue as to whether there has been “regard to” Section 3.1 of the PPS is at issue. CAs may request MMAH to support the appeal.
- f) CAs will participate in provincial review of applications for Special Policy Area approval.
- g) CAs will work with MMAH, to develop screening and streamlining procedures that eliminate unnecessary delays and duplication of effort.

FURTHER CA ROLES IN PLAN INPUT, PLAN REVIEW AND APPEALS

CAs also undertake further roles in planning under which they may provide plan input or plan review comments or make appeals.

1. Watershed Based Resource Management Agency

CAs are corporate bodies created by the province at the request of two or more municipalities in accordance with the requirements of the *Conservation Authorities Act (CA Act)*. Section 20 of the *CA Act* provides the mandate for an Authority to offer a broad resources management program. Section 21 of the *CA Act* provides the mandate to have watershed-based resource management programs and/or policies that are approved by the Board of Directors.

CAs operating under the authority of the *CA Act*, and in conjunction with municipalities, develop business plans, watershed plans and natural resource management plans within their jurisdictions (watersheds). These plans may recommend specific approaches to land use and resource planning and management that should be incorporated into municipal planning documents and related development applications in order to be implemented. CAs may become involved in the review of municipal planning documents (e.g., Official Plans (OPs), zoning by-laws) and development applications under the *Planning Act* to ensure that program interests developed and defined under Section 20 and 21 of the *CA Act* are addressed in land use decisions made by municipal planning authorities. In this role, the CA is responsible to represent its program and policy interests as a watershed based resource management agency.

2. Planning Advisory Service to Municipalities

The provision of planning advisory services to municipalities is implemented through a service agreement with participating municipalities or as part of a CAs approved program activity (i.e., service provided through existing levy). Under a service agreement, a Board approved fee schedule is used and these fee schedules are

coordinated between CAs that “share” a participating municipality. The “Policies and Procedures for the Charging of CA Fees” (MNR, June 13, 1997) identifies “plan review” activities as being eligible for charging CA administrative fees.

The CA is essentially set up as a technical advisor to municipalities. The agreements cover the Authority’s areas of technical expertise, e.g., natural hazards and other resource management programs. The provision of planning advisory services for the review of *Planning Act* applications is a means of implementing a comprehensive resource management program on a watershed basis.

In this role, the CA is responsible to provide advice on the interpretation of the Provincial Policy Statement (PPS) under the terms of its planning advisory service agreement with the municipality. Beyond those for Section 3.1 “Natural Hazards” where CAs have delegated responsibility, these comments should not be construed by any party as representing the provincial position.

3. CAs as Landowner

CAs are landowners and as such, may become involved in the planning process as a proponent or adjacent landowner. Planning Service Agreements with municipalities have anticipated that this may lead to a conflict with our advisory role and this is addressed by establishing a mechanism for either party to identify a conflict and implement an alternative review mechanism.

4. Regulatory Responsibilities

a) *CA Act* Regulations

In participating in the review of development applications under the *Planning Act*, CAs will (i) ensure that the applicant and municipal planning authority are aware of the Section 28 regulations and requirements under the *CA Act*, and, (ii) assist in the coordination of applications under the *Planning Act* and the *CA Act* to eliminate unnecessary delay or duplication in the process.

b) Other Delegated or Assigned Regulatory/Approval Responsibility

Federal and provincial ministries and municipalities often enter agreements to transfer regulatory/approval responsibilities to individual CAs (e.g., Section 35 Fisheries Act/DFO; Ontario Building Code/septic tank approvals). In carrying out these responsibilities and in participating in the review of development applications under the *Planning Act*, CAs will (i) ensure that the applicant and municipality are aware of the requirements under these other pieces of legislation and how they may affect the application; and, (ii) assist in the coordination of applications under the *Planning Act* and those other Acts to eliminate unnecessary delays or duplication in the process.

CANCELLATION OR REVIEW OF THE MOU

The terms and conditions of this MOU can be cancelled within 90 days upon written

notice from any of the signing parties. In any event, this document should be reviewed at least once every two years to assess its effectiveness, its relevance and its appropriateness in the context the needs of the affected parties. "Ed. Note: 90 days is to provide time for the parties to reach a resolution other than cancellation".

**MEMORANDUM OF UNDERSTANDING ON PROCEDURES TO ADDRESS
CONSERVATION AUTHORITY DELEGATED RESPONSIBILITY**

I hereby agree to support the provisions contained in this Memorandum of Understanding as an appropriate statement of the roles and responsibilities of relevant Ministries and Conservation Authorities in the implementation of the Provincial Policy Statement.

Jan 19, 2001: Original signed by

David de Launay
Director
Lands and Waters Branch
Ministry of Natural Resources

Date

Feb 12, 2001: Original signed by

Audrey Bennett
A/Director
Provincial Planning and Environmental Services Branch
Ministry of Municipal Affairs and Housing

Date

Jan 01, 2001: Original signed by

R.D. Hunter
General Manager
Conservation Ontario

Date



Ministry of
Natural
Resources

Minister

Ministère des
Richesses
naturelles

Ministre

Queen's Park
Toronto, Ontario
M7A 1W7
416 / 314-2301

APR 19 1995

95-01252-MIN

Mr. Donald Hocking
Chair
Upper Thames River Conservation Authority
R.R. #6
London, Ontario
N6A 4C1

Dear Mr. Hocking:

This letter is with regard to the responsibilities of Conservation Authorities in commenting on development proposals.

The Government of Ontario is continuing to move forward on reforms promoting greater local involvement in decision-making, streamlining of municipal planning and other approval processes, and improved environmental protection. Ontario's Conservation Authorities continue to be important partners in this process.

In 1983, Conservation Authorities were delegated commenting responsibility on flood plain management matters. This was followed in 1988 by a similar delegation of commenting responsibility for matters related to flooding, erosion, and dynamic beaches along the shorelines of the Great Lakes-St. Lawrence River system.

At present, the Ministry and Conservation Authorities continue to independently review and provide input to municipalities and the Ministry of Municipal Affairs on development matters related to riverine erosion, slope, and soil instability. Although Authorities and the Ministry share similar objectives, this overlap and duplication of efforts have occasionally led to differences in comments which, in turn, have sometimes resulted in confusion, delays and expense for development proponents. As part of the current Planning Reform initiative, there is an opportunity to clarify the roles and responsibilities related to these important hazard management issues.

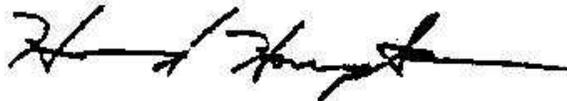
Through their flood plain, watershed and Great Lakes-St. Lawrence River shoreline management planning initiatives, Conservation Authorities have made good progress in streamlining approval processes and strengthening provincial-municipal partnerships. By extension, I believe that it would be appropriate to recognize the well-developed expertise and capabilities of Conservation Authorities in the evaluation of riverine erosion, slope and soil instability matters and to formally confirm Conservation Authorities as the lead commenting agency. This would result in further streamlining of approval processes, the promotion of environmentally sound development, and the provision of an economic stimulus for the province.

As of March 29, 1995, Conservation Authorities, where they exist, will have sole commenting responsibilities on development proposed in areas subject to riverine erosion, slope instability and soil instability, such as in areas of high water tables, organic or peat soils, and leda, or sensitive marine clay, soils. Implementation of this policy by authorities would continue to be eligible for provincial grant. Where Conservation Authorities exist, I have asked Ministry staff to focus their comments on all other matters of direct interest and concern to the Ministry. Where Conservation Authorities do not exist, the Ministry will continue its commenting role on these matters.

The Ministry of Natural Resources will continue as lead administrative Ministry having overall Government responsibility for hazard management policies and programs. In this regard, the Ministry will continue to provide leadership, policy direction and advisory assistance to the Conservation Authorities.

Your continued participation in the delivery of this important component of the overall provincial hazard management program will serve to strengthen the partnership between the Ministry and the Conservation Authorities.

Yours sincerely,



Howard Hampton
Minister

APPENDIX B - Level II Agreement Between CVC and DFO

**The Canada – Credit Valley Conservation Authority
Fish Habitat Management Agreement Respecting Worksharing
Arrangements for Initial Review Determinations and Mitigation
Requirements for the Purposes of Section 35 of the Fisheries Act**

This agreement is effective on the third day of July, 2010.

BETWEEN:

Her Majesty in right of Canada ("Canada"), represented by the Minister of Fisheries and Oceans ("DFO")

OF THE FIRST PART;

AND

The Credit Valley Conservation Authority, ("Conservation Authority")

OF THE SECOND PART.

Whereas Canada and the Conservation Authority share strong concerns for the protection of watersheds, aquatic species and their habitats;

Whereas Canada and the Conservation Authority accept and promote the objective of net gain of habitat and the goals of habitat conservation, restoration, development and no net loss as set out in Canada's Policy for the Management of Fish Habitat ("Policy");

Whereas Canada and the Conservation Authority recognize the importance of protecting, preserving and adding to fish habitat in conserving fish stocks;

Whereas Canada and the Conservation Authority recognize the role of fish stocks as an indicator of the health of ecosystems and as a source of food, enjoyment, cultural significance and income;

Whereas Canada and the Conservation Authority desire to foster and develop an approach to fish habitat management that is consistent in all parts of Ontario;

Whereas Canada and the Conservation Authority desire to improve the efficiency and effectiveness of the review of applications for development which may affect fish habitat;

And Whereas Canada and the Conservation Authority desire to build, foster and maintain cordial, professional and effective relationships with each other and with other agencies and groups and particularly the Ontario Ministry of Natural Resources (OMNR), which has provincial responsibilities in fisheries management and may also share in the responsibilities and contribute to capabilities to manage and control developments which may alter fish habitat.

Therefore the Parties will cooperate with each other and work together in implementing

the Policy and its intents throughout the area administered by the Conservation Authority and agree as follows:

ARTICLE I

PURPOSE

The purpose of this Agreement is to provide for a sharing of work obligations that arise in reviewing plans and providing mitigation advice for developments that may harm habitat pursuant to Section 35 of the Fisheries Act and so assist in conserving, renewing and developing fish habitat in the area administered by the Conservation Authority by helping to give effect to the habitat provisions of the Fisheries Act and to the Policy and to the conservation goals, policies and objectives of the Conservation Authority in the area administered by the Conservation Authority.

ARTICLE II

REVIEW OF CONSERVATION AUTHORITY PLANS

The Conservation Authority will conduct a review in conjunction with DFO of the plans for projects for development where the Conservation Authority is a proponent to ensure that the plans are in accordance with the intent and requirements of the Fisheries Act and the Policy, and if required will modify the plans to meet DFO's requirements.

ARTICLE III

WORK TO BE COORDINATED

A the Parties agree:

- i) to develop, improve and implement an approach to managing fish habitat in Ontario that gives consideration to the abilities and experience with fish habitat management of the Conservation Authority;
- ii) to assist each other by sharing information and technical capacity, and to approach the conservation of fish and fish habitat with the knowledge and in the spirit that this conservation is essential to preserving enjoyment of, and access to, abundant nature in Canada;
- iii) to identify potential habitat improvement projects;
- iv) to jointly participate in preparing fish habitat management plans in the area administered by the Conservation Authority and in consultation with OMNR and other relevant agencies;
- v) to consult with OMNR and invite OMNR's participation in relation to actions pursuant to this agreement consistent with OMNR's provincial

authority and responsibility for the management of fisheries;

- vi) to keep each other informed of actions taken pursuant to this agreement.

B Canada agrees:

- i) to review, in a timely manner, consistent with the requirements of the Fisheries Act and the Policy, all development plans submitted to DFO that might result in harmful alteration, disruption or destruction of fish habitat (HADD);
- ii) to enforce the habitat provisions of the Fisheries Act;
- iii) to conduct a program of research directed at improving the understanding and the development of ways to protect or reduce harm to fish habitat;
- iv) to share the results of this fish habitat research and other information with the Conservation Authority;
- v) to assist fish habitat research undertaken by the Conservation Authority;
- vi) to assist in developing the professional and technical capacity of the Conservation Authority and to train or provide training for Conservation Authority employees in habitat biology, mitigative and compensatory measures and the habitat protection provisions of the Fisheries Act and other topics related to the conservation and protection of fish habitat;
- vii) to pay the federal Crown's costs of prosecutions brought under Sub-Section 35(2) of the Fisheries Act;
- viii) to assist in procuring information on stock management goals, plans and objectives for the area administered by the Conservation Authority;
- ix) to have a DFO habitat biologist visit the Conservation Authority office or staff to provide guidance and assistance to Conservation Authority biologists;
- x) to exercise the responsibilities of the Minister of Fisheries and Oceans for matters pertaining to fish habitat protection and compliance including decisions to require or accept compensation and decisions to authorize or refuse to authorize harmful alteration, disruption or destruction of fish habitat (HADD).

C the Conservation Authority agrees:

- i) to include in its review of plans for development submitted to it for approvals, aspects which determine whether or not fish habitat will likely be harmfully altered, disrupted or destroyed (HADD) and to make determinations respecting harm to fish habitat in a manner consistent with the guidance provided in Appendix One;

- ii) to include in its reviews of development such requirements for mitigation as are consistent with the guidance provided in Appendix One;
- iii) where mitigation is possible or not needed, the Conservation Authority agrees to inform developers, proponents and their advisers of the initial review determination and mitigation requirements made pursuant to Section C(i) and C(ii) of Article III;
- iv) where acceptable mitigation is not possible and harm to fish habitat is anticipated, to refer the proposal and the proponents to DFO;
- v) to otherwise use the powers and influence available to the Conservation Authority to protect fish and fish habitat;
- vi) to actively encourage its employees to take the training provided by DFO under this agreement;
- vii) to furnish to DFO on a monthly basis a report listing each active application and particulars pertaining to it including the location, name of applicant, work proposed, anticipated effects on fish habitat, recommendations made and disposition of the application;
- viii) to advise applicants to contact the appropriate federal agency in regard to any interests (Canadian Environmental Assessment Act "triggers" and *Species at Risk Act* requirements) listed in Appendix Three and Four that may be affected by the proposal.

ARTICLE IV

ANNUAL REPORT AND SELECTION OF RESPONSIBILITIES

The Parties agree that:

- 1) during the course of the year while this agreement is in force, the Parties will jointly prepare a report summarizing the work done under this agreement; including research, habitat development projects, numbers of projects reviewed according to kind, action required and the anticipated results and setting out a review of the work;
- 2) during the course of the year while this agreement is in force, the Parties will review the agreement to determine whether the Conservation Authority shall exercise responsibility for initial reviews, or initial reviews plus mitigation, or for initial reviews, plus mitigation and compensation advice, and that this agreement will be amended accordingly.

ARTICLE V

IMPROVING THE AGREEMENT

The Parties agree:

- 1) to meet together at least twice during the year that this agreement is in force to discuss improvements to the procedures for referring and acting on applications to modify fish habitat.

ARTICLE VI

TERM OF THE AGREEMENT

The Parties agree:

- 1) that this agreement shall remain in force for the period of July 3rd, 2010 to July 3rd, 2011 and may be extended by exchange of letters duly signed for a period to be agreed by the Parties, or until discontinued by a Party acting under Article VII;
- 2) this agreement may be amended from time to time by mutual written agreement of the Parties.

ARTICLE VII

PROVISION FOR CANCELLATION

The Parties agree:

- 1) that this agreement may be canceled unilaterally by either Party by providing six (6) months notice in writing of the intention to cancel to the other Party or by mutual agreement with any agreed period of notice.

IN WITNESS WHEREOF, this agreement has been executed on the third day of July, 2010, on behalf of the Minister of Fisheries and Oceans, by the Regional Director General, Central and Arctic Region for DFO and on behalf of the Credit Valley Conservation Authority, by the Chair and the Chief Administrative Officer of the Credit

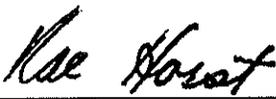
Valley Conservation Authority.

In the presence of

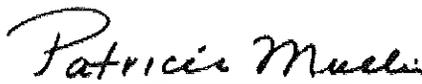

witness as to execution by


Robert Lambe
Regional Director General
Central and Arctic Region, DFO


witness as to execution by


Rae Horst
Chief Administrative Officer/General Manager
Credit Valley Conservation Authority


witness as to execution by


Pat Mullin
Chair
Credit Valley Conservation Authority

Appendix One: Initial Review Assessment Guidance - Definitions

Destruction: Any permanent change of fish habitat that renders it completely unusable for future production of fish, regardless of the means employed in causing the change (e.g. by removal, infilling, blockage, etc.).

Disruption: Any change to fish habitat occurring for a limited period that reduces its capacity to support one or more life processes of fish.

Fish Habitat: Spawning grounds and nursery, rearing, food supply and migration areas on which fish depend directly or indirectly in order to carry out their life processes (Fisheries Act s.2).

Habitat Compensation: The replacement of natural habitat, increase in the productivity of existing habitat, or maintenance of fish production by artificial means in circumstances dictated by social and economic conditions, where mitigation techniques and other measures are not adequate to maintain habitats for Canada's fisheries resources.

Harmful Alteration: Any change to fish habitat that reduces its long term capacity to support one or more life processes of fish but does not permanently eliminate the habitat.

Harmful Alteration, Disruption or Destruction of Fish Habitat (HADD): Any change in fish habitat that reduces its capacity to support one or more life processes of fish.

Mitigation: Actions taken during the planning, design, construction and operation of works and undertakings to alleviate potential adverse effects on the productive capacity of fish habitat.

Pathways of Effects: Diagrams that describe development proposals in terms of the activities that are involved, the type of cause-effect relationship that are known to exist for that activity, and the mechanisms by which stressors ultimately lead to effects in the aquatic environment.

Productive Capacity: The maximum natural capacity of habitats to produce healthy fish, safe for human consumption, or to support or produce aquatic organisms on which fish depend.

Risk Management Framework: A systematic approach to gathering, evaluating, recording and disseminating information leading to recommendations for a position or action in response to an identified event. A framework to enable Habitat Management practitioners and proponents to better understand the nature or risk, and to manage it more systematically.

Note: *Applicants should be advised that these definitions are not exhaustive and should refer to the references in Appendix 5 for greater certainty.*

Appendix Two: Environmental Process Modernization Plan & Risk Management Framework

Environmental Process Modernization Plan (EPMP)

DFO's Habitat Management Program nationally is continuing to modernize the delivery of its responsibilities by implementing the Environmental Process Modernization Plan (EPMP). A number of policy, programming and organizational changes have been undertaken to modernize the Program to make it more effective in protecting and conserving fish habitat, efficient in the delivery of its services, integrated with the interests and responsibilities of others, and relevant to Canadians.

The EPMP is focused on six key elements in modernizing the Habitat Management Program:

1. **Risk Management Framework** - a framework to categorize risks to fish and fish habitat associated with development proposals, to communicate these risks to proponents and to identify appropriate management options to reduce risks to acceptable levels.
2. **Streamlining the referral process** - improved administrative efficiency and communication with proponents on means to avoid harming fish habitat.
3. **Predictability and coherence** - improved predictability and coherence in decision-making, to achieve administrative fairness and program credibility through the development of national operating policies, training and governance measures.
4. **Major projects and environmental assessment** - evolution of a new process for reviewing major projects to increase consistency in the application of the *Canadian Environmental Assessment Act* and other federal environmental legislation.
5. **Partnerships** - enhanced emphasis on partnering arrangements with provinces, territories, industry, Aboriginal groups, non-governmental organizations, municipalities and other.
6. **Habitat Compliance Modernization** - strengthened capacity to promote compliance with the habitat provisions of the *Fisheries Act*. Increased emphasis on education, training and stewardship, monitoring for compliance and auditing effectiveness.

Risk Management Framework (RMF)

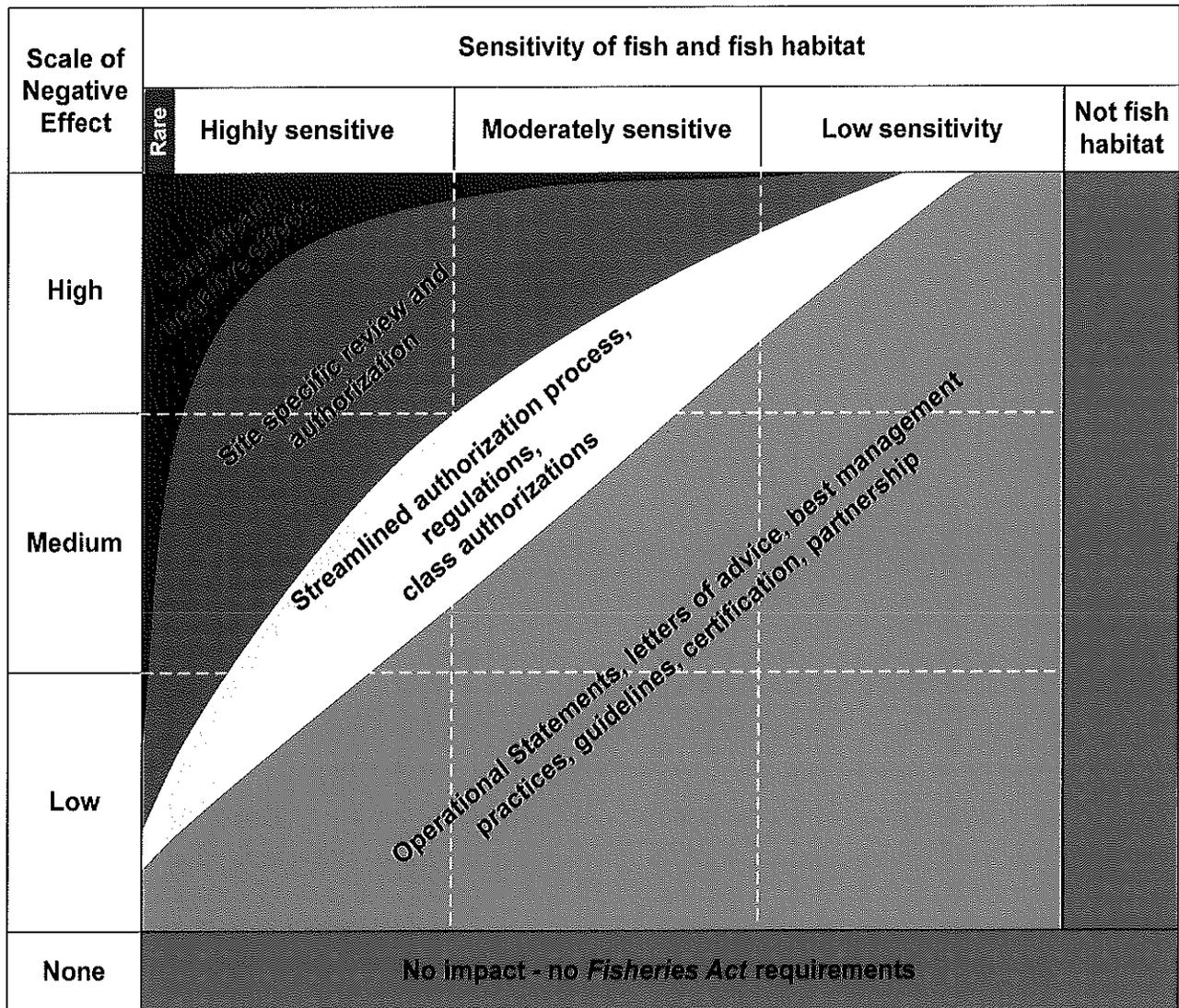
The Risk Management Framework consists of two components:

1. **Pathways of Effects (PoE)** - this describes at a glance through the use of schematics the effects of activities on fish habitat.
2. **Risk Matrix** - this describes in the form of a schematic severity the use of risk to help establish the residual effects of the activity and the sensitivity of fish habitat (Figure 1).

The RMF provides a foundation for identifying management tools to streamline regulatory reviews and for use by proponents and partners to improve the quality of development proposals submitted to the department and achieve a more effective and efficient review process. The RMF further allows Program resources and efforts to be re-allocated from the review of routine, low risk, predictable reviews towards the review of those projects that pose the highest risk to fish habitat across the country.

As a result of the RMF, for low risk to fish habitat activities, a series of Operational Statements has been developed to identify up-front the mitigation measures needed to avoid harm to fish habitat for routine low risk activities in or near water. These tools provide proponents with the certainty they need to be in compliance with the *Fisheries Act* and the measures Canadians need to follow in order to protect our fish habitat.

Figure 1: Risk Matrix



Appendix Three: Canadian Environmental Assessment Act and Areas of Federal Interests

The Conservation Authority is asked to provide applicants with a copy of the following information and advise applicants that they should contact the relevant federal agency if their proposal may affect any of the interests listed below.

The *Canadian Environmental Assessment Act* (CEAA) is the legal basis for the federal environmental assessment (EA) process and sets out the responsibilities and procedures for carrying out the EAs of projects which involve federal government decision-making authorities.

Subsection 5(1) of CEAA outlines the circumstances under which the federal government is required to undertake an EA. These actions are generally known as "triggers". CEAA applies in instances where a federal authority performs one or more of the following functions in relation to a project proceeding in whole or part:

- is the **proponent** of a project (does not apply to municipal projects since the municipality would be the proponent);
- **provides financial assistance** (funding) to a project;
- **leases, sells or disposes of land** to enable a project to be carried out; and/or
- **exercises a regulatory duty** (i.e., issues a permit, authorization, approval or licence) under a piece of legislation that is included in the *Law List Regulations* in relation to a project.

DFO will conduct an EA where there is a need for an authorization under those sections of the *Fisheries Act* that trigger an EA (as per the CEAA *Law List Regulations*). The most common CEAA regulatory trigger for DFO is subsection 35(2) of the *Fisheries Act*.

Table 1: Selected CEAA Triggers for Projects

Potential CEAA Trigger	Relevant Legislation	Comments
Impact on Fish and Fish Habitat	<i>Fisheries Act</i>	Authorization is required for the harmful alteration, disruption or destruction of fish habitat (see Appendix 3 for a complete list of <i>Fisheries Act</i> triggers).
Impact on Navigability of a Water Body	<i>Navigable Waters Protection Act</i>	Projects potentially affecting navigability through the construction or alteration of works on, over, under, through or across a navigable waterway. Approval is also required for a bridge, boom, dam or causeway.
Impact on the Operation of a Rail Line	<i>Canadian Transportation Act</i>	May apply to certain projects where a rail line

Potential CEEA Trigger	Relevant Legislation	Comments
		crossing or relocation is contemplated.
Funding	<i>Canadian Environmental Assessment Act</i>	CEAA is triggered where federal money may be provided.
Federal Lands (including First Nations Reserve lands)	<i>Canadian Environmental Assessment Act</i> <i>Indian Act</i>	This would apply to projects that are located on or require access through federal lands such as national parks, First Nations reserves or national defence bases.

Note: *this table is not exhaustive and proponents are encouraged to refer to the Canadian Environmental Assessment Act and associated regulations to identify all possible triggers for their project.*

Table 2: Federal Interests

Area of Interest	Federal Contact
Fish and Fish Habitat	Where there is an agreement with a Conservation Authority, the Conservation Authority is the first point of contact. In Northern Ontario, the MNR Regional Office is the first point of contact.
Navigable Waters	Transport Canada
Rail Crossings and Relocations	Canadian Transportation Agency
Inter-provincial Pipeline Crossings and Relocations	National Energy Board
Federal Funding	Relevant Funding Department
Federal Lands	Federal Department Responsible for the Affected Lands
First Nations Reserve Lands	Indian and Northern Affairs Canada
Species Protected Under the <i>Species at Risk Act</i>	Fisheries and Oceans Canada and / or Environment Canada and / or Parks Canada
Migratory Birds	Environment Canada
Effects on Flows and Levels of International Boundary Waters	Department of Foreign Affairs
EA Coordination	Canadian Environmental Assessment Agency

Note: *For greater certainty, applicants should be advised that this list is not exhaustive and should refer to CEEA and associated regulations made thereunder.*

Appendix Four: Species at Risk Act

The Conservation Authority is asked to provide applicants with a copy of the following information and advise applicants that they should contact the relevant federal agency if their proposal may affect Species at Risk, as described below.

The Species At Risk Act (SARA) was created to prevent wildlife species from becoming extinct. It requires Canada to provide for the recovery of species at risk due to human activity, and to manage species of Special Concern, to prevent them from becoming Endangered or Threatened. The Act covers all wildlife species at risk nationally, their residences and critical habitats, and applies to all lands in Canada. SARA not only prohibits the killing, harming, harassing, capturing or taking of species at risk, but also makes it illegal to destroy their residences and critical habitats.

More specifically, the provisions of SARA:

- set out prohibitions against the killing or harming of a listed species and the destruction of their residences and critical habitats;
- require other federal departments to consider the impact on a listed species, their residences and critical habitats before issuing authorizations for certain activities; and
- provide for effective enforcement measures and significant penalties where needed to serve as a deterrent.

Three federal Ministers are responsible for the administration of SARA:

- The Minister of Fisheries and Oceans is responsible for aquatic species at risk;
- The Minister of Canadian Heritage (through the Parks Canada Agency) is responsible for individuals of species at risk found in national parks, national historic sites or other protected heritage areas;
- The Minister of the Environment is responsible for all other species at risk, and is also responsible for the administration of the Act.

Under SARA, the federal government must produce recovery strategies and action plans for species listed as Endangered or Threatened. Recovery strategies must be completed within one year for Endangered species, and within two years for Threatened species, of being listed under SARA.

The list of species subject to SARA is revised periodically by the Minister of the Environment in response to annual assessments conducted by COSEWIC. For an up-to-date list of wildlife species on each schedule, refer to the SARA Public Registry at <http://www.sararegistry.gc.ca/>.

Review Process - Aquatic Species at Risk

To aid partner agencies in the review of development proposals that may impact federally listed aquatic species at risk (SAR) and their habitats a series of distribution maps has been developed. These distribution maps were designed to help streamline the integration of SARA into the current referral process and to ensure that DFO meets its responsibilities to protect aquatic SAR under SARA.

Distribution maps for aquatic SAR will be provided to Conservation Authorities in Ontario on an annual basis. These maps are for use by partners as a screening tool to determine whether aquatic SAR are present at proposed development project sites. A Reference Guide provides further direction on the process to follow for projects proposed within the distribution range of a

listed aquatic SAR.

Projects that have the potential to contravene SARA must be referred to DFO for review to ensure compliance with SARA.

- The Conservation Authorities will refer projects to DFO for review under SARA when it has been determined that Schedule 1 SARA aquatic species are present at the project site and will be potentially impacted by proposed project activities.
- Projects that require an authorization are referred to OGLA following the normal referral review process.
- For projects that do not require an authorization (i.e. Letter of Advice issued):
 - The Conservation Authority can continue the review process and implement mitigation measures to ensure protection of SAR; or
 - The Conservation Authority can refer to the project to OGLA to complete the review.

For projects that are referred to DFO by a Conservation Authority, DFO will review works or undertakings, prepare authorizations and issue letters of advice in accordance with the provisions in the SARA, the *Fisheries Act* and CEAA. DFO is responsible for the enforcement of the SARA and protection of federally listed aquatic SAR in Ontario. The review of any proposed projects and/or enforcement activities will take into consideration the protection of SAR, ensuring compliance of the prohibitions of the Act as described in Sections 32, 33 and 58 (see below). These prohibitions only apply to Endangered or Threatened species listed on Schedule 1 of the Act, and to Extirpated species only if a SARA-compliant Recovery Strategy recommends its reintroduction to Ontario.

Since many measures in the SARA are already within the authority of the Minister of Fisheries and Oceans under the *Fisheries Act* (e.g. preventing destruction of fish habitat), the SARA will not replace, but complement, current responsibilities under the *Fisheries Act*.

SARA Permits:

Conservation Authorities will advise the proponent when a SARA permit may be required. SARA permits are necessary when Extirpated, Endangered or Threatened fishes or mussels on Schedule 1 of the SARA are affected by a proposed project activity. A SAR permit should be obtained prior to the initiation of any the project construction activities when:

- Project activities may cause incidental harm to a SAR, in particular the contravention of any one of the 3 SARA prohibitions (Sections 32, 33 and 58)
- Field surveys are proposed to detect fish or mussel SAR including any monitoring programs for SAR
- Mitigation strategies include either SAR mussel relocations or fish salvage operations

Species at Risk Act – Prohibitions

32. (1) No person shall kill, harm, harass, capture or take an individual of a wildlife species that is listed as an extirpated species, an endangered species or a threatened species....

33. No person shall damage or destroy the residence of one or more individuals of a wildlife species that is listed as an endangered species or a threatened species or that is listed as an extirpated species if a recovery strategy has recommended the reintroduction of the species into the wild in Canada....

58. (1) Subject to this section, no person shall destroy any part of the critical habitat of any listed endangered species or of any listed threatened species—or of any listed extirpated species if a recovery strategy has recommended the reintroduction of the species into the wild in Canada —if

(a) the critical habitat is on federal land, in the exclusive economic zone of Canada or on the continental shelf of Canada;

(b) the listed species is an aquatic species; or

(c) the listed species is a species of migratory birds protected by the Migratory Birds Convention Act...

Appendix 5: Selected References

Fisheries and Oceans Canada, National Web Site

www.dfo-mpo.gc.ca/habitat/habitat-eng.htm

www.dfo-mpo.gc.ca/habitat/habitat-fra.htm

Fisheries and Oceans Canada, Species at Risk Act:

www.dfo-mpo.gc.ca/species-especes/index-eng.htm (English)

www.dfo-mpo.gc.ca/species-especes/index-fra.htm (French)

Fisheries and Oceans Canada, Ontario Operational Statements.

www.dfo-mpo.gc.ca/regions/central/habitat/os-oo/provinces-territoires-territoires/on/index-eng.htm (English)

www.dfo-mpo.gc.ca/regions/central/habitat/os-oo/provinces-territoires-territoires/on/index-fra.htm (French)

Fisheries and Oceans Canada. 2006. Habitat Management Program: Standard Operating Policies.

Fisheries and Oceans Canada. 2004. Ontario Compliance Protocol. Fish Habitat Compliance Protocol. 2004 Interim Measures.

Fisheries and Oceans Canada. Working Around Water?

What you Should Know about Fish Habitat

Fish Habitat and Docks, Boathouses and Boat Launches (C1)

Fish Habitat and Building a Beach (C2)

Fish Habitat and Building Materials (C3)

Fish Habitat and Shoreline Stabilization (C4)

Fish Habitat and Constructing Ponds (C5)

Fish Habitat and Dredging (I1)

Fish Habitat & Controlling Aquatic Plants (I2)

Fish Habitat and Sunken Log Retrieval (I3)

Fish Habitat and Stream Clean-up (I4)

Fish Habitat and Obtaining a Section 35 *Fisheries Act* Authorization (L1)

Fish Habitat and the Effects of Silt and Sediment (T1)

Fish Habitat and Fluctuating Water Levels on the Great Lakes (T2)

Fish Habitat and Determining the High Water Mark on Lakes (T-6)

Fisheries and Oceans Canada. 1998a. Decision Framework for the Determination and Authorization of Harmful Alteration, Disruption or Destruction of Fish Habitat.

Fisheries and Oceans Canada. 1998b. Guideline for the Use of Explosives In or Near Canadian Fisheries Waters.

Fisheries and Oceans Canada. 1995. Fish Habitat and Conservation Protection. Guidelines for Attaining No Net Loss.

Fisheries and Oceans Canada. 1995. Fish Habitat and Conservation Protection. What the Law Requires. The Directive on the Issuance of Subsection 35(2) Authorizations.

Fisheries and Oceans Canada, Parks Canada, Conservation Ontario and Ontario Ministry of Natural Resources. 2000. A Protocol Detailing the Fish Habitat Referral Process in Ontario. August 2000.

Fisheries and Oceans Canada. 1986. The Policy for the Management of Fish Habitat.

APPENDIX C - Complete Application Checklist



COMPLETE APPLICATION CHECKLIST CVC Requirements for Planning and Permit Applications

CVC File # _____ Municipality _____

Property Location _____ Pre-consultation Date (mm/dd/yy) _____ / _____ / _____

Lot _____ Concession/Range _____ Submission Date (mm/dd/yy) _____ / _____ / _____

Applicant Name _____ CVC Contact _____

Required	Submitted	Application Criteria
<input type="checkbox"/>	<input type="checkbox"/>	Complete Permit Application Form and/or Letter of Authorization (if required)
<input type="checkbox"/>	<input type="checkbox"/>	Application Fee
<input type="checkbox"/>	<input type="checkbox"/>	Legal Survey of the Property
<input type="checkbox"/>	<input type="checkbox"/>	Location Map showing nearest intersection
<input type="checkbox"/>	<input type="checkbox"/>	Letter or Report describing the context and nature of the proposal
<input type="checkbox"/>	<input type="checkbox"/>	Statement of Agreement from any persons sharing right-of-ways, easements etc.
<input type="checkbox"/>	<input type="checkbox"/>	Status of Municipal Approvals
<input type="checkbox"/>	<input type="checkbox"/>	3 sets of folded drawings showing existing conditions and proposed development/site alterations, including: Property boundaries Existing and proposed grades Existing and proposed structures and/or alterations to existing structures (including parking infrastructure and driveways, use(s) of buildings and structures, fences and retaining walls) Limits of Natural hazards (including shoreline hazards and flood/erosion hazards) Natural heritage features and areas Proposed buffers or setbacks from limits of natural hazards and natural heritage features and areas
Required	Submitted	Conformity Reports
<input type="checkbox"/>	<input type="checkbox"/>	Niagara Escarpment Plan conformity
<input type="checkbox"/>	<input type="checkbox"/>	Oak Ridges Moraine conformity
<input type="checkbox"/>	<input type="checkbox"/>	Greenbelt conformity
<input type="checkbox"/>	<input type="checkbox"/>	Applicable By-law and OP designations
Required		Site Visit
<input type="checkbox"/>		Top of Bank staking
<input type="checkbox"/>		Natural Heritage Features or Areas staking
<input type="checkbox"/>		Field Reconnaissance/Other:

Notes:

see over...



COMPLETE APPLICATION CHECKLIST

CVC Requirements for Planning and Permit Applications

Required	Submitted	Technical Requirements (2 copies)
<i>Water Resource Engineering</i>		
<input type="checkbox"/>	<input type="checkbox"/>	Functional Servicing Plan (FSR)
<input type="checkbox"/>	<input type="checkbox"/>	Stormwater Management (SWM) Report
<input type="checkbox"/>	<input type="checkbox"/>	Water Quality Assessment (including stormwater and public/private sewage systems)
<input type="checkbox"/>	<input type="checkbox"/>	Flood Study/Hydraulic Analysis (including detailed floodplain mapping and modeling)
<input type="checkbox"/>	<input type="checkbox"/>	Letter of Opinion (floodproofing)
<i>Geotechnical Engineering</i>		
<input type="checkbox"/>	<input type="checkbox"/>	Geotechnical Report (including slope stability and toe erosion assessments)
<input type="checkbox"/>	<input type="checkbox"/>	Letter of Opinion (including slope stability, toe erosion and maintenance/access)
<i>Shoreline Engineering</i>		
<input type="checkbox"/>	<input type="checkbox"/>	Coastal Engineering Report (including shoreline hazard and shoreline protection works assessments)
<input type="checkbox"/>	<input type="checkbox"/>	Letter of Opinion (including shoreline protection works and maintenance/access)
<i>Hydrogeology</i>		
<input type="checkbox"/>	<input type="checkbox"/>	Hydrogeological Report
<input type="checkbox"/>	<input type="checkbox"/>	Water Balance Report (including overall site and feature-based water balance assessments)
<i>Fluvial Geomorphology</i>		
<input type="checkbox"/>	<input type="checkbox"/>	Geomorphological Assessment (including watercourse/channel erosion and meander belt analyses)
<input type="checkbox"/>	<input type="checkbox"/>	Natural Channel Design Brief
<input type="checkbox"/>	<input type="checkbox"/>	Watercourse Crossing Design Brief (including bridges and culverts)
<i>Ecology</i>		
<input type="checkbox"/>	<input type="checkbox"/>	Environmental Impact Study (EIS)
<input type="checkbox"/>	<input type="checkbox"/>	Fisheries and Fish Habitat Assessment
<input type="checkbox"/>	<input type="checkbox"/>	<u>Level II Agreement – Fisheries and Oceans Canada (DFO)</u>
<input type="checkbox"/>	<input type="checkbox"/>	Letter of Advice
<input type="checkbox"/>	<input type="checkbox"/>	DFO Authorization
<i>Detailed Design</i>		
<input type="checkbox"/>	<input type="checkbox"/>	Grading Plans
<input type="checkbox"/>	<input type="checkbox"/>	Site Servicing Plans
<input type="checkbox"/>	<input type="checkbox"/>	Landscape Plans, Restoration Plans and/or Edge Management Plans
<input type="checkbox"/>	<input type="checkbox"/>	Erosion and Sediment Control Plans (including topsoil stripping and dewatering plans)
<input type="checkbox"/>	<input type="checkbox"/>	Architectural Plans/Elevation Drawings
<input type="checkbox"/>	<input type="checkbox"/>	Construction Detail Drawings and Typical Cross-sections
<i>Other Requirements</i>		
<input type="checkbox"/>	<input type="checkbox"/>	Letter of Opinion – structural engineering
<input type="checkbox"/>	<input type="checkbox"/>	Archaeological Assessment of CVC-owned Lands
<input type="checkbox"/>	<input type="checkbox"/>	Survey Confirming Location of Natural Heritage Features/Areas and Limits of Flood/Erosion Hazards
<input type="checkbox"/>	<input type="checkbox"/>	As-built Drawings or Letter of Compliance
<input type="checkbox"/>	<input type="checkbox"/>	Emergency Works Letter
<input type="checkbox"/>	<input type="checkbox"/>	<u>Provincial Approvals Screening</u>
<input type="checkbox"/>	<input type="checkbox"/>	Special Policy Area (SPA – MMAH and MNR)
<input type="checkbox"/>	<input type="checkbox"/>	Provincially Significant Wetlands (PSW – MNR)
<input type="checkbox"/>	<input type="checkbox"/>	Endangered Species Act (ESA – MNR)
<input type="checkbox"/>	<input type="checkbox"/>	Other:
<input type="checkbox"/>	<input type="checkbox"/>	Letter of Access from Emergency Services Department

APPENDIX D - Plan Review and Permit Fee Schedules



2011 CVC PLAN REVIEW FEE SCHEDULE

Application Type	Fees
Minor Variance	\$180
Consents (Severances)	Minor \$280
	Major \$2,300
Site Plan (residential)	\$280
Site Plan (commercial)	Minor \$580
	Major \$3,575
Multi-unit Building and Condominiums	Minor \$4,600
	Major \$21,000
Clearances	\$750
Official Plan Amendment	Minor \$875
	Major \$3,575
Zoning By-law Amendment	Minor \$580
	Major \$3,575
Subdivision	\$3,075 per net ha 50% at EIR or EMP submission* 25% at draft plan submission 25% at draft plan approval
Golf Courses	\$11,750
Aggregate Operations	\$57,650

All plan review fees include HST.

*EIR refers to an Environmental Implementation Report.

*EMP refers to an Environmental Master Plan.

NOTES

1. The application fee must be paid at the time of filing an application and/or within 30 days of CVC notification in writing. For outstanding payments, CVC may place the application on hold upon review until satisfactory arrangements are established.
2. When processing and reviewing consolidated applications (e.g. subdivision/ZBA/OPA applications), the highest rate of fees will apply.
3. Separate fees will apply for the processing of CVC permit approvals, with the exception of Subdivision applications.
4. CVC reserves the right to adjust fees should the review require a substantially greater or lower level of review including applicant-driven revisions to an approved plan/application.
5. CVC reserves the right to reassess fee requirements after two years of receipt of the application, based on timing and receipt of required technical information.

DEFINITIONS

1. Minor: an application is determined to be “**Minor**” where no technical studies are required, or only a scoped Environmental Impact Study (EIS) is required.
2. Major: an application is determined to be “**Major**” where technical studies beyond a scoped EIS (e.g. stormwater management, geotechnical) are required.



2011 CVC PERMIT FEE SCHEDULE

Ontario Regulation 160/06 Permit Applications	Permit Application Fee
Development Small Scale	\$250
Development Medium Scale	\$750
Development Large Scale	\$3,000
Development Major Scale	\$5,000
Interference with Wetlands and Alterations to Watercourses and Shorelines Small Scale	\$500
Interference with Wetlands and Alterations to Watercourses and Shorelines Medium Scale	\$1,000
Interference with Wetlands and Alterations to Watercourses and Shorelines Large Scale	\$4,000
Interference with Wetlands and Alterations to Watercourses and Shorelines Major Scale	\$7,000
Permit for Minor Works	\$100 \$150 with site visit
Permit Revisions	Small scale: 25% of current fee Others: 50% of current fee
Fill Placement (less than 500m ³) *	\$250
Large Fill Placement (greater than 500m ³)	\$500 plus 10 cents per m ³
Property Information	Fee
Solicitor/Realtor/Property Inquiry	\$285**

* 500m³ is equivalent to approximately 50 truckloads.

** HST applicable to Solicitor/Realtor/Property Inquiry only. The \$285 fee includes the HST.

NOTES

1. The application fee must be paid at the time of filing an application. A permit will not be issued unless the application fee has been submitted.

2. CVC reserves the right to modify or adjust fees should the review require a substantially greater, or lower, level of review and/or assessment.
3. All permits are issued for two years. Permit extensions and/or renewals will not be granted. However, applicants may re-apply for re-issuance of a new permit for the original approved works in accordance with the most recent technical requirements.
4. For Permits associated with “**Unauthorized Works**” or a “**Violation**”, the fee will be double the applicable application fee.
5. For large fill placements, the CVC Procedural Guideline for receiving and processing applications to place fill in excess of 500 cubic metres should be referenced.

DEFINITIONS

1. Small Scale: an application is determined to be “**Small Scale**” where no technical studies are required.
2. Medium Scale: an application is determined to be “**Medium Scale**” where limited technical studies are required such as a scoped Environmental Impact Study (EIS).
3. Large Scale: an application is determined to be “**Large Scale**” where technical studies beyond a scoped EIS (e.g. water resources, geotechnical) are required.
4. Major Scale: an application is determined to be “**Major Scale**” where a number of technical studies are required (hydraulic analysis, storm water management, geotechnical, etc.). Examples would be new bridge construction, municipal roads, golf courses.

APPENDIX E - Ontario Regulation 160/06

ONTARIO REGULATION 160/06

made under the

CONSERVATION AUTHORITIES ACT

Made: April 27, 2006

Approved: May 2, 2006

Filed: May 4, 2006

Published on e-Laws: May 8, 2006

Printed in *The Ontario Gazette*: May 20, 2006

CREDIT VALLEY CONSERVATION AUTHORITY: REGULATION OF DEVELOPMENT, INTERFERENCE WITH WETLANDS AND ALTERATIONS TO SHORELINES AND WATERCOURSES

Definition

1. In this Regulation,

“Authority” means the Credit Valley Conservation Authority.

Development prohibited

2. (1) Subject to section 3, no person shall undertake development or permit another person to undertake development in or on the areas within the jurisdiction of the Authority that are,

(a) adjacent or close to the shoreline of the Great Lakes-St. Lawrence River System or to inland lakes that may be affected by flooding, erosion or dynamic beaches, including the area from the furthest offshore extent of the Authority’s boundary to the furthest landward extent of the aggregate of the following distances:

(i) the 100 year flood level, plus the appropriate allowance for wave uprush and other water-related hazards,

(ii) the predicted long term stable slope projected from the existing stable toe of the slope or from the predicted location of the toe of the slope as that location may have shifted as a result of shoreline erosion over a 100-year period,

(iii) where a dynamic beach is associated with the waterfront lands, a 30 metre allowance inland to accommodate dynamic beach movement, and

(iv) 15 metres inland;

(b) river or stream valleys that have depressional features associated with a river or stream, whether or not they contain a watercourse, the limits of which are determined in accordance with the following rules:

(i) where the river or stream valley is apparent and has stable slopes, the valley extends from the stable top of bank, plus 15 metres, to a similar point on the opposite side,

(ii) where the river or stream valley is apparent and has unstable slopes, the valley extends from the predicted long term stable slope projected from the existing stable slope or, if the toe of the slope is unstable, from the predicted location of the toe of the slope as a result of stream erosion over a projected 100 year period, plus 15 metres, to a similar point on the opposite side,

(iii) where the river or stream valley is not apparent, the valley extends the greater of,

(A) the distance from a point outside the edge of the maximum extent of the flood plain under the applicable flood event standard, plus 15 metres, to a similar point on the opposite side, and

(B) the distance from the predicted meander belt of a watercourse, expanded as required to convey the flood flows under the applicable flood event standard, plus 15 metres, to a similar point on the other side;

(c) hazardous lands;

(d) wetlands; or

(e) other areas where development could interfere with the hydrologic function of a wetland including areas within 120 metres of all provincially significant wetlands and areas within 30 metres of all other wetlands but not including those where development has been approved pursuant to an application made under the *Planning Act* or other public planning or regulatory process.

(2) The areas described in subsection (1) are the areas referred to in section 12 except that, in case of a conflict, the description of the areas provided in subsection (1) prevails over the descriptions referred to in that section.

Permission to develop

3. (1) The Authority may grant permission for development in or on the areas described in subsection 2 (1) if, in its opinion, the control of flooding, erosion, dynamic beaches, pollution or the conservation of land will not be affected by the development.

(2) The permission of the Authority shall be given in writing, with or without conditions.

Application for permission

4. A signed application for permission to undertake development shall be filed with the Authority and shall contain the following information:

1. Four copies of a plan of the area showing the type and location of the development.
2. The proposed use of the buildings and structures following completion of the development.
3. The start and completion dates of the development.
4. The elevations of existing buildings, if any, and grades and the proposed elevations of buildings and grades after development.
5. Drainage details before and after development.
6. A complete description of the type of fill proposed to be placed or dumped.

Alterations prohibited

5. Subject to section 6, no person shall straighten, change, divert or interfere in any way with the existing channel of a river, creek, stream or watercourse or change or interfere in any way with a wetland.

Permission to alter

6. (1) The Authority may grant a person permission to straighten, change, divert or interfere with the existing channel of a river, creek, stream or watercourse or to change or interfere with a wetland.

(2) The permission of the Authority shall be given in writing, with or without conditions.

Application for permission

7. A signed application for permission to straighten, change, divert or interfere with the existing channel of a river, creek, stream or watercourse or change or interfere with a wetland shall be filed with the Authority and shall contain the following information:

1. Four copies of a plan of the area showing plan view and cross-section details of the proposed alteration.
2. A description of the methods to be used in carrying out the alteration.

3. The start and completion dates of the alteration.
4. A statement of the purpose of the alteration.

Cancellation of permission

8. (1) The Authority may cancel a permission if it is of the opinion that the conditions of the permission have not been met.

(2) Before cancelling a permission, the Authority shall give a notice of intent to cancel to the holder of the permission indicating that the permission will be cancelled unless the holder shows cause at a hearing why the permission should not be cancelled.

(3) Following the giving of the notice, the Authority shall give the holder at least five days notice of the date of the hearing.

Expiry of permission and extension

9. (1) A permission of the Authority is valid for a maximum period of 24 months after it is issued, unless it is specified to expire at an earlier date.

(2) A permission shall not be extended.

Appointment of officers

10. The Authority may appoint officers to enforce this Regulation.

Flood event standards

11. The applicable flood event standards used to determine the maximum susceptibility to flooding of lands or areas within the watersheds in the area of jurisdiction of the Authority are the Hurricane Hazel Flood Event Standard, the 100 Year Flood Event Standard and the 100 year flood level plus wave uprush, described in Schedule 1.

Areas included in the Regulation Limit

12. Hazardous lands, wetlands, shorelines and areas susceptible to flooding, and associated allowances, within the watersheds in the area of jurisdiction of the Authority are delineated by the Regulation Limit shown on Maps 1 to 71 dated April 2006 and filed at the head office of the Authority at 1255 Old Derry Road, Mississauga Ontario under the map titled: "Ontario Regulation 97/04: Regulation for Development, Interference with Wetlands and Alterations to Shorelines and Watercourses".

Revocation

13. Regulation 146 of the Revised Regulations of Ontario, 1990 is revoked.

SCHEDULE 1

1. The Hurricane Hazel flood event standard means a storm that produces over a 48-hour period,

(a) in a drainage area of 25 square kilometres or less, rainfall that has the distribution set out in Table 1; or

(b) in a drainage area of more than 25 square kilometres, rainfall such that the number of millimetres of rain referred to in each case in Table 1 shall be modified by the percentage amount shown in Column 2 of Table 2 opposite the size of the drainage area set out opposite thereto in Column 1 of Table 2.

TABLE 1

73 millimetres of rain in the first 36 hours
6 millimetres of rain in the 37th hour
4 millimetres of rain in the 38th hour
6 millimetres of rain in the 39th hour
13 millimetres of rain in the 40th hour
17 millimetres of rain in the 41st hour
13 millimetres of rain in the 42nd hour
23 millimetres of rain in the 43rd hour
13 millimetres of rain in the 44th hour
13 millimetres of rain in the 45th hour
53 millimetres of rain in the 46th hour
38 millimetres of rain in the 47th hour
13 millimetres of rain in the 48th hour

TABLE 2

Column 1	Column 2
Drainage Area (square kilometres)	Percentage
26 to 45 both inclusive	99.2
46 to 65 both inclusive	98.2
66 to 90 both inclusive	97.1
91 to 115 both inclusive	96.3
116 to 140 both inclusive	95.4
141 to 165 both inclusive	94.8
166 to 195 both inclusive	94.2
196 to 220 both inclusive	93.5
221 to 245 both inclusive	92.7
246 to 270 both inclusive	92.0
271 to 450 both inclusive	89.4
451 to 575 both inclusive	86.7
576 to 700 both inclusive	84.0
701 to 850 both inclusive	82.4
851 to 1000 both inclusive	80.8
1001 to 1200 both inclusive	79.3
1201 to 1500 both inclusive	76.6

1501 to 1700 both inclusive	74.4
1701 to 2000 both inclusive	73.3
2001 to 2200 both inclusive	71.7
2201 to 2500 both inclusive	70.2
2501 to 2700 both inclusive	69.0
2701 to 4500 both inclusive	64.4
4501 to 6000 both inclusive	61.4
6001 to 7000 both inclusive	58.9
7001 to 8000 both inclusive	57.4

2. The 100 Year Flood Event Standard means rainfall or snowmelt, or a combination of rainfall and snowmelt producing at any location in a river, creek, stream or watercourse, a peak flow that has a probability of occurrence of one per cent during any given year.

3. The 100 year flood level means the peak instantaneous still water level plus an allowance for wave uprush and other water-related hazards for Lake Ontario in the Great Lakes-St. Lawrence River System, that has a probability of occurrence of one per cent during any given year.

Made by:

CREDIT VALLEY CONSERVATION AUTHORITY:

PAT MULLIN

Chair

RAE HORST

General Manager

Date made: April 27, 2006.

I certify that I have approved this Regulation.

DAVID JAMES RAMSAY

Minister of Natural Resources

Date approved: May 2, 2006.

APPENDIX F - Policies and Procedures for Conservation Authority Plan Review and Permitting Activities

**POLICIES AND PROCEDURES FOR CONSERVATION
AUTHORITY PLAN REVIEW AND PERMITTING
ACTIVITIES**

POLICIES AND PROCEDURES FOR CONSERVATION AUTHORITY PLAN REVIEW AND PERMITTING ACTIVITIES

The intent of this chapter is to describe the roles of Conservation Authorities (CAs) in the areas of municipal planning, plan review, and Conservation Authorities Act S. 28 permitting related to development activity and natural hazard prevention and management and the protection of environmental interests.

PART A - BACKGROUND

1.0 DESCRIPTION OF CONSERVATION AUTHORITY ROLES AND ACTIVITIES

Conservation Authorities (CAs) are corporate bodies created through legislation by the province at the request of two or more municipalities in accordance with the requirements of the *Conservation Authorities Act (CA Act)*. Each CA is governed by the CA Act and by a Board of Directors whose members are appointed by participating municipalities located within a common watershed within the CA jurisdiction. CA Board composition is determined by the CA Act according to the proportion of the population from participating municipalities within the watershed.

Section 20 of the *CA Act* sets out the objects for CAs to establish and undertake, in the area over which it has jurisdiction, a program designed to further the conservation, restoration, development and management of natural resources other than gas, oil, coal and minerals. Section 21 of the CA Act outlines the powers of CAs including the power to establish watershed-based resource management programs and/or policies and the power to charge fees for services, the services for which are approved by the Minister of Natural Resources.

The fundamental provincial role for all CAs focuses on water related natural hazard prevention and management and includes flood and erosion control.

CAs may undertake the following roles and activities:

- i. Regulatory Authorities- Under Section 28 of the CA Act, subject to the approval of the Minister of Natural Resources and in conformity with the Provincial Regulation 97/04 governing the content, CAs may make regulations applicable to the area under its jurisdiction to prohibit, restrict, regulate or give required permission for certain activities in and adjacent to watercourses (including valley lands), wetlands, shorelines

of inland lakes and the Great Lakes-St. Lawrence River System and other hazardous lands

- ii. Delegated 'Provincial Interest' in Plan Review- As outlined in the Conservation Ontario/ Ministry of Natural Resources (MNR) /Ministry of Municipal Affairs and Housing (MMAH) Memorandum of Understanding (MOU) on CA Delegated Responsibilities (Appendix 1), CAs have been delegated responsibilities from the Minister of Natural Resources to represent the provincial interests regarding natural hazards encompassed by Section 3.1 of the *Provincial Policy Statement, 2005 (PPS, 2005)*. These delegated responsibilities require CAs to review and provide comments on municipal policy documents (Official Plans and comprehensive zoning by-laws) and applications submitted pursuant to the *Planning Act* as part of the Provincial One-Window Plan Review Service
- iii. Resource Management Agencies- In accordance with Section 20 and 21 of the CA Act, CAs are local watershed-based natural resource management agencies that develop programs that reflect local resource management needs within their jurisdiction. Such programs and/or policies are approved by the CA Board of Directors and may be funded from a variety of sources including municipal levies, fees for services, provincial and/or federal grants and self-generated revenue.
- iv. Public Commenting Bodies- Pursuant to the *Planning Act*, CAs are 'public commenting bodies', and as such are to be notified of municipal policy documents and planning and development applications. CAs may comment as per their Board approved policies as local resource management agencies to the municipality or planning approval authority on these documents and applications.

CAs may also be identified as commenting bodies under other Acts and Provincial Plans as outlined under Section 2.0 of this document and Appendix 4.

- v. Service Providers- Individual CAs may enter into service agreements with federal and provincial ministries and municipalities to undertake regulatory or approval responsibilities and/or reviews (e.g. reviews under the *Fisheries Act* Section 35; septic system approvals under the Ontario Building Code).

CAs may also perform a technical advisory role to municipalities. as determined under the terms of service agreements. These services may include, matters related to policy input and advice, the assessment or analysis of water quality and quantity, environmental impacts, watershed science and technical expertise associated with

activities near or in the vicinity of sensitive natural features, hydrogeology and storm water studies.

- vi. Landowners- CAs are landowners, and as such, may become involved in the planning and development process, either as an adjacent landowner or as a proponent. Planning Service Agreements with municipalities have anticipated that as CAs are also landowners this may lead to a conflict with the CA technical advisory role to municipalities. This potential conflict of interest is addressed by establishing a mechanism for either party to identify a conflict and implement an alternative review mechanism as necessary.

2.0 LEGISLATION

2.1 *Conservation Authorities Act*

2.1.1 Section 20 of the *CA Act* describes the objects of a CA, which are to establish and undertake, in the area over which it has jurisdiction, a program designed to further the conservation, restoration, development, and management of natural resources other than gas, oil, coal, and minerals.

2.1.2 Section 21 of the *CA Act* lists the powers which CAs have for the purpose of accomplishing their objects. The objects identified in the *CA Act* relevant to this chapter include:

- (a): to study and investigate the watershed and to determine a program whereby the natural resources of the watershed may be conserved, restored, developed and managed;
- (e) to purchase or acquire any personal property that it may require and sell or otherwise deal therewith;
- (l) to use lands that are owned or controlled by the authority for purposes, not inconsistent with its objects, as it considers proper;
- (m) to use lands owned or controlled by the authority for park or other recreational purposes, and to erect, or permit to be erected, buildings, booths and facilities for such purposes and to make charges for admission thereto and the use thereof;
- (m.1) to charge fees for services approved by the Minister (see Policies and Procedures manual chapter on CA fees);
- (n): to collaborate and enter into agreements with ministries and agencies of government, municipal councils, local boards and other organizations;
- (p) to cause research to be done;
- (q) generally to do all such acts as are necessary for the due carrying out of any project. R.S.O. 1990, c. C.27, s. 21; 1996, c. 1, Sched. M, s. 44 (1, 2); 1998, c. 18, Sched. I, s. 11.

2.1.3 Pursuant to Section 28 (1) of the *CA Act* and in accordance with Ontario Regulation (O. Reg.) 97/04 “Content of Conservation Authority Regulations under Subsection 28(1) of the Act: Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses” (i.e. Generic or Content Regulation)”, “subject to the approval of the Minister, an authority may make regulations applicable in the area under its jurisdiction,

(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.

2.1.4 Section 28 (25) of the *CA Act* defines development as meaning:

- 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
- d) the temporary or permanent placing, dumping, or removal of any material originating on the site or elsewhere

Note: This definition for “development” differs from the definition that is contained in the *PPS, 2005* (see Section 2.2.5). The relevant definition needs to be applied to the appropriate process.

2.1.5 *CA Act S. 28 and the Green Energy Act*

Conservation Authorities review renewable energy project proposals within their regulated areas as per the provisions of *CA Act* sections 28. (1)(b) and (c). Permission of the CA is required 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.

As per Section 28. (13.1), permission will be granted, with or without conditions, for development related to a renewable energy project unless it is in the opinion of the Conservation Authority, the control of flooding, erosion, dynamic beaches or pollution will be affected by the development or activity. Where possible, CA permit application review and decision-making will be concurrent with the review and issuance of approvals from provincial Ministries. The timelines for permit

applications related to renewable energy projects may differ from the timelines prescribed in this document due to the alignment with provincial Ministries.

2.2 *Planning Act*

2.2.1 Section 3(1) of the *Planning Act* provides for the issuance of policy statements on matters relating to municipal planning that are of provincial interest (e.g. *PPS, 2005*). Through the Minister's delegation letter and the accompanying MOU (Appendix 1), specific responsibilities have been delegated to CAs to ensure that decisions on development applications by planning approval bodies made pursuant to the *Planning Act* are consistent with the natural hazard policies of the *PPS, 2005*.

2.2.2 Section 3(5) and 3 (6) of the *Planning Act* requires that in respect of the exercise of any authority that affects a planning matter including comments, submissions, advice and decisions of the council of a municipality, a local board, a planning board, a minister of the Crown and a ministry, board, commission or agency of the government, including the Ontario Municipal Board, shall be consistent with provincial policy statements that are in effect on the date of the decision and conform with and not conflict with provincial plans (e.g. Greenbelt Plan, Growth Plan for the Greater Golden Horseshoe, Oak Ridges Moraine Conservation Plan, Central Pickering Development Plan, Lake Simcoe Protection Act etc.) that are in effect on that date (See Appendix 4 for listing).

2.2.3 Section 26 of the *Planning Act* requires municipalities to revise Official Plans every five years to ensure the Municipal Official Plans do not conflict with and must conform to provincial plans and have regard to provincial interests as outlined in Section 2 of the *Planning Act* and are consistent with provincial policy statements issued under Section 3 (1).

2.2.4 Development, as defined in the *PPS*, means the creation of a new lot, a change in land use, or the construction of buildings and structures, requiring approval under the *Planning Act*, but does not include:

- a) activities that create or maintain *infrastructure* authorized under an environmental assessment process
- b) works subject to the *Drainage Act*, or
- c) for the purposes of policy 2.1.3(b), underground or surface mining of *minerals* or advanced exploration on mining lands in *significant areas of mineral potential* in Ecoregion 5E, where advanced exploration has the same meaning as under the *Mining Act*. Instead, those matters shall be subject to policy 2.1.4(a).

2.3. *Other Acts*

While the primary purpose of this chapter is to address the roles of CAs under the *Planning Act* and the *CA Act*, CAs may have responsibilities under additional

legislation including the federal *Fisheries Act* and the *Clean Water Act*. In addition to these pieces of legislation, there are various authorizations, approvals, permits, etc., which may be required from other agencies. It should be noted that a *CA Act* Section 28 permission, if granted for work, does not exempt the applicant from complying with any or all other approvals, laws, statutes, ordinances, directives, regulations, etc. that may affect the property or the use of same.

2.3.1 *Fisheries Act*

CAs may have individual agreements with Fisheries and Oceans Canada (DFO) to review proposed works for its potential harmful alteration, disruption or destruction (HADD) of fish habitat pursuant to Section 35 of the federal *Fisheries Act*.

There are three different levels of agreements:

- Level 1 screening where the CA conducts the initial review of the project to identify any impacts to fish and fish habitat and if potential impacts to fish and fish habitat are found, the project is forwarded to the local DFO district office for further review;
- Level 2 screening and mitigation planning where in addition to the above, the CA determines how the proponent can mitigate any potential impacts to fish and fish habitat and if mitigation is not possible the project is forwarded to the local DFO district office for further review; and,
- Level 3 full mitigation and compensation planning, where in addition to all of the above, the CA works with the proponent and DFO to prepare a fish habitat compensation plan and the project is then forwarded to the local DFO office for authorization under the federal *Fisheries Act*.

CAs do not possess the authority to grant an authorization for a HADD of fish habitat. Applications requiring an authorization for a HADD are referred by the CA to DFO for approval.

2.3.2 *Clean Water Act*

CAs have a role in the Ministry of the Environment (MOE) led provincial initiative under the *Clean Water Act* (CWA)(2006) in exercising and performing the powers and duties of a source protection authority for a source protection area established by CWA regulation. In acting as source protection authorities under the CWA, during the source protection plan development phase, tasks include:

- Collection, analysis and compilation of technical and scientific information and data (watershed characterizations, water budgets, etc.)

- Local engagement, consultation, information management and communications
- Key supporting role to respective source protection committees which includes funding
- Coordinating technical work with municipalities and others

Once the first source protection plan is approved, the Minister of the Environment will specify a date by which a review of the plan must begin and the source protection authority ensures that the review and those that follow are conducted in accordance with the *CWA* and the regulations

2.3.3 *Environmental Assessment Act (EA Act)*

The purpose of the *Environmental Assessment Act* is the betterment of the people of the whole or any part of Ontario by providing for the protection, conservation and wise management in Ontario of the environment. CAs review and comment on Class and Individual Environmental Assessments that occur within their jurisdiction under the *EA Act*. CAs bring local environmental and watershed knowledge into the review and assessment process.

It is a requirement for proponents to identify and consult with government agencies and may include CAs if the proposed project may have an impact on an item related to the CA's areas of interest (e.g. regulatory authority or as service providers-see section 1.0). The MOE is responsible for the administration of the *Environmental Assessment Act* and ensuring that proponents meet the requirements of this Act. The Minister of Environment is the approval authority for decisions under the *Environmental Assessment Act*.

CAs as landowners may also be the proponent under the *EA Act* for proposed projects that may occur on CA lands. The *Class Environmental Assessment for Remedial Flood and Erosion Control Projects* (Class EA) establishes a planning and approval process for a variety of remedial flood and erosion control projects that may be carried out by CAs. This Class EA sets out procedures and environmental planning principles for CAs to follow to plan, design, evaluate, implement and monitor a remedial flood and erosion control project so that environmental effects are considered as required under the *Environmental Assessment Act*. Approval of this Class EA allows CAs to undertake these projects without applying for formal approval under the *Environmental Assessment Act*, on the condition that the planning and design process outlined in the Class EA is followed and that all other necessary federal and provincial approvals are obtained.

2.3.4 *Aggregate Resources Act (AR Act)*

The purposes of the *AR Act* are to provide for the management of the aggregate resources of Ontario; to control and regulate aggregate operations on Crown and private lands; to require the rehabilitation of land from which aggregate has been excavated; and to minimize adverse impact on the environment in respect of aggregate operation.

Under *CA Act* Section 28 (11), areas licensed for aggregate extraction under the *AR Act* are exempt from CA permitting activities. However, CAs may bring local environmental and watershed knowledge into the application review process. CAs are afforded an opportunity to review and provide comments directly, or through their participating municipalities, to MNR on applications submitted under the *AR Act*, during the application review and consultation process. MNR is the approval authority for license applications submitted pursuant to the *AR Act*, whereas municipalities are the approval authorities with respect to applications submitted pursuant to the *Planning Act*.

As with other applications submitted pursuant to the *Planning Act*, CAs may review Official Plan amendments, zoning bylaw amendments and other applications for proposed new or expanded aggregate operations submitted pursuant to the *Planning Act*, and comment in an advisory capacity to municipalities making decisions on *Planning Act* applications.

2.3.5 *Drainage Act*

The Drainage Act is administered by the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) and is implemented by the local municipality. The Drainage Act defines the terms by which a drainage project may be initiated and prescribes the various stages of the procedure (e.g. engineer's report, consultation, appeals, construction) that must be followed by municipalities in the development of this municipal drainage infrastructure. The local municipality is also responsible for the maintenance, repair and management of the drainage systems that are developed through this procedure.

CAs are involved with drainage matters in three ways:

- 1) Since 1949, drainage petitions for new drains and improvements to existing drains are circulated to CAs for comment as required under the Drainage Act S. 4 and S. 78 respectively. CAs may request an environmental appraisal for new drainage works. Once an engineer's report has been drafted for the proposed drainage works, the Drainage Act provides CAs with a right to appeal the proposed project to the Drainage Tribunal.
- 2) CAs under agreement with Fisheries and Oceans Canada (DFO) undertake *Fisheries Act* Section 35 authorization reviews under a drainage class system. While CAs do not give final approval on authorization requests, they review applications and form recommendations that are forwarded to DFO for approval decisions.

- 3) As some drains meet the definition of a 'watercourse' under Section 28 of the CA Act, CA permissions (permits) may be required for new drainage works and drain improvements, maintenance and repair activities. Please refer to the Drainage Act and (CA) Regulation Protocol (under development 2010) for more details.

2.3.6 Ontario Water Resources Act (OWRA)

Under the OWRA, Certificates of Approval are required for stormwater management infrastructure from MOE as the approval authority. CAs often undertake a public commenting role on Certificates of Approval applications.

SUMMARY TABLE: CA Roles, Relevant Reference Sections and Legal Authority

Role	Relevant Section in this document	Legal Authority-legislation (or other)
Regulatory Authorities	Section 3.7 Section 6.0 (6.2, 6.3, 6.5, 6.6, 6.7) Section 7.0 Section 8.0 Appendix 2c Appendix 3	CA Act S. 28 O. Reg 97/04 O. Regs 42/06, 146/06 to 179/06, 181/06, 182/06, and 319/09.
Delegated 'Provincial Interest' in Plan Review	Section 3.0 (3.1, 3.2, 3.7) Section 6.0 (6.1,6.2,6.3,6.4, 6.5, 6.8) Section 8.0 Appendix 1 Appendix 2 a and b	CO/MNR/MMAH MOU of CA Delegated Responsibilities Section 3.1 of the Provincial Policy Statement
Resource Management Agencies	Section 3.0 (3.4, 3.6, 3.8) Section 4.0 Section 6.0 (6.5, 6.8, 6.9,6.10) Section 8.0	CA Act S. 20 and S. 21 CA Board Approved policies and programs
Public Commenting Bodies	Section 3.0 (3.3,3.4,3.6,3.7) Section 6.0 (6.2,6.5,6.6,6.8,6.9, 6.10)	Planning Act: S. 17.15, 17.20, 17.21 Other legislation: Clean Water Act S. 4.2, S. 6, S. 7.6, S. 10.1 etc. Drainage Act S. 4, S. 5.1, S. 6.1, S. 10.2, S. 10.8, S. 41.1, S. 49, S. 74, S. 78.2, Aggregates Resource Act Environmental Assessment Act Provincial Plans (see appendix 4)
Service Providers	Section 3.0 (3.4,3.5, 3.7, 3.8) Section 4.4 Section 6.0 (6.2, 6.3, 6.5, 6.6,.6.7,6.8,6.9) Section 8.0	CA Act S. 21 Federal Fisheries Act via Agreements MOUs (Municipal and other agency)
Landowners	Section 3.0 (3.8)	CA Act S. 21, and S. 29

PART B – POLICY

3.0 GENERAL

3.1 CAs have been delegated responsibility to review municipal policy documents and applications under the *Planning Act* to ensure that they are consistent with the natural hazards policies Section 3.1 of the *PPS, 2005*. CAs have not been delegated responsibilities to represent or define other provincial interests on behalf of the Province under the *Planning Act*, the *PPS, 2005* or other provincial legislation (e.g. *Endangered Species Act, 2007*) or provincial plans (e.g. Oak Ridges Moraine Conservation Plan, etc.).

3.2 Under the CO/MNR/MMAH MOU on CA Delegated Responsibilities, CAs have a commenting role in approval of new or amended ‘Special Policy Areas’ for flood plains under Section 3.1.3 of the PPS, where such designations are feasible. Special Policy Areas (SPAs) are areas within flood plain boundaries of a watercourse where exceptions to the development restrictions of the natural hazards policy (3.1) in the Provincial Policy Statement (PPS), 2005, may be permitted in accordance with technical criteria established by the MNR.

CAs provide supportive background and technical data regarding existing and proposed SPAs. New SPAs and any proposed changes or deletions to existing boundaries and/or policies are approved by both the Ministers of Natural Resources and Municipal Affairs and Housing, with advice from CAs, prior to being designated by a municipality or planning approval authority.

3.3 CAs are considered public commenting bodies pursuant to Section 1 of the *Planning Act* and regulations made under the *Planning Act*. As such, CAs must be notified of municipal policy documents and applications as prescribed. To streamline this process, CAs may have screening protocols with municipalities, normally through service agreements, which identifies those applications that CAs should review.

3.4 In addition to CAs’ legislative requirements and mandated responsibilities under the CA Act, Section 28 Regulations as regulatory authorities, and Section 3.1 of the PPS as delegated plan reviewers for provincial interest, the CAs’ role as watershed-based, resource management agencies also allows CAs to review municipal policies, planning documents and applications pursuant to the *Planning Act* as a ‘public commenting body’ as outlined in the CO/MNR/MMAH MOU on CA Delegated Responsibilities. (Appendix 1)

To inform their review of municipal planning documents and planning applications, under the *Planning Act*, CAs may develop policies and strategies related to their CA Board mandates and agreements for technical services with municipalities and other levels of government. Such CA policies are advisory

and may be incorporated into an Official Plan in which case they become adopted as municipal policy. When providing comments to municipalities or planning approval authorities, CAs should identify the role(s) and legislative authority under which they are doing so (e.g. *PPS, 2005, CA Act* Section 28 Regulations, *Federal Fisheries Act*, advisory, etc.).

3.5 Where CAs have entered into an agreement with municipalities or other levels of government for any technical services, CAs should provide the technical services (e.g. providing natural heritage advice), as prescribed by the agreement. Technical service agreements with municipalities may cover a broad range of issues, including stormwater management, natural heritage features and systems advice, groundwater monitoring, etc. These agreements may also include a process to resolve disputes that may occur in the delivery of the services between the municipality and a conservation authority.

3.6 In some cases, provincial plan (e.g. Oak Ridges Moraine Conservation Plan; Greenbelt Plan; Lake Simcoe Protection Plan, Central Pickering Development Plan) requirements may exceed CA regulatory requirements and such greater requirements take precedence. For example, the provincial plans may have greater requirements for vegetation buffers or more restrictions on the uses permitted than the CA regulatory requirements.

A typical requirement of the legislation for those plans is that comments, submissions, or advice provided by CAs, that affect a planning matter within those areas, shall conform with the provincial plan (refer to 6.9). Similarly, where there are regulations (including *CA Act* Section 28 and the *Fisheries Act*) that are more restrictive than those contained in these provincial plans, the more restrictive provisions prevail.

3.7 The “principle of development” is established through *Planning Act* approval processes, whereas the *CA Act* permitting process provides for technical implementation of matters pursuant to Section 28 of the *CA Act*. The scope of matters that are subject to *CA Act* S. 28 regulations is limited to the activities in areas set out under Section 28(1) and Section 28(5) of the *CA Act*.

CAs should ensure that concerns they may have regarding the establishment of the “principle of development” are conveyed to the municipality/planning approval authority during the preparation of a municipal Official Plan, secondary plan or Official Plan amendment, or during the *Planning Act* approvals process and not through the *CA Act* S. 28 permitting process.

An established ‘principle of development’ does not preclude the ability of the CA (or MMAH as per the MOU) to appeal a planning matter to the Ontario Municipal Board (OMB) (e.g., based on newer technical information relevant to the PPS). It is recognized that there may be historic planning approval decisions that were made in the absence of current technical information which could now preclude

development under the *CA Act* regulations. Where possible, if an issue remains unresolved, the CA should work with the proponent and the municipality to pursue a resolution.

3.8 CAs may provide a number of other programs and services (extension services, community relations, information, education services and permissions under other legislation) that may or may not be linked to applications made pursuant to the *Planning Act* or *CA Act* S. 28 regulation permissions. These programs and services are not governed by this chapter.

4.0 CONSERVATION AUTHORITY POLICY FORMATION AND CONSULTATION

4.1 CAs should give public notice and undertake public and stakeholder consultation prior to submission for CA Board approval of all proposed policies, watershed and subwatershed plans, guidelines or strategies that are intended to be used by the CA to comment on future land use and land use planning and inform CA review of applications made pursuant to the *Planning Act*. The CA is only responsible for coordinating consultation where it has been delegated as the lead for the watershed or subwatershed planning processes by the participating municipality or municipalities..

4.2 CAs should give public notice and undertake public consultations prior to submission for CA Board approval of proposed service delivery policies and procedures for *CA Act* Section 28 permit applications (e.g. complete applications).

4.3 The public should be provided the opportunity to speak to the proposed policies and guidelines referenced in 4.1 and 4.2 at the relevant CA Board meetings.

4.4 CAs should make any agreements between the CA and participating municipalities or other government agency publicly accessible (e.g. posted on the CA's website where available).

5.0 APPLICATION PROCESSES

Attached are **three charts** which illustrate the application processes under both the *Planning Act* and the *Conservation Authorities Act* S. 28 and practices to promote effective and efficient processes between them:

- municipal planning application process with CA review (e.g. stand-alone site plan control) (Appendix 2a)
- municipal planning application process (e.g. subdivision) with CA review and requirement for *CA Act* S. 28 permit(s) (Appendix 2b)

- stand-alone CA Act S. 28 “Development, Interference with Wetlands, Alterations to Shorelines and Watercourses” regulation permit application process (Appendix 2c)

6.0 POLICIES AND PROCEDURES FOR MUNICIPAL PLAN REVIEW BY CONSERVATION AUTHORITIES

6.1 ‘Provincial Interest’ Memorandum of Understanding of CA Delegated Responsibilities

Through the Minister’s delegation letter and under the accompanying MOU signed in 2001, CO, MNR and MMAH agreed to support the provisions of the MOU as an appropriate statement of the roles and responsibilities of the relevant Ministries and CAs in the implementation of the *PPS* and now continued in the *PPS, 2005*.

Pursuant to the delegation letter and the MOU, CAs have been delegated the responsibility to review municipal policy documents and planning and development applications submitted pursuant to the *Planning Act* to ensure that they are consistent with the natural hazards policies found in Section 3.1 of the *PPS, 2005*. These delegations do not extend to other portions of the *PPS, 2005* unless specifically delegated or assigned in writing by the Province. For further detail, please refer to the MOU in Appendix 1.

Note: At the time of signing, the 2001 CO/MNR/MMAH MOU stipulates that plan review was to determine whether application had “regard to” Section 3.1 of the *PPS, 1997*, while the amendment made to the *Planning Act* 3 (5) and 3 (6) by the *Strong Communities (Planning Amendment) Act* (Bill 51) and described in S. 4.2 of the *PPS, 2005* changes this wording, “to be consistent with” the policies outlined in the *PPS, 2005*.

6.2 The *PPS, 2005* provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural environment. The policies of the *PPS* may be complemented by provincial plans or by locally-generated policies regarding matters of municipal interest. Provincial plans and municipal Official Plans provide a framework for comprehensive, integrated and long-term planning that supports and integrates the principles of strong communities, a clean and healthy environment and economic growth, for the long term.

CAs are encouraged to develop watershed and subwatershed management plans to inform municipalities in the municipalities creation and updating of Official Plan policies*. Watershed plans may also provide technical information and recommendations for municipalities when making decisions on planning applications.

In carrying out their delegated responsibilities, CAs should identify natural hazard lands for protection in Official Plans and comprehensive zoning by-laws. This will ensure that development is directed away from areas of natural hazards where there is an unacceptable risk to public health or safety or of property damage (Section 3.1, *PPS, 2005*). The understanding by all parties as to the establishment of the “principle of development” by *Planning Act* approval process and the location of proposed works at the planning stage, as per section 3.7 of this Chapter, allows the CA to focus on technical requirements and site constraints at the *CA Act* S. 28 permitting review process.

*Footnote: in some areas of the province (e.g., Oak Ridges Moraine Conservation Plan Area) there is a requirement for every municipality to prepare a watershed plan and to incorporate the objectives and requirements of the watershed plan into the Official Plan if the municipality wishes to permit major development within that watershed.

6.3 CAs should collaborate with municipalities to recommend policies and provisions for inclusion into Official Plan policies for complete planning application requirements so that information or studies needed by the CA for reviewing *Planning Act* applications from the delegated responsibility for natural hazards policies found in Section 3.1 of the *PPS* is addressed early in the process.

6.4 CAs should ensure that all concerns relevant to their delegated responsibilities for natural hazards are made available to municipalities and planning approval authorities under the *Planning Act* during the application review process.

In participating in the review of development applications under the *Planning Act*, CAs should, at the earliest opportunity:

- (i) ensure that the applicant and municipal planning authority are also aware of the Section 28 regulations and requirements under the *CA Act*, and,
- (ii) assist in the coordination of applications under the *Planning Act* and the *CA Act* to eliminate unnecessary delay or duplication in the process.

6.5 CAs should confer with municipalities to recommend policies and provisions for potential inclusion into Official Plans and comprehensive zoning by-laws that may be complementary to their CA Board-approved policies as resource management agencies and other planning responsibilities as outlined in Section 1.0 to ensure that municipal land use decisions may address them.

6.6 Recognizing that there is no requirement for municipalities to invite CAs to pre-consultation meetings, CAs should also contact municipalities, where appropriate, to ensure that the CAs are involved in pre-consultation and attend associated meetings on *Planning Act* applications, especially where such

applications may trigger a related permit application under the *CA Act S. 28*. Technical service agreements between municipalities and individual CAs may formalize arrangements for CA involvement in pre-consultation. As coordinated by the municipality or planning approval authority, depending on the scope of the project, pre-consultation could include staff from the following parties: CAs, the municipality (for example, planning and engineering staff), the applicant, consultants, the developer (owner) and may be supplemented by staff from provincial ministries, Parks Canada and any other government agencies.

6.7 If involved in providing a technical advisory role, CAs and municipalities should establish formal technical service agreements. CAs should ensure that the service agreement with a municipality addresses obligations of the CA to participate in pre-consultation and other meetings; how the CA may participate in OMB hearings or other tribunals; how the parties or participants may be represented at hearings for the purpose of legal representation; and, limits on the CA's ability to represent the municipality's interests. Service agreements or contracts should specify that regular reviews by the parties of the agreement or contract are required and should be publicly accessible (e.g. posted on the respective CA and municipal websites).

6.8 CAs shall operate in accordance with the provisions of the CO-MNR-MMAH MOU when undertaking their roles in plan review. This will include informing a municipality as to which of their CA comments or inputs, if any, pertain to the CA's delegated responsibilities for the provincial interest on natural hazards and which set of comments are provided on an advisory basis or through another type of authority (e.g. as a 'resource management agency' or as a 'service provider' to another agency or the municipality).

6.9 MNR has natural heritage responsibilities under the *PPS 2005* and some provincial plans (as outlined in appendix 4) for the delineation and technical support in the identification of natural heritage systems, the identification or approval of certain natural heritage features as significant or key features, and the identification of criteria related to these features. As part of the CA commenting or technical advisory function, some CAs identify natural heritage features and systems through the initial plan review process. CA developed natural heritage systems are advisory unless corresponding designations and policies are incorporated into the municipal Official Plan (i.e., municipality has the decision-making authority under the *Planning Act*). Where service agreements are in place with participating municipalities, CAs are encouraged to collaborate with local MNR District offices to ensure the appropriate and best available information on natural heritage is provided to a municipality. MNR is responsible for notifying municipalities and CAs when there is new information about a feature for which MNR has responsibilities; for example, a wetland is evaluated and approved as a provincially significant wetland (PSW), so that advice can be given and decisions made accordingly.

Where provincial plans and associated guidance materials apply, CA comments shall reflect the policy direction contained in these provincial plans or guidance materials as these pertain to matters relating to natural heritage systems and features, including:

1. Definitions of "significant" features;
2. Minimum setbacks for these defined features;
3. Outlining a process for determining whether the minimum setbacks are adequate and, if not, recommend appropriate setbacks;
4. Specifying permitted uses, set backs and policies within identified significant features;
5. Delineation of natural heritage systems.

6.10 CAs may provide input, as a public commenting body or 'resource management agency', on matters of local or regional interest within their watershed with respect to natural heritage with participating municipalities and liaise with the MNR regarding natural heritage interests including and beyond those covered by 6.9 (those of "provincial interest") to promote sharing of the most up-to-date natural heritage information and to promote coordinated planning approaches for these interests.

7.0 CONSERVATION AUTHORITIES ACT SECTION 28 PERMITTING

7.1 Background Information

Pursuant to Section 28 of the *CA Act*, under Ontario Regulation 97/04 "Content of Conservation Authority Regulations under Subsection 28 (1) of the Act: "Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses" (Generic or Content Regulation), each CA has developed individual regulations approved by the Minister that identify and regulate certain activities in and adjacent to watercourses (including valley lands), wetlands, shorelines of inland lakes and hazardous lands'. In general, permissions (permits) may be granted where, in the opinion of the CA, the control of flooding, erosion, dynamic beaches, pollution or the conservation of land is not impacted..

An application for a CA Act S. 28 permission (permit) is made, usually by the landowner or an agent on behalf of a landowner or an infrastructure manager and owner such as a Municipal Corporation. Information required to support an application is outlined in Appendix 3.

When the O. Reg 97/04 (the Content or Generic Regulation) was developed, three related procedural guidelines were prepared to assist in delivering the individual CA regulations:

1. Guidelines for developing schedules of regulated areas
2. Section 28(12) *CA Act* Hearings Guideline
3. Approvals Process Guideline

These and other future MNR approved guidelines or protocols may be used in implementation of the Regulation (e.g. *Drainage Act* and Regulation Protocol currently being prepared for 2010).

7.2 Pre-consultation on Permission (Permit) Applications

7.2.1 Pre-consultation is encouraged to provide clarity and direction, to facilitate receipt of complete applications and to streamline the CA Act S. 28 permission (permit) review and decision making process. To meet these objectives, depending on the scale and scope of the project, pre-consultation may include staff from the following parties: CAs, the municipality (for example, planning and engineering staff), the applicant, consultants, the developer and owner, and may be supplemented by staff from provincial ministries, Parks Canada and any other appropriate government agencies; and may occur concurrently with *Planning Act* pre-consultation.

7.2.2 CAs may request pre-consultation, prior to the submission of a permission (permit) application, to provide an opportunity for CAs and applicants to determine complete application requirements for specific projects. Applicants are encouraged to engage in pre-consultation with CAs prior to submitting an application.

7.2.3 Applicants may request CAs to undertake pre-consultation, prior to the submission of a permission (permit) application, to provide an opportunity for CAs and applicants to determine complete permit application requirements for specific projects. CAs should engage in pre-consultation in a timely manner so as not to delay the proponent's ability to submit an application.

7.2.4 In order to determine complete application requirements, applicants should submit in writing adequate information for pre-consultation, such as property information (lot number, concession number, township, etc.), a concept plan of the proposed development which shows the property limit, and a description of what is being proposed (i.e. what is being planned and when the work will take place).

7.2.5 CAs should identify and confirm complete application requirements for specific projects, in writing, within 21 days of the pre-consultation meeting. However, substantial changes to a proposal or a site visit after pre-consultation may warrant further pre-consultation and/or necessitate changes to the complete application requirements.

7.3 Complete Permission (Permit) Application

7.3.1 CAs are encouraged to develop written, CA Board-approved, publicly accessible, procedures and guidelines or checklists that define the components

of a complete application, and reflect recommended timelines to process applications and provide comments in response (see Appendix 3 for examples of Section 28 Regulation information requirements).

7.3.2 CAs are to notify applicants, in writing, within 21 days of the receipt of a permission (permit) application, as to whether the application has been deemed complete or not.

7.3.3 If a permission (permit) application is deemed incomplete, CAs should provide the applicant with a written list of missing and needed information when notifying the applicant that the application has been deemed incomplete.

7.3.4 If not satisfied with the decision on whether an application is deemed complete, the applicant can request an administrative review by the CA General Manager (GM) or Chief Administrative Officer (CAO) and then if not satisfied, by the CA Board of Directors. This review will be limited to a complete application policy review and will not include review of the technical merits of the application.

7.3.5 During the review of a 'complete application', a CA may request additional information if the CA deems a permission (permit) application does not contain sufficient technical analysis. Delays in timelines for decision making may occur due to CA requests for additional information to address errors or gaps in information submitted for review (refer to 7.4.3). Thus, an application can be put "on hold" or returned to the applicant pending the receipt of further information. If necessary, this could be confirmed between both parties as an "Agreement to Defer Decision".

7.4 Decision Timelines for Permissions (Permits)

7.4.1 From the date of written confirmation of a complete application, CAs are to make a decision (i.e. recommendation to approve or referred to a Hearing) with respect to a permission (permit) application and pursuant to the *CA Act* within 30 days for a minor application and 90 days for a major application.

Major applications may include those that:

- are highly complex, requiring full technical review, and need to be supported by comprehensive analysis
- do not conform to existing CA Board-approved Section 28 policies

7.4.2 If a decision has not been rendered by the CA within the appropriate timeframe (i.e. 30 days for minor applications / 90 days for major applications) the applicant can submit a request for administrative review by the GM or CAO and then if not satisfied, by the CA Board of Directors.

7.4.3 Subsequent to receipt of a complete application, delays in timelines for decision making on a permission (permit) may occur due to CA requests for

additional information to address errors or gaps in technical information submitted for review (refer to 7.3.5). Through an “Agreement to Defer Decision” between the applicant and the CA, applications can be put “on hold” or returned to the applicant pending the receipt of further information to avoid premature refusals of permissions (permits) due to inadequate information.

7.5 Hearings and Appeals

7.5.1 If the decision is “referred to a Hearing of the Authority Board” the *MNR/CO Hearings Guidelines* (approved 2005) referenced in Section 7.1 will be followed. Copies of the Hearing Guidelines can be obtained by contacting the Integration Branch of the Ministry of Natural Resources.

As per the guidelines and subsections 28 (12), 28 (13), 28 (14) and 28 (15) of the *CA Act* and in summary:

After holding a hearing, the CA shall: refuse the permission (permit); grant the permission with conditions; or, grant the permission without conditions. If the CA refuses permission or grants permission subject to conditions, the CA, shall give the person who requested permission written reasons for the decision.

A person who has been refused permission or who objects to conditions imposed on a permission may, within 30 days of receiving the written reasons appeal in writing to the Minister of Natural Resources.

The Office of the Mining and Lands Commissioner (OMLC) has been delegated the authority, duties and powers of the Minister of Natural Resources under the *Ministry of Natural Resources Act O. Reg. 571/00* to hear appeals from the decisions of CAs made under *CA Act S. 28* regarding a refusal to grant permission (permit) or with respect to conditions imposed on a permission (permit) granted by the CA. The Mining and Lands Commissioner (MLC) may: refuse the permission; or, grant the permission, with or without conditions.

If the applicant does not agree with the MLC decision, under the *Mining Act* an appeal can then be made to the Divisional Court, a Branch of the Superior Court of Justice.

7.6 Expiry of Permission (Permit)

By regulation, a permission (permit) shall not be extended. The maximum period of validity of a permission (permit) is 24 months. If the works covered by the application are not completed within the legislated timeframe, the applicant must reapply and delays in approval may result. Typically, the policies in place at the time of the re-application will apply.

7.7 CA Act S. 28 Permission (Permit) Review Procedures

7.7.1 CA Act S. 28 permission (permit) review procedures should be determined in such a manner as to ensure applicants receive due process.

7.7.2 When developing CA permission (permit) review procedures, CAs should consider:

- the timely delivery of services through efficiency of process and adherence to timelines as outlined;
- the “best practices” and procedures used by neighbouring CAs, to promote consistency;
- the nature and level of procedures used by local municipalities and other agencies and ministries for related application reviews to prevent duplicative procedures and to promote consistency;
- the setting of application review procedures is dependent on the complexity of applications and the level of effort required to administer the application.

8.0 SERVICE DELIVERY ADMINISTRATION

8.1 CAs shall develop policies, procedures and guidelines for their municipal plan review activities and for CA Act S. 28 permitting activities (i.e. administration of the regulation and review of applications) with regard to the best practices outlined in this Policies and Procedures chapter. The CA documents should be approved by their Board of Directors and made available to the public.

8.2 Fees

See separate chapter regarding fees in the Policies and Procedures Manual.

8.2.1 Fees for planning services should be developed in conjunction with the appropriate planning authorities and are set to recover but not exceed the costs associated with administering and delivering the services on a program basis.

8.2.2 Fees for permitting services should be developed and are set to recover but not exceed the costs associated with administering and delivering the services on a program basis.

9.0 ADHERENCE TO POLICIES

9.1 All CAs are required to adhere to these policies and procedures.

9.2 MNR reserves the right to audit CAs for adherence to these policies and procedures and to review the effectiveness of the policies and procedures with regard to implementation of provincial policies and protection of the provincial interest.

APPENDICES

As identified in body of the chapter:

1. **CO-MMAH-MNR Delegated Responsibilities MOU**
2. **Schematics of Application processes under both the *Planning Act* and the *Conservation Authorities Act***
3. **Information Requirements – Section 28 Regulation Application**
4. **Provincial Plans and Associated Guidelines/Technical Papers**

Appendix 1: CO/MNR/MMAH – DELEGATED RESPONSIBILITIES MOU

CONSERVATION ONTARIO, MINISTRY OF NATURAL RESOURCES & MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING

MEMORANDUM OF UNDERSTANDING ON PROCEDURES TO ADDRESS CONSERVATION AUTHORITY DELEGATED RESPONSIBILITY

PURPOSE OF THE MOU

The MOU defines the roles and relationships between Conservation Authorities (CAs), the Ministry of Natural Resources (MNR), and the Ministry of Municipal Affairs and Housing (MMAH) in planning for implementation of CA delegated responsibilities under the Provincial One Window Planning System.

BENEFITS TO SIGNATORY PARTIES

It is beneficial for all parties to enter into this agreement because it clarifies the roles of CAs and the unique status of CAs in relationship to the Provincial One Window Planning System.

DELEGATED RESPONSIBILITY FOR NATURAL HAZARDS

CAs were delegated natural hazard responsibilities by the Minister of Natural Resources. A copy of the delegation letter is attached. This letter (dated April 1995) went to all CAs and summarizes delegations from the MNR including flood plain management, hazardous slopes, Great Lakes shorelines, unstable soils and erosion which are now encompassed by Section 3.1 “Natural Hazards” of the Provincial Policy Statement (1997). In this delegated role, the CA is responsible for representing the “Provincial Interest” on these matters in planning exercises where the Province is not involved.

This role does not extend to other portions of the PPS unless specifically delegated or assigned in writing by the Province.

ROLES AND RESPONSIBILITIES

Ministry of Natural Resources

- a) MNR retains the provincial responsibility for the development of flood, erosion and hazard land management policies, programs and standards on behalf of the province pursuant to the *Ministry of Natural Resources Act*.
- b) Where no conservation authorities exist, MNR provides technical support to the

Ministry of Municipal Affairs and Housing on matters related to Section 3.1 of the Provincial Policy Statement in accordance with the “Protocol Framework – One Window Plan Input, Review and Appeals”.

- c) MNR, in conjunction with MMAH, co-ordinates the provincial review of applications for Special Policy Area approval under Section 3.1 of the PPS.

Ministry of Municipal Affairs and Housing

- a) MMAH coordinates provincial input, review and approval of policy documents, and development proposals and appeals to the Ontario Municipal Board in accordance with the “Protocol Framework One Window Plan Input Review and Appeals”.
- b) Where appropriate, MMAH will consult conservation authorities as part of its review of policy documents and development proposals to seek input on whether there was “regard to” Section 3.1 of the PPS.
- c) Where there may be a potential conflict regarding a Conservation Authority’s comments on a planning application with respect to Section 3.1 of the PPS and comments from provincial ministries regarding other Sections of the PPS, the Ministry of Municipal Affairs and Housing will facilitate discussions amongst the affected ministries and the Conservation Authority so that a single integrated position can be reached.
- d) Where appropriate, MMAH will initiate or support appeals to the OMB on planning matters where there is an issue as to whether there was “regard to” Section 3.1 of the PPS.
- e) MMAH, in conjunction with MNR, coordinates the provincial review of application for Special Policy Area approval under Section 3.1 of the PPS.

Conservation Authorities (CAs)

- a) The CAs will review policy documents and development proposals processed under the *Planning Act* to ensure that the application has appropriate regard to Section 3.1 of the PPS.
- b) Upon request from MMAH, CAs will provide comments directly to MMAH on planning matters related to Section 3.1 of the PPS as part of the provincial one window review process.
- c) Where there may be a potential conflict regarding a Conservation Authority’s comments on a planning application with respect to Section 3.1 of the PPS and comments from provincial ministries regarding other Sections of the PPS, the Ministry of Municipal Affairs and Housing will facilitate discussions amongst the

affected ministries and the Conservation Authority so that a single integrated position can be reached.

- d) CAs will apprise MMAH of planning matters where there is an issue as to whether there has been “regard to” Section 3.1 of the PPS to determine whether or not direct involvement by the province is required.
- e) Where appropriate, CAs will initiate an appeal to the OMB to address planning matters where there is an issue as to whether there has been “regard to” Section 3.1 of the PPS is at issue. CAs may request MMAH to support the appeal.
- f) CAs will participate in provincial review of applications for Special Policy Area approval.
- g) CAs will work with MMAH, to develop screening and streamlining procedures that eliminate unnecessary delays and duplication of effort.

FURTHER CA ROLES IN PLAN INPUT, PLAN REVIEW AND APPEALS

CAs also undertake further roles in planning under which they may provide plan input or plan review comments or make appeals.

1. Watershed Based Resource Management Agency

CAs are corporate bodies created by the province at the request of two or more municipalities in accordance with the requirements of the *Conservation Authorities Act (CA Act)*. Section 20 of the *CA Act* provides the mandate for an Authority to offer a broad resources management program. Section 21 of the *CA Act* provides the mandate to have watershed-based resource management programs and/or policies that are approved by the Board of Directors.

CAs operating under the authority of the *CA Act*, and in conjunction with municipalities, develop business plans, watershed plans and natural resource management plans within their jurisdictions (watersheds). These plans may recommend specific approaches to land use and resource planning and management that should be incorporated into municipal planning documents and related development applications in order to be implemented. CAs may become involved in the review of municipal planning documents (e.g., Official Plans (OPs), zoning by-laws) and development applications under the *Planning Act* to ensure that program interests developed and defined under Section 20 and 21 of the *CA Act* are addressed in land use decisions made by municipal planning authorities. In this role, the CA is responsible to represent its program and policy interests as a watershed based resource management agency.

2. Planning Advisory Service to Municipalities

The provision of planning advisory services to municipalities is implemented through a service agreement with participating municipalities or as part of a CAs approved program activity (i.e., service provided through existing levy). Under a service agreement, a Board approved fee schedule is used and these fee schedules are coordinated between CAs that “share” a participating municipality. The “Policies and Procedures for the Charging of CA Fees” (MNR, June 13, 1997) identifies “plan review” activities as being eligible for charging CA administrative fees.

The CA is essentially set up as a technical advisor to municipalities. The agreements cover the Authority’s areas of technical expertise, e.g., natural hazards and other resource management programs. The provision of planning advisory services for the review of *Planning Act* applications is a means of implementing a comprehensive resource management program on a watershed basis.

In this role, the CA is responsible to provide advice on the interpretation of the Provincial Policy Statement (PPS) under the terms of its planning advisory service agreement with the municipality. Beyond those for Section 3.1 “Natural Hazards” where CAs have delegated responsibility, these comments should not be construed by any party as representing the provincial position.

3. CAs as Landowner

CAs are landowners and as such, may become involved in the planning process as a proponent or adjacent landowner. Planning Service Agreements with municipalities have anticipated that this may lead to a conflict with our advisory role and this is addressed by establishing a mechanism for either party to identify a conflict and implement an alternative review mechanism.

4. Regulatory Responsibilities

a) *CA Act* Regulations

In participating in the review of development applications under the *Planning Act*, CAs will (i) ensure that the applicant and municipal planning authority are aware of the Section 28 regulations and requirements under the *CA Act*, and, (ii) assist in the coordination of applications under the *Planning Act* and the *CA Act* to eliminate unnecessary delay or duplication in the process.

b) Other Delegated or Assigned Regulatory/Approval Responsibility

Federal and provincial ministries and municipalities often enter agreements to transfer regulatory/approval responsibilities to individual CAs (e.g., Section 35 Fisheries Act/DFO; Ontario Building Code/septic tank approvals). In carrying out these responsibilities and in participating in the review of development applications under the *Planning Act*, CAs will (i) ensure that the applicant and municipality are aware of the requirements under these other pieces of legislation and how they may affect the application; and, (ii) assist in the coordination of applications under the *Planning Act* and those other Acts to eliminate unnecessary delays or duplication in the process.

CANCELLATION OR REVIEW OF THE MOU

The terms and conditions of this MOU can be cancelled within 90 days upon written notice from any of the signing parties. In any event, this document should be reviewed at least once every two years to assess its effectiveness, its relevance and its appropriateness in the context the needs of the affected parties. “Ed. Note: 90 days is to provide time for the parties to reach a resolution other than cancellation”.

**MEMORANDUM OF UNDERSTANDING ON PROCEDURES TO ADDRESS
CONSERVATION AUTHORITY DELEGATED RESPONSIBILITY**

I hereby agree to support the provisions contained in this Memorandum of Understanding as an appropriate statement of the roles and responsibilities of relevant Ministries and Conservation Authorities in the implementation of the Provincial Policy Statement.

Jan 19, 2001: Original signed by

David de Launay
Director
Lands and Waters Branch
Ministry of Natural Resources

Date

Feb 12, 2001: Original signed by

Audrey Bennett
A/Director
Provincial Planning and Environmental Services Branch
Ministry of Municipal Affairs and Housing

Date

Jan 01, 2001: Original signed by

R.D. Hunter
General Manager
Conservation Ontario

Date



Ministry of
Natural
Resources

Minister

Ministère des
Richesses
naturelles

Ministre

Queen's Park
Toronto, Ontario
M7A 1W7
416 / 314-2301

APR 19 1995

95-01252-MIN

Mr. Donald Hocking
Chair
Upper Thames River Conservation Authority
R.R. #6
London, Ontario
N6A 4C1

Dear Mr. Hocking:

This letter is with regard to the responsibilities of Conservation Authorities in commenting on development proposals.

The Government of Ontario is continuing to move forward on reforms promoting greater local involvement in decision-making, streamlining of municipal planning and other approval processes, and improved environmental protection. Ontario's Conservation Authorities continue to be important partners in this process.

In 1983, Conservation Authorities were delegated commenting responsibility on flood plain management matters. This was followed in 1988 by a similar delegation of commenting responsibility for matters related to flooding, erosion, and dynamic beaches along the shorelines of the Great Lakes-St. Lawrence River system.

At present, the Ministry and Conservation Authorities continue to independently review and provide input to municipalities and the Ministry of Municipal Affairs on development matters related to riverine erosion, slope, and soil instability. Although Authorities and the Ministry share similar objectives, this overlap and duplication of efforts have occasionally led to differences in comments which, in turn, have sometimes resulted in confusion, delays and expense for development proponents. As part of the current Planning Reform initiative, there is an opportunity to clarify the roles and responsibilities related to these important hazard management issues.

- 2 -

Through their flood plain, watershed and Great Lakes-St. Lawrence River shoreline management planning initiatives, Conservation Authorities have made good progress in streamlining approval processes and strengthening provincial-municipal partnerships. By extension, I believe that it would be appropriate to recognize the well-developed expertise and capabilities of Conservation Authorities in the evaluation of riverine erosion, slope and soil instability matters and to formally confirm Conservation Authorities as the lead commenting agency. This would result in further streamlining of approval processes, the promotion of environmentally sound development, and the provision of an economic stimulus for the province.

As of March 29, 1995, Conservation Authorities, where they exist, will have sole commenting responsibilities on development proposed in areas subject to riverine erosion, slope instability and soil instability, such as in areas of high water tables, organic or peat soils, and leda, or sensitive marine clay, soils. Implementation of this policy by authorities would continue to be eligible for provincial grant. Where Conservation Authorities exist, I have asked Ministry staff to focus their comments on all other matters of direct interest and concern to the Ministry. Where Conservation Authorities do not exist, the Ministry will continue its commenting role on these matters.

The Ministry of Natural Resources will continue as lead administrative Ministry having overall Government responsibility for hazard management policies and programs. In this regard, the Ministry will continue to provide leadership, policy direction and advisory assistance to the Conservation Authorities.

Your continued participation in the delivery of this important component of the overall provincial hazard management program will serve to strengthen the partnership between the Ministry and the Conservation Authorities.

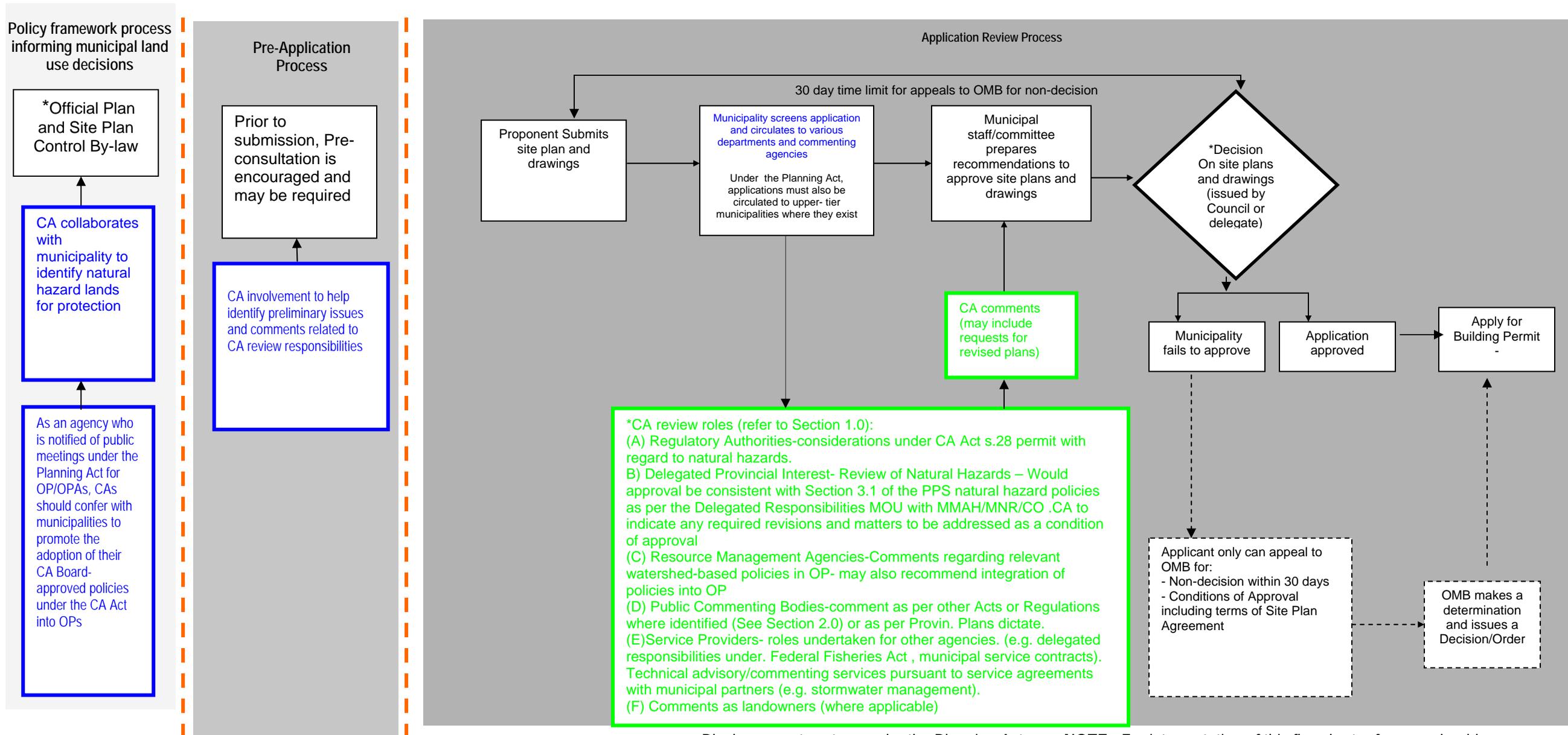
Yours sincerely,



Howard Hampton
Minister

**Appendix 2: Schematics of Application processes under both the *Planning Act*
and the *Conservation Authorities Act***

Appendix 2(a): Municipal Planning process for Site Plan Control with CA Review in a non- CA regulated area (i.e. Section 28 does not apply)



*OPs are required to be consistent with the PPS and conform to or not conflict with applicable provincial plans. Note: Not all OPs have been updated to reflect the PPS 2005 and provincial plans, yet advice and decisions on planning matters must be consistent with the PPS and conform to applicable provincial plans.

Black - current system under the Planning Act
 Green highlight – current CA role/input
 Blue highlight – proposed best practices

NOTE: For interpretation of this flowchart reference should be made to the full Policies and Procedures chapter

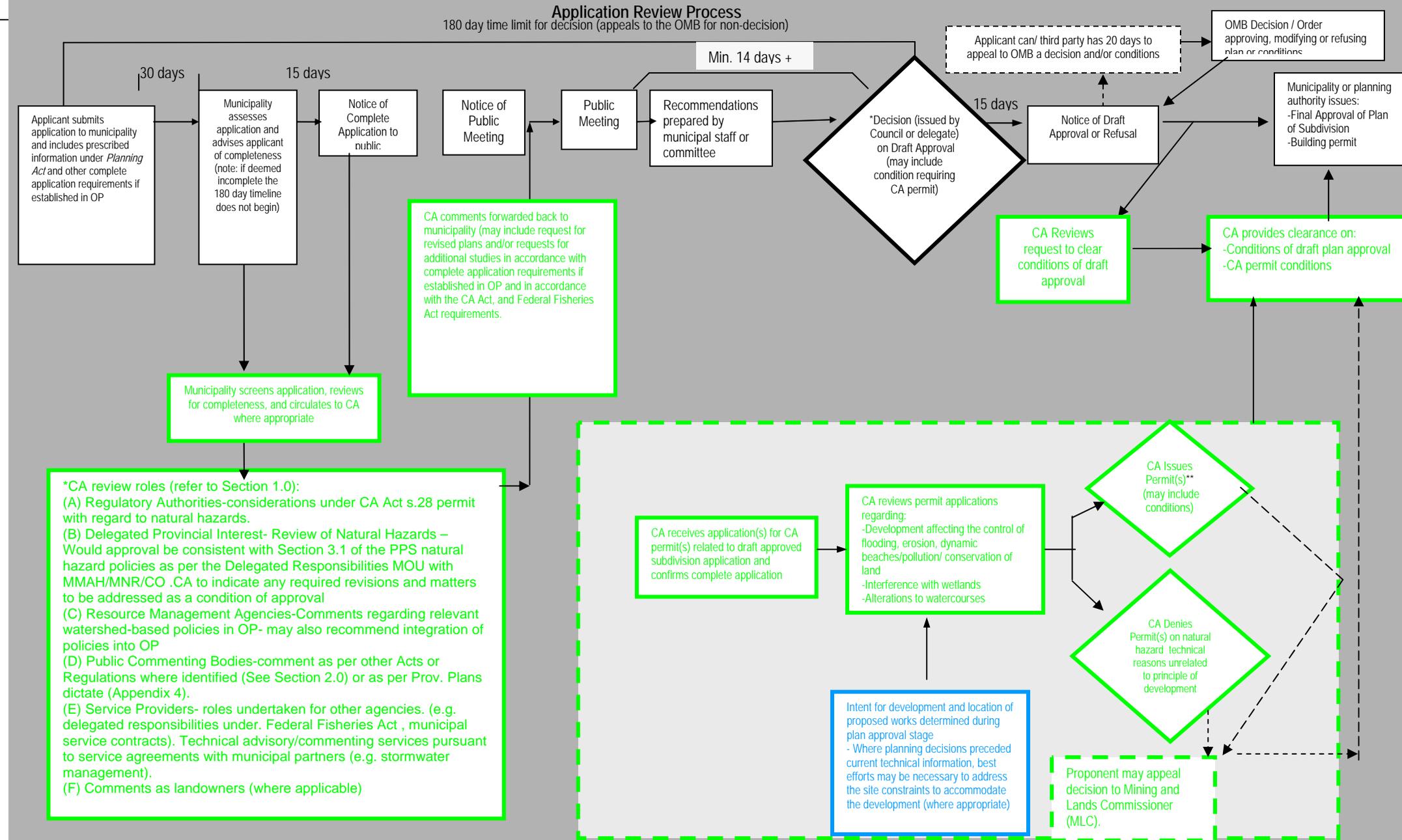
Appendix 2(b): Municipal Planning Application Process for Plan of Subdivision with CA Review and Requirement for CA Permit(s) (i.e. within a CA Regulated Area)

Policy framework process informing municipal land use

- *Official Plan - Sets out policy framework for physical development of communities and municipal land use decisions
- CA collaborates with municipality to identify natural hazard lands
- CA confers with municipality to determine Complete Application requirements in OP (based on application type and/or geographic area e.g., master servicing plan for stormwater management)
- As an agency who is notified of public meetings under the Planning Act for OP/OPAs, CAs should confer with municipalities to promote the adoption of their CA Board-approved policies under the CA Act into OPs

Pre-Application Process

- Prior to submission, Pre-consultation is encouraged and may be required
- CA Involvement to help identify:
- Limit of hazard lands on subject property
 - Developable area (within regulated area)
 - Environmental aspects of development (if acting on behalf of municipality through service agreement)
 - Proposed works that may require CA permits



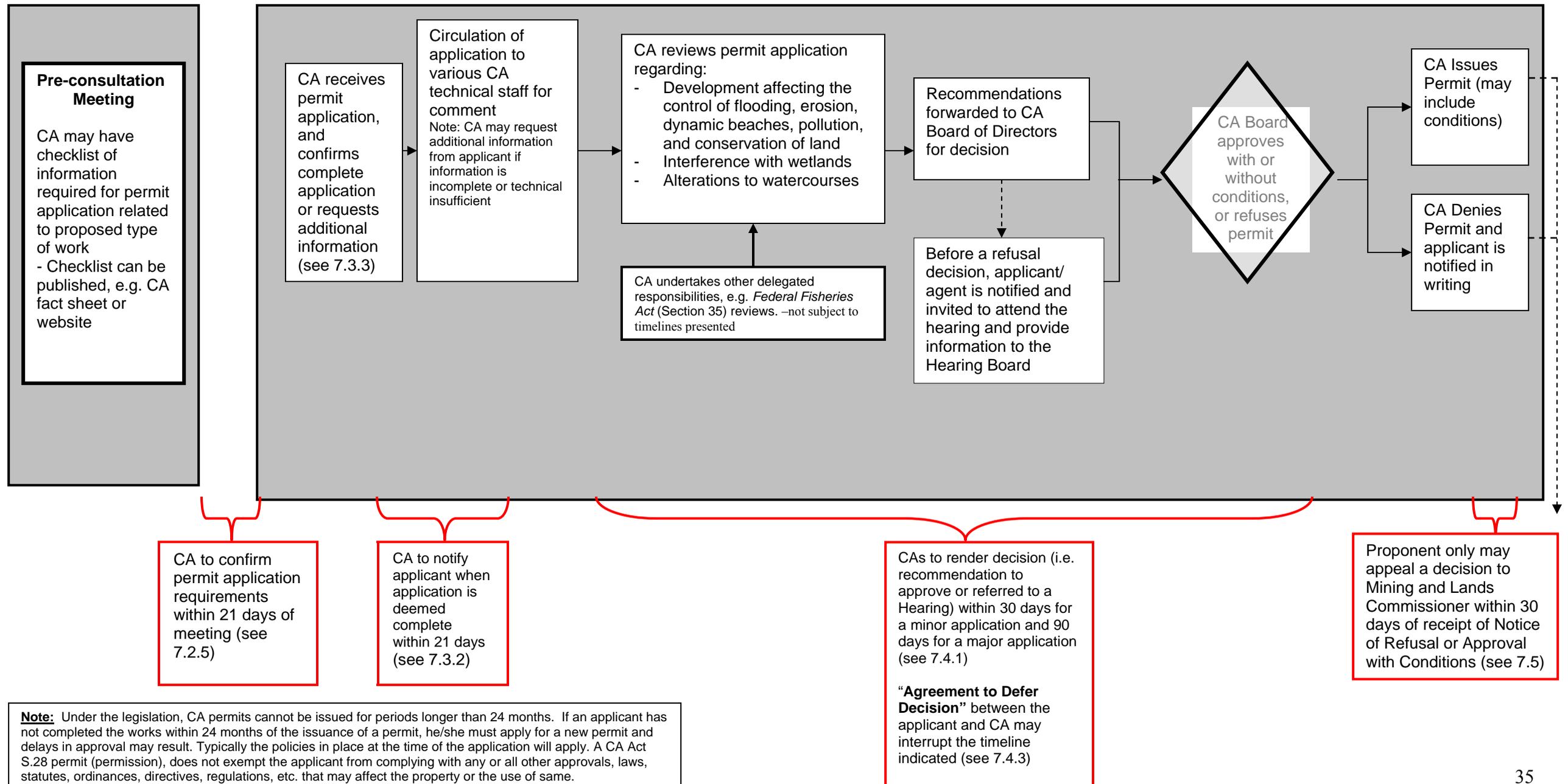
NOTE: For interpretation of this flowchart reference should be made to the full Policies and Procedures chapter

Black - current system under the Planning Act
 Green highlight – current CA role/input
 Blue highlight – proposed best practices

* OPs are required to be consistent with the PPS and to conform to provincial plans. Note: Not all OPs have been updated to reflect the PPS 2005 and provincial plans, yet all advice and decisions on planning matters must be consistent with the PPS and conform to applicable provincial plans.

** Under legislation, if an applicant has not completed the permitted works within 24 months, they must reapply. CA permits cannot be extended for periods longer than 24 months. Generally, policies in place at time of re-application will apply to permit decisions.

Appendix 2(c): Stand-Alone CA Act S. 28 “Development, Interference with Wetlands, Alterations to Shorelines and Watercourses” Regulation Permit Application Process



Appendix 3: Information Requirements – Section 28 Regulation Application

Specific information is required from the applicant in support of a permit application.

Two examples are set out below.

Permission to Develop

A signed application may contain, but is not limited to the following information:

1. four copies of a plan of the area showing the type and location of the development
2. the proposed use of the buildings and structures following completion of the development
3. the start and completion dates of the development
4. the elevations of existing buildings, if any, and grades and the proposed elevations of buildings and grades after development
5. drainage details before and after development
6. a complete description of the type of fill proposed to be placed or dumped
7. signed land owner authorization for the CA to enter the property (may not be applicable for works completed under the Drainage Act-see Drainage Act protocol for more details)
8. technical studies/plans as required to meet the regulatory provisions of CA Act S.28 (NOTE: this is dependant on the proposed extent of intrusion into a regulated area and/or the associated potential negative impacts. Major applications generally require more complex technical studies).
9. submission of the prescribed fee set by the CA for review of the application.

Permission to Alter

A CA may grant a person permission to straighten, change, divert, or interfere with an existing channel of a river, creek, stream, or watercourse or to change or interfere with a wetland. A signed application may contain, but is not limited to the following information:

1. four copies of a plan of the area showing plan view and cross-section details of the proposed alteration
2. a description of the methods to be used in carrying out the alteration
3. the start and completion dates of the alteration
4. a statement of the purpose of the alteration
5. signed land owner authorization for the CA to enter the property (may not be applicable for works completed under the Drainage Act-see Drainage Act protocol for more details)
6. technical studies/plans as required to meet the regulatory provisions of CA Act S.28 (NOTE: this is dependant on the proposed extent of intrusion into a regulated area and/or the associated potential negative impacts. Major applications generally require more complex technical studies).
7. submission of the prescribed fee set by the CA for review of an application.

When all of the information listed above is received in a form satisfactory to the CA, and a pre-consultation or site assessment is conducted as necessary, an application will then be deemed to be complete. An application can be put “on hold” or returned to the applicant pending the receipt of further information.

Appendix 4a: Provincial Plans and Associated Guidelines or Technical Papers

1. Greenbelt Plan, 2005

- 1) Greenbelt Technical Paper 1: Technical Definitions and Criteria for Key Natural Heritage Features in the Natural Heritage System of the Protected Countryside Area of the of the Greenbelt Plan, 2005 (Draft posted in the EBR on Sept. 19, 2008 (EBR Registry Number: 010-4559)
- 2) Greenbelt Technical Paper 2: Technical Definitions and Criteria for Significant Woodlands in the Natural Heritage System of the Protected Countryside Area of the Greenbelt Plan, 2005 (Draft posted in the EBR on Sept. 19, 2008 (EBR Registry Number: 010-4559)
- 3) Greenbelt Technical Paper 3: Technical Process for the Identification of Significant Habitat of Endangered, Threatened and Special Concern Species in the Natural Heritage System of the Protected Countryside Area of the Greenbelt Plan, 2005, (Draft posted in the EBR on Sept. 19, 2008 (EBR Registry Number: 010-4559)

2. Oak Ridges Moraine Conservation Plan, 2002

Following technical papers are available online:

- 1) Identification of Key Natural Heritage Features
- 2) Significant Wildlife Habitat
- 3) Supporting Connectivity
- 4) Landform Conservation
- 5) Identification and Protection of Vegetation Protection Zones for Areas of Natural and Scientific Interest (ANSI, Life Science)
- 6) Identification of Significant Portions of Habitat for Endangered, Rare and Threatened Species
- 7) Identification and Protection of Significant Woodlands
- 8) Preparation of Natural Heritage Evaluations for all Key Natural Heritage Features
- 9) Watershed Plans
- 10) Water Budgets
- 11) Water Conservation Plans
- 12) Hydrological Evaluations for Hydrologically Sensitive Features
- 13) Subwatersheds - Impervious Surfaces
- 14) Wellhead Protection - Site Management and Contingency Plans
- 15) Recreation Plans and Vegetation Management Plans
- 16) Sewage and Water System Plans
- 17) Stormwater Management Plans

4. Lake Simcoe Protection Plan, 2009

5. Central Pickering Development Plan, 2006

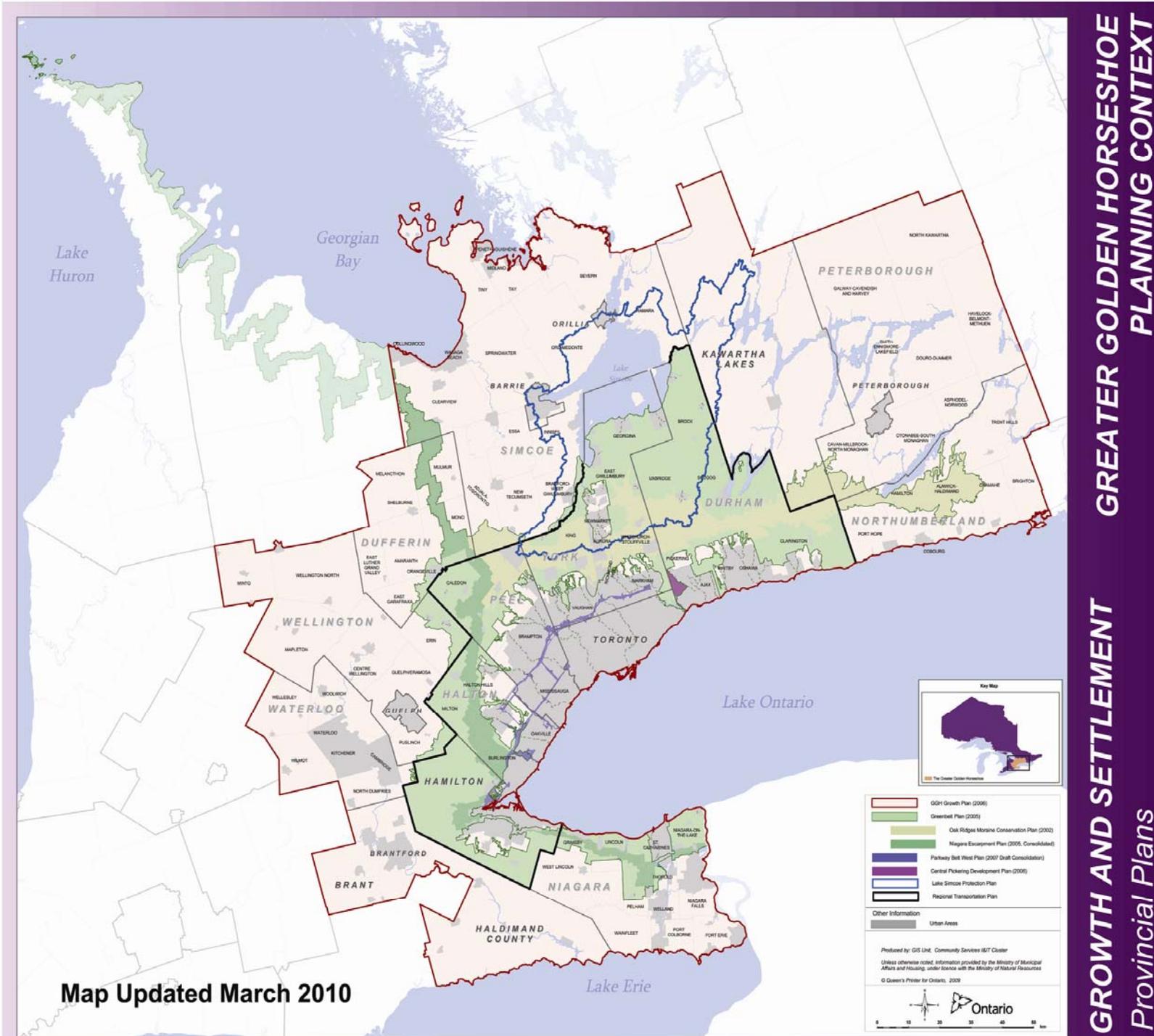
6. Niagara Escarpment Plan (Office consolidation, March 11, 2010)

7. Parkway Belt West Plan (Consolidated to June 2008)

8. Growth Plan for the Greater Golden Horseshoe, 2006

9. Source Protection Plans (pending completion 2012)

Appendix 4b: Provincial Plans Map



**GREATER GOLDEN HORSESHOE
 PLANNING CONTEXT**

**GROWTH AND SETTLEMENT
 Provincial Plans**

APPENDIX G - CVC Hearing Guidelines

SECTION 28 (3)
CONSERVATION AUTHORITIES ACT
HEARING GUIDELINES
October 2005



Conservation
ONTARIO
Natural Champions



Ministry of Natural Resources
Ministère des Richesses naturelles

SECTION 28 (3)
CONSERVATION AUTHORITIES ACT
HEARING GUIDELINES
October 2005

Peter Krause, Chairman
Conservation Ontario

Gail L. Beggs, Deputy Minister
Ministry of Natural Resources

Section 28 (12), Conservation Authorities Act - Hearing Guidelines

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1.0 PURPOSE OF HEARING GUIDELINES:

The purpose of the Hearing Guidelines is to reflect the changes to the 1998 Conservation Authorities Act. The Act requires that the applicant be party to a hearing by the local Conservation Authority Board, or Executive Committee (sitting as a Hearing Board) as the case may be, for an application to be refused or approved with contentious conditions. Further, a permit may be refused if in the opinion of the Authority the proposal adversely affects the control of flooding, pollution or conservation of land, and additional erosion and dynamic beaches. The Hearing Board is empowered by law to make a decision, governed by the Statutory Powers Procedures Act. It is the purpose of the Hearing Board to evaluate the information presented at the hearing by both the Conservation Authority staff and the applicant and to decide whether the application will be approved with or without conditions or refused.

These guidelines have been prepared as an update to the October 1992 hearing guidelines and are intended to provide a step-by-step process to conducting hearings required under Section 28 (12), (13), (14) of the Conservation Authorities Act. Similar to the 1992 guidelines, it is hoped that the guidelines will promote the necessary consistency across the Province and ensure that hearings meet the legal requirements of the Statutory Powers Procedures Act without being unduly legalistic or intimidating to the participants.

2.0 PREHEARING PROCEDURES

2.1 Apprehension of Bias

In considering the application, the Hearing Board is acting as a decision-making tribunal. The tribunal is to act fairly. Under general principles of administrative law relating to the duty of fairness, the tribunal is obliged not only to avoid any bias but also to avoid the appearance or apprehension of bias. The following are three examples of steps to be taken to avoid apprehension of bias where it is likely to arise.

- (a) No member of the Authority taking part in the hearing should be involved, either through participation in committee or intervention on behalf of the applicant or other interested parties with the matter, prior to the hearing. Otherwise, there is a danger of an apprehension of bias which could jeopardize the hearing.
- (b) If material relating to the merits of an application that is the subject of a hearing is distributed to Board members before the hearing, the material shall be distributed to the applicant at the same time. The applicant may be afforded an opportunity to distribute similar pre-hearing material.
- (c) In instances where the Authority (or Executive Committee) requires a hearing to help it reach a determination as to whether to give permission with or without conditions or refuse a permit application, a final decision shall not be made until such time as a hearing is held. The applicant will be given an opportunity to attend the hearing before a decision is made; however, the applicant does not have to be present for a decision to be made.

Individual Conservation Authorities shall develop a document outlining their own practices and procedures relating to the review and reporting of Section 28 applications, including the role of staff,

the applicant and the Authority or Executive Committee as well as, the procedures for the hearing itself. Such policy and procedures manual shall be available to the members of the public upon request. These procedures shall have regard for the above information and should be approved by the Conservation Authority Board of Directors.

2.2 Application

The right to a hearing is required where staff is recommending refusal of an application or where there is some indication that the Authority or Executive Committee may not follow staff's recommendation to approve a permit or the applicant objects to the conditions of approval. The applicant is entitled to reasonable notice of the hearing pursuant to the Statutory Powers Procedures Act.

2.3 Notice of Hearing

The Notice of Hearing shall be sent to the applicant within sufficient time to allow the applicant to prepare for the hearing. To ensure that reasonable notice is given, it is recommended that prior to sending the Notice of Hearing, the applicant be consulted to determine an agreeable date and time based on the local Conservation Authority's regular meeting schedule.

The Notice of Hearing must contain the following:

- (a) Reference to the applicable legislation under which the hearing is to be held (i.e., the Conservation Authorities Act).
- (b) The time, place and the purpose of the hearing.
- (c) Particulars to identify the applicant, property and the nature of the application which are the subject of the hearing.

Note: If the applicant is not the landowner but the prospective owner, the applicant must have written authorization from the registered landowner.

- (d) The reasons for the proposed refusal or conditions of approval shall be specifically stated. This should contain sufficient detail to enable the applicant to understand the issues so he or she can be adequately prepared for the hearing.

It is sufficient to reference in the Notice of Hearing that the recommendation for refusal or conditions of approval is based on the reasons outlined in previous correspondence or a hearing report that will follow.

- (e) A statement notifying the applicant that the hearing may proceed in the applicant's absence and that the applicant will not be entitled to any further notice of the proceedings.

Except in extreme circumstances, it is recommended that the hearing not proceed in the absence of the applicant.

- (f) Reminder that the applicant is entitled to be represented at the hearing by counsel, if desired.

It is recommended that the Notice of Hearing be directed to the applicant and/or landowner by registered mail. Please refer to **Appendix A** for an example Notice of Hearing.

2.4 Presubmission of Reports

If it is the practice of the local Conservation Authority to submit reports to the Board members in advance of the hearing (i.e., inclusion on an Authority/Executive Committee agenda), the applicant shall be provided with the same opportunity. The applicant shall be given two weeks to prepare a report once the reasons for the staff recommendations have been received. Subsequently, this may affect the timing and scheduling of the staff hearing reports.

2.5 Hearing Information

Prior to the hearing, the applicant shall be advised of the local Conservation Authority's hearing procedures upon request.

3.0 HEARING

3.1 Public Hearing

Pursuant to the Statutory Powers Procedure Act, hearings are required to be held in public. The exception is in very rare cases where public interest in public hearings is outweighed by the fact that intimate financial, personal or other matters would be disclosed at hearings.

3.2 Hearing Participants

The Conservation Authorities Act does not provide for third party status at the local hearing. While others may be advised of the local hearing, any information that they provide should be incorporated within the presentation of information by, or on behalf of, the applicant or Authority staff.

3.3 Attendance of Hearing Board Members

In accordance with case law relating to the conduct of hearings, those members of the Authority who will decide whether to grant or refuse the application must be present during the full course of the hearing. If it is necessary for a member to leave, the hearing must be adjourned and resumed when either the member returns or if the hearing proceeds, even in the event of an adjournment, only those members who were present after the member left can sit to the conclusion of the hearing.

3.4 Adjournments

The Board may adjourn a hearing on its own motion or that of the applicant or Authority staff where it is satisfied that an adjournment is necessary for an adequate hearing to be held.

Any adjournments form part of the hearing record.

3.5 Orders and Directions

The Authority is entitled to make orders or directions to maintain order and prevent the abuse of its hearing processes. A hearing procedures example has been included as **Appendix B**.

3.6 Information Presented at Hearings

- (a) The Statutory Powers Procedure Act, requires that a witness be informed of his right to object pursuant to the Canada Evidence Act. The Canada Evidence Act indicates that a witness shall be excused from answering questions on the basis that the answer may be incriminating. Further, answers provided during the hearing are not admissible against the witness in any criminal trial or proceeding. This information should be provided to the applicant as part of the Notice of Hearing.
- (b) It is the decision of the hearing members as to whether information is presented under oath or affirmation. It is not a legal requirement. The applicant must be informed of the above, prior to or at the start of the hearing.
- (c) The Board may authorize receiving a copy rather than the original document. However, the Board can request certified copies of the document if required.
- (d) Privileged information, such as solicitor/client correspondence, cannot be heard. Information that is not directly within the knowledge of the speaker (hearsay), if relevant to the issues of the hearing, can be heard.
- (e) The Board may take into account matters of common knowledge such as geographic or historic facts, times measures, weights, etc or generally recognized scientific or technical facts, information or opinions within its specialized knowledge without hearing specific information to establish their truth.

3.7 Conduct of Hearing

3.7.1 Record of Attending Hearing Board Members

A record shall be made of the members of the Hearing Board.

3.7.2 Opening Remarks

The Chairman shall convene the hearing with opening remarks which generally; identify the applicant, the nature of the application, and the property location; outline the hearing procedures; and advise on requirements of the Canada Evidence Act. Please reference **Appendix C** for the Opening Remarks model.

3.7.3 Presentation of Authority Staff Information

Staff of the Authority presents the reasons supporting the recommendation for the refusal or conditions of approval of the application. Any reports, documents or plans that form part of the presentation shall be properly indexed and received.

Staff of the Authority should not submit new information at the hearing as the applicant will not have had time to review and provide a professional opinion to the Hearing Board.

Consideration should be given to the designation of one staff member or legal counsel who coordinates the presentation of information on behalf of Authority staff and who asks questions on behalf of Authority staff.

3.7.4 Presentation of Applicant Information

The applicant has the opportunity to present information at the conclusion of the Authority staff presentation. Any reports, documents or plans which form part of the submission should be properly indexed and received.

The applicant shall present information as it applies to the permit application in question. For instance, does the requested activity affect the control of flooding, erosion, dynamic beach or conservation of land or pollution? The hearing does not address the merits of the activity or appropriateness of such a use in terms of planning.

- The applicant may be represented by legal counsel or agent, if desired
- The applicant may present information to the Board and/or have invited advisors to present information to the Board
- The applicant(s) presentation may include technical witnesses, such as an engineer, ecologist, hydrogeologist etc.

The applicant should not submit new information at the hearing as the Staff of the Authority will not have had time to review and provide a professional opinion to the Hearing Board.

3.7.5 Questions

Members of the Hearing Board may direct questions to each speaker as the information is being heard. The applicant and /or agent can make any comments or questions on the staff report.

Pursuant to the Statutory Powers Procedure Act, the Board can limit questioning where it is satisfied that there has been full and fair disclosure of the facts presented. Please note that the courts have been particularly sensitive to the issue of limiting questions and there is a tendency to allow limiting of questions only where it has clearly gone beyond reasonable or proper bounds.

3.7.6 Deliberation

After all the information is presented, the Board may adjourn the hearing and retire in private to confer. The Board may reconvene on the same date or at some later date to advise of the Board's decision. The Board members shall not discuss the hearing with others prior to the decision of the

Board being finalized.

4.0. DECISION

The applicant must receive written notice of the decision. The applicant shall be informed of the right to appeal the decision within 30 days upon receipt of the written decision to the Minister of Natural Resources.

It is important that the hearing participants have a clear understanding of why the application was refused or approved. The Board shall itemize and record information of particular significance which led to their decision.

4.1 Notice of Decision

The decision notice should include the following information:

- (a) The identification of the applicant, property and the nature of the application that was the subject of the hearing.
- (b) The decision to refuse or approve the application. A copy of the Hearing Board resolution should be attached.

It is recommended that the written Notice of Decision be forwarded to the applicant by registered mail. A sample Notice of Decision and cover letter has been included as **Appendix D**.

4.2 Adoption

A resolution advising of the Board's decision and particulars of the decision should be adopted.

5.0 RECORD

The Authority shall compile a record of the hearing. In the event of an appeal, a copy of the record should be forwarded to the Minister of Natural Resources/Mining and Lands Commissioner. The record must include the following:

- (a) The application for the permit.
- (b) The Notice of Hearing.
- (c) Any orders made by the Board (e.g., for adjournments).
- (d) All information received by the Board.
- (e) The minutes of the meeting made at the hearing.
- (f) The decision and reasons for decision of the Board.
- (g) The Notice of Decision sent to the applicant

Appendix A

NOTICE OF HEARING

IN THE MATTER OF

The Conservation Authorities Act,
R.S.O. 1990, Chapter 27

AND IN THE MATTER OF an application by

**FOR THE PERMISSION OF THE
CONSERVATION AUTHORITY**

Pursuant to Regulations made under
Section 28, Subsection 12 of the said Act

TAKE NOTICE THAT a Hearing before the Executive Committee of the Conservation Authority will be held under Section 28, Subsection 12 of the Conservation Authorities Act at the offices of the said Authority (ADDRESS), at the hour of , **on the day of , 2001**, with respect to the application by (**NAME**) to permit development within an area regulated by the Authority in order to ensure no adverse affect on (***the control of flooding, erosion, dynamic beaches or pollution or conservation of land./alter or interfere with a watercourse, shoreline or wetland***) on Lot , Plan/Lot , Concession , (**Street**) in the City of , Regional Municipality of , River Watershed.

TAKE NOTICE THAT you are invited to make a delegation and submit supporting written material to the Executive Committee for the meeting of (**meeting number**). If you intend to appear, please contact (**name**) . Written material will be required by (**date**), to enable the Committee members to review the material prior to the meeting.

TAKE NOTICE THAT this hearing is governed by the provisions of the Statutory Powers Procedure Act. Under the Act, a witness is automatically afforded a protection that is similar to the protection of the Ontario Evidence Act. This means that the evidence that a witness gives may not be used in subsequent civil proceedings or in prosecutions against the witness under a Provincial Statute. It does not relieve the witness of the obligation of this oath since matters of perjury are not affected by the automatic affording of the protection. The significance is that the legislation is Provincial and cannot affect Federal matters. If a witness requires the protection of the Canada Evidence Act that protection must be obtained in the usual manner. The Ontario Statute requires the tribunal to draw this matter to the attention of the witness, as this tribunal has no knowledge of the affect of any evidence that a witness may give.

AND FURTHER TAKE NOTICE that if you do not attend at this Hearing, the Executive Committee of the Conservation Authority may proceed in your absence, and you will not be entitled to any further notice in the proceedings.

DATED the ___ day of , _____200X

The Executive Committee of the
Conservation Authority

Per:
Chief Administrative Officer/Secretary-Treasurer

Appendix B

HEARING PROCEDURES

1. Motion to sit as Hearing Board.
2. Roll Call followed by the Chair's opening remarks.
3. Staff will introduce to the Hearing Board the applicant/owner, his/her agent and others wishing to speak.
4. Staff will indicate the nature and location of the subject application and the conclusions.
5. Staff will present the staff report included in the Authority/Executive Committee agenda.
6. The applicant and/or his/her agent will speak and also make any comments on the staff report, if he/she so desires.
7. The Hearing Board is open to the public and therefore, the Hearing Board will allow others to speak, and, if necessary, the applicant in rebuttal.
8. The Hearing Board will question, if necessary, both the staff and the applicant/agent.
9. The Hearing Board will move into camera.
10. Members of the Hearing Board will move and second a motion.
11. A motion will be carried which will culminate in the decision.
12. The Hearing Board will move out of camera.
13. The Chairman or Acting Chairman will advise the owner/applicant of the Hearing Board decision.
14. If decision is "to refuse", the Chairman or Acting Chairman shall notify the owner/applicant of his/her right to appeal the decision to the Minister of Natural Resources within 30 days of receipt of the reasons for the decision.
15. Motion to move out of Hearing Board and sit as Executive Committee.

Appendix C

CHAIR'S REMARKS WHEN DEALING WITH HEARINGS WITH RESPECT TO ONTARIO REGULATION 158

We are now going to conduct a hearing under section 28 of the Conservation Authorities Act in respect of an application by _____: , for permission to:_____

The Authority has adopted regulations under section 28 of the Conservation Authorities Act which requires the permission of the Authority for development within an area regulated by the Authority in order to ensure no adverse affect on (the control of flooding, erosion, dynamic beaches or pollution or conservation of land) or to permit alteration to a shoreline or watercourse or interference with a wetland.

The Staff has reviewed this proposed work and a copy of the staff report has been given to the applicant.

The Conservation Authorities Act (Section 28 [12]) provides that:

"Permission required under a regulation made under clause (1) (b) or 8) shall not be refused or granted subject to conditions unless the person requesting permission has been given the opportunity to require a hearing before the authority or, if the authority so directs, before the authority's executive committee."

In holding this hearing, the Authority Board/Executive Committee is to determine whether or not a permit is to be issued. In doing so, we can only consider the application in the form that is before us, the staff report, such evidence as may be given and the submissions to be made on behalf of the applicant.

The proceedings will be conducted according to the Statutory Powers Procedure Act. Under Section 5 of the Canada Evidence Act, a witness may refuse to answer any question on the ground that the answer may tend to criminate the person, or may tend to establish his/her liability to a civil proceeding at the instance of the Crown or of any person.

The procedure in general shall be informal without the evidence before it being given under oath or affirmation unless decided by the hearing members.

If the applicant has any questions to ask of the Hearing Board or of the Authority representative, they must be directed to the Chair of the board.

Appendix D

(Date)

BY REGISTERED MAIL

(name)

(address)

Dear:

**RE: NOTICE OF DECISION
Hearing Pursuant to Section 28(12) of the Conservation Authorities Act
Proposed Residential Development
Lot , Plan ; ?? Drive City of
(Application #)**

In accordance with the requirements of the Conservation Authorities Act, the (**name**) Conservation Authority provides the following Notice of Decision:

On (**meeting date and number**), the Hearing Board/Authority/Executive Committee refused/approved your application/approved your application with conditions. A copy the Boards/Committee's resolution # has been attached for your records. Please note that this decision is based on the following reasons: (***the proposed development/alteration to a watercourse or shoreline adversely affects the control of flooding, erosion, dynamic beaches or pollution or interference with a wetland or conservation of land***).

In accordance with Section 28 (15) of the Conservation Authorities Act, An applicant who has been refused permission or who objects to conditions imposed on a permission may, within 30 days of receiving the reasons under subsection (14), appeal to the Minister who may refuse the permission; or grant permission, with or without conditions. For your information, should you wish to exercise your right to appeal the decision, a letter by you or your agent/counsel setting out your appeal must be sent within 30 days of receiving this decision addressed to:

The Honourable David Ramsay
Minister of Natural Resources
Queen's Park, Whitney Block
99 Wellesley Street West, 6th Floor, Room 6630
Toronto, Ontario M7A 1W3
TEL: (416) 314-2301 FAX: (416) 314-2216

Should you require any further information, please do not hesitate to contact (**staff contact**) or the undersigned.

Yours truly,

Chief Administrative Officer/Secretary Treasurer

Enclosure