



Service Delivery Procedures for Ontario Regulation 148/06:

Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses

Made pursuant to and consistent with Section 28 of the Conservation Authorities Act.

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Adoption / Document Revisions

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1	06/27/18	Updates (Approved by Full Authority Resolution 070-18)	IR-077-18
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Resolution of Adoption

This document was developed and updated with oversight by the Planning and Permitting *Ad Hoc* Committee of the Cataraqui Conservation's Full Authority Board.

This revised procedural document was adopted by Cataraqui Conservation's Full Authority Board through Resolution 115-20 on December 09, 2020.

These procedures took effect immediately following their adoption by the Cataraqui Conservation's Full Authority Board.

1 Introduction

Cataraqui Conservation administers Ontario Regulation 148/06: Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses, pursuant to section 28 of the *Conservation Authorities Act*.

The Cataraqui Conservation Full Authority Board has approved service delivery procedures and implementation guidelines that are used by staff to process and review applications made under Ontario Regulation 148/06 (2017, as amended). The Board has also approved Enforcement Procedures for Ontario Regulation 148/06 (2018, as amended). These documents were prepared in accordance with the Policies and Procedures for Conservation Authority Plan Review and Permitting Activities (Ontario Ministry of Natural Resources and Conservation Ontario, 2010), and is normally subject to a coordinated, comprehensive review at least every 5 years.

It is anticipated that Cataraqui Conservation documents will need to be reviewed and amended following the anticipated replacement of Ontario Regulation 148/06 with a new Province-wide regulation, per changes to section 28 of the *Conservation Authorities Act* that will come into effect at a future date.

- The service delivery procedures document outlines:
- what constitutes a complete application;
- the process to create a file;
- the process to issue a permission;
- the process to recommend denial of an application;
- the decision-making timelines associated with routine, minor and major applications;
- who has authority to sign a permit; and
- protocols for certain activities and agencies.

2 Application Fees

Fees are collected for the processing of the application and for reviewing technical reports in accordance with the Ontario Regulation 148/06 Fee Schedule and Technical Report Review Fee Schedule. The latest version of these documents are posted on the Cataraqui Conservation website (www.cataraquiconservation.ca).

2.1 Refunds

A full refund of the application fee will be provided if the applicant withdraws the application before the assigned technical staff person begins his/her review. A partial refund of the application fee may be provided, at the discretion of the Supervisor, Development Review, if the applicant withdraws the application before the assigned technical staff person completes his/her review (i.e., based on the amount of work done to date). A refund will not be provided if the application review is complete.

2.2 Dispute Over Fee

Where the applicant disputes the fee charged, the Supervisor, Development Review has the discretionary power to establish the fee which must be collected. If then not satisfied, the applicant may request a review by the General Manager and Manager, Watershed Planning & Engineering. The applicant has the after-the-fact right to appeal the fee to the Cataraqui Conservation Full Authority Board.

Decisions of the Cataraqui Conservation Full Authority Board regarding permit fees are final.

3 Application Review Procedures

Staff will assist proponents in determining if their proposed activities would be located within a regulated area and whether permission would be required. Cataraqui Conservation assumes no liability for any technical recommendations that staff may provide the proponent. It is the responsibility of the proponent to provide any technical design and environmental data, at their own cost and at a quality acceptable to staff, that might be necessary to determine whether the proposed activities would meet the guidelines for implementing the Regulation.

Each proposed project that requires the approval of Cataraqui Conservation under the Regulation, and for which an application has been submitted, will be processed in the following manner.

3.1 Administration

1. Cataraqui Conservation will normally receive applications in a digital format.
2. Applications circulated through postal mail are initially received by the Receptionist/Clerk.
3. Applications circulated to technical staff through e-mail are to be forwarded to the Receptionist/Clerk.
4. The Receptionist/Clerk will assign a unique file number to each application that is submitted. This number shall be related to the order in which it was received, the current year and the watershed/sub-watershed where the work is to take place (e.g., F-01/13-LCC means that this is a file that was the first application received in 2013 and the work is proposed within the Little Cataraqui Creek watershed). The applicant's name, the civic address of the property and/or the legal property description, municipality, and the nature of the work should appear on the file folder for each application.
5. The Receptionist/Clerk will create and populate a record in the Regulation database with all available information (e.g., file number, payment information, date received, property information).

6. The Receptionist/Clerk will submit the fee, when received, to the Accounting department. The money will be marked for regulation fees and include the application number. The Receptionist/Clerk will update the database record after a payment is made.
7. The application is passed on to the technical staff person that has been assigned the file for review. This person will record the “date of complete application” in the database record.
8. Following issuance of a permission, the permit package will normally be provided to the applicant and/or agent by e-mail. It may also be provided by regular mail or hand-delivered upon request or where it contains drawings larger than ledger size (11 inches by 17 inches). When requested, the package can also be provided by e-mail to a municipal building official for the purpose of confirming the applicable law provision of the Ontario Building Code, or to a municipal engineering department or other approval/review agency (e.g., Parks Canada, Ontario Ministry of Natural Resources and Forestry, St. Lawrence Parks Commission) to facilitate the coordination of approvals.
9. Following issuance of a permission, the Receptionist/Clerk or person assigned to the file will complete the record in the Regulation database (e.g., date of issuance, server link, UTM coordinates (easting/northing)).

3.2 Complete Application Requirements

Staff will encourage a proponent and/or his or her agent to consult with staff on a proposal prior to making an application to determine what will constitute a complete application. The components of a complete application will be identified by staff on the Application Checklist (Appendix ‘A’). Staff will notify applicants of requirements of a complete application within 14 days of a pre-consultation meeting for major applications and within seven (7) days of a pre-consultation meeting for minor and routine applications.

The applicant or the agent is responsible to provide an application that contains sufficient detail for staff to be able to assess the proposal and determine whether the proposal meets the guidelines for implementing the Regulation, and therefore whether permission can be granted.

A complete application will always include the following components:

1. The Application Checklist provided by staff through the consultation process.
2. A completed two-page application form.
3. A completed Landowner Authorization form, where an agent will act on behalf of the landowner of the property.
4. Completed Landowner Authorization form(s) from adjacent landowner(s), where it is necessary to cross or work on another property not owned by the applicant

as part of the work (e.g., for equipment access).

5. The application processing fee, as required by the most recently approved fee schedule.
6. A plan view (top view) drawing done to scale if possible. Two hard copies and a digital pdf copy of the drawing are required if the drawing is larger than ledger size (11 inches by 17 inches).

In addition, the following components may also be requirements for a complete application depending on the nature of the proposal:

1. A cross-sectional (side view) drawing done to scale if possible. Two hard copies and a digital pdf copy of the drawing are required if the drawing is larger than ledger size (11 inches by 17 inches).
2. Photographs of the site.
3. Such technical studies or plans as staff may request (e.g., topographic survey; existing and proposed representative cross-sections and profiles of the watercourse that is to be altered; detailed work schedule, including proposed timing of works, phasing of construction, and equipment and materials needed on site to conduct works; stormwater management report; geotechnical analysis; coastal engineer's analysis; hydrogeologic and hydraulic analysis; environmental impact assessment).
4. Confirmation that any required municipal approval has been granted (e.g., *Planning Act*, municipal fill by-law or site alteration by-law, pre-servicing agreement) to ensure that municipal and Cataraqui Conservation approvals are being granted for the same work. Staff take into consideration the requirements of the Regulation when commenting on *Planning Act* applications (e.g., ensure that any drawings incorporate regulatory requirements to the extent possible).

Staff will conduct a site inspection, as necessary, to help determine if an application contains sufficient detail to be deemed complete.

The applicant will be notified, in writing, within 21 days of the receipt of a major application, 14 days for a minor application and 10 days for a routine application, as to whether the application has been deemed complete. Notification of a complete application will not be provided if a permit or letter of permission is issued within 21 days of the receipt of a complete application.

If an application is deemed incomplete, the applicant is to be provided with a list of missing / needed information. Staff review of an application may be suspended or the application may be returned to the applicant pending receipt of further information. If the applicant is not satisfied with the decision of the staff person assigned to the file, the staff person assigned to the file will review the file with the Supervisor of Development Review and / or the Manager of Watershed Planning & Engineering. If the applicant remains unsatisfied with the decision of staff, the applicant may request an administrative review by the General Manager and then if still not satisfied, by the Cataraqui Conservation Full Authority Board.

3.3 Decision Timelines

Staff will review all applications on a “first-come, first served” basis in a timely, professional manner.

Permit applications will be categorized as follows:

- Major – highly complex projects (e.g. large subdivisions, major infrastructure projects);
- Minor – relatively minor works generally requiring standard recommendations or conditions (e.g. minor filling and grading, single lot development); or
- Routine / Letter of Permission – having limited impacts on the control of flooding, erosion, pollution, dynamic beaches or the conservation of land.

From the date of receipt of a complete application, staff are to make a decision (i.e., recommendation to approve or refuse) within 45 calendar days for a major application, 21 days for a minor application and 14 days for a routine application.

If a decision has not been rendered by staff within the appropriate timeframe, the staff person assigned to the file will review the file with the Supervisor of Development Review and / or the Manager of Watershed Planning & Engineering. If the applicant remains unsatisfied with the decision of staff, the applicant may request an administrative review by the General Manager and then if still not satisfied, by the Cataraqui Conservation Full Authority Board.

3.4 Initial Site Inspection

Prior to the issuance of a permit, a designated Cataraqui Conservation employee will generally conduct a thorough inspection of the site.

Access to property will be done in accordance with the Access to Private Property Policy (CRCA, 2007). The landowner will be contacted to arrange a site meeting or to be informed of the anticipated date and time of an inspection as a courtesy.

Health and safety is of paramount importance during travel to/from sites and while on-site. Staff adhere to related sections of the Health and Safety Policies and Procedures Manual (Cataraqui Conservation, 2011, as amended).

A “Development Review Application and Site Inspection Checklist” has been prepared to help guide site inspections (Appendix ‘B’).

Fleet vehicles are normally used for site inspections. Ideally these are booked in advance. Site inspections are coordinated (often with other staff members) such that several proximate inspections are completed in one day to save time and fuel.

There is a need to ensure that all relevant site features (e.g., slope, existing vegetation, soil / rock conditions) can be properly observed at the time of the site inspection, and are not obscured due to snow cover, construction materials or other factors. If a site inspection in clear conditions is deemed necessary to complete the review, staff will notify the applicant and/or agent that the review of the application will be suspended until such time as the site can be accessed, and/or additional information is provided to

assist in the completion of the review (e.g., topographic survey, site photos). In this event, the Regulation database will be updated with a note indicating that the application is on hold, and the reason for the hold.

There are numerous islands within the Cataraqui Region. If possible, an attempt is made to have the landowner or his/her agent arrange for staff transportation to an island site. Alternatively, Cataraqui Conservation owns a boat that can be used. Two staff persons are required to be present when using the boat, one of whom must be certified to operate it. Travel by boat may not be feasible due to weather conditions. Staff are not permitted to travel to islands over ice.

3.5 General Review Procedures

Once a complete application has been provided by the applicant, staff will review the information provided and determine if the application meets Cataraqui Conservation's guidelines for implementing the Regulation.

This section outlines the procedure followed for the review of all applications.

1. Access the comprehensive geographic information system (GIS) to determine the location of the subject property, and to determine issues such as the proximity to a watercourse, flood plain, slope or a wetland. Staff may need to consult in-house documents such as floodplain mapping and wave uprush tables, and wetland evaluations for more detailed information. The GIS and file databases are also used to determine the history of a property (i.e., previous planning applications, O. Reg. 148/06 permits).
2. Refer to Cataraqui Conservation guidelines for implementing the Regulation.
3. Determine if the subject property is associated with a location or feature that requires collaboration with other agencies, such as the Parks Canada-Rideau Canal Office or Ontario Ministry of Natural Resources and Forestry or involves a special protocol such as those discussed in section 8.0.
4. Conduct a site inspection as necessary based on the type of application (see section 3.4 above).

3.6 Granting Permission

Permits for proposed works will be issued by authorized staff if it has been demonstrated to the satisfaction of Cataraqui Conservation that:

- the control of flooding, erosion, pollution, dynamic beaches or the conservation of land will not be affected; and/or
- the interference of the natural features and hydrologic and ecological functions of the watercourse has been deemed to be acceptable; and/or
- the interference on the natural features and hydrologic and ecological functions of the wetland has been deemed to be acceptable; and
- the project meets the applicable guidelines for implementing the Regulation.

A letter of permission may be issued in place of a permit for activities in regulated areas that are considered relatively minor in nature, and that meet the above criteria. These activities are listed in Cataraqui Conservation guidelines for implementing the Regulation.

1. Permits may only be signed by a staff person in Cataraqui Conservation staff positions that have been designated as a signing authority for permits by the Cataraqui Conservation Full Authority Board (Appendix 'C'). Generally, a staff member that has been given signing authority will not sign a permit on a file for which he/she is the lead reviewer.
2. Letters of permission may be signed by the assigned technical staff person.
3. Permits and letters of permission are normally valid for up to one year. They can be issued for up to two years, where staff are of the opinion that the work cannot be reasonably completed within one year.
4. Permits that would be valid for more than two years and up to five years need to be approved by the Cataraqui Conservation Full Authority Board, as required by the Regulation. Upon resolution of the Board, a staff member in a Cataraqui Conservation staff position that has been designated signing authority may issue these permits.
5. Permits granted by the Executive Committee through a hearing will be signed by the Chair of the Executive Committee.
6. Where a permit or letter of permission expires, a new application must be submitted by the applicant, and approved by Cataraqui Conservation staff or the Full Authority Board (as applicable) before further work can continue on the site. Such an application must be accompanied by the applicable application processing fee, as required by the most recently approved fee schedule. In reviewing the new application, staff will assess the progress that was made toward the completion of the project, consider any changes in legislation, best practice, Cataraqui Conservation guidelines, and any new information that may pertain to the project in order to determine if the proposed works remain acceptable.
7. Staff will review applications for a modification to the works for which an active permit or letter of permission applies. Such an application must be accompanied by the applicable application processing fee, as required by the most recently approved fee schedule. Staff will assess the proposed modification taking into consideration any changes in legislation, best practice, Cataraqui Conservation guidelines, and any new information that may pertain to the project in order to determine if the proposed works are acceptable.

3.6.1 Conditions to Permit

1. Conditions may be placed on a permit when minor changes or clarifications of the proposed project are necessary (e.g., description of erosion and sediment

control measures to be utilized). If any substantial changes to the project are necessary to make the project acceptable to Cataraqui Conservation, then the applicant or agent must amend the plans. Conditions may also be placed on a permit to ensure that specified procedures are followed (e.g., notification and staff inspection of phase 1 of a project before commencing phase 2, notification of completion of work, the provision of as-built drawings).

2. The conditions to the permit are attached to the permit package as an appendix (typically 'C') and they must reference the permit application number and be signed and dated by the applicant and/or agent. A Conditions to Permit template form is attached as Appendix 'D' to these procedures.
3. If the applicant does not agree to the conditions provided by staff, the applicant is entitled to a hearing per section 28(12) of the *Conservation Authorities Act*. Refer to the Cataraqui Conservation Administrative By-law (2018, as amended).

3.6.2 Permit of Letter of Permission Package

A complete permit package consists of the following items:

- a cover letter (including Cataraqui Conservation Full Authority Board resolution for permits approved for up to five years);
- a permit signed by a staff member in a Cataraqui Conservation staff position with designated signing authority;
- a copy of the application (Appendix 'A' to the permit);
- a copy of the Landowner Authorization form, if applicable (labelled as Appendix 'A1' to the permit);
- drawings, plans and/or reports (labelled as Appendices 'B1', 'B2', 'B3', etc. to the permit); and
- conditions of the permit, if applicable (Appendix 'C' to the permit).

A complete letter of permission package consists of the following items:

- a letter granting permission, signed by a staff member having signing authority;
- a copy of the application (Appendix 'A' to the permit);
- a copy of the Landowner Authorization form, if applicable (labelled as Appendix 'A1' to the permit); and
- drawings, plans and/or reports (labelled as Appendices 'B1', 'B2', 'B3', etc. to the permit).

3.7 Application Refusal

A recommendation for refusal of an application for a permit may be made by staff if it is determined that the proposed works do not meet the guidelines for implementing the Regulation. Staff will negotiate with the applicant and/or agent in an attempt to resolve the points of concern and identify a mutually acceptable solution.

In such cases where the differences cannot be resolved, the applicant will be informed in writing of the staff decision to recommend refusal of the application and the reasons for the recommendation. The letter will also inform the applicant of his or her right to request a hearing before the Cataraqui Conservation Executive Committee. The applicant may then choose to amend the application, request a hearing, or withdraw the application.

Upon request of the applicant, the Executive Committee shall hold a hearing as required by section 28(12) of the *Conservation Authorities Act*, and following the “Section 28(3) Conservation Authorities Act Hearing Guidelines” (Conservation Ontario and Ministry of Natural Resources, October 2005). Refer to the CRCA Administrative By-law (2018, as amended).

3.8 Retroactive Applications

Retroactive permit applications for works that have been completed without a permit will only be accepted if the works are deemed by staff to meet Cataraqui Conservation guidelines for implementing the Regulation. If the works are deemed not to meet the guidelines, enforcement procedures will be pursued.

4 Compliance Review and Site Inspections

Staff may conduct an inspection during the work to ensure permit requirements are being met. Access to property will be done in accordance with the Access to Private Property Policy (Cataraqui Conservation, 2007). If the work is found to be contrary to the permit, the holder of the permission will be contacted, and completion or correction of the work will be requested. Only the approved works are authorized under the permit that was issued, so if the plans have been changed, the applicant will be made aware of the need to apply for a new permit or a permit amendment that accurately describes the new plans. This application for amendment shall be processed in the manner described in section 2.0. If, in the opinion of staff, the change has caused or is likely to cause an impact on the control of flooding, erosion, pollution, or the conservation of land, a cancellation of permission (see section 5.0) and enforcement action will be considered.

Once the works under the permit have been completed (via notification from the applicant), or one month before the permit expires, a final compliance inspection may be performed by the assigned technical staff person or the Development Officer. Staff will reference the approved drawings/plans to determine if the works were completed as

approved and complete a Permit Compliance Report (Appendix 'E' to these procedures). Staff will take post-development photos that will be included in the file. If the work is completed and found to be in conformity with the permit, then a letter and a copy of the compliance report will be sent to the applicant informing the permit holder accordingly.

For minor works, staff may send the applicant an e-mail message requesting confirmation that the approved works have been completed, and the submission of photos.

If a permit has expired and there is still additional work to be done to complete the project, the applicant will be required to apply for a new permit.

5 Cancellation of Permission

Cataraqui Conservation may cancel a permission granted under the Regulation if the conditions of the permission have not been met, per section 8 of Ontario Regulation 148/06.

Before cancelling a permission, Cataraqui Conservation shall give a notice 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. Cataraqui Conservation shall give the holder at least five days' notice of the date of the hearing.

6 File Closure

Once all requirements of a permit have been met, the file will be closed. Staff must ensure that the information contained within the Regulation database is accurate and up to date. A complete digital file will be saved on the Cataraqui Conservation server.

Incomplete applications that have been suspended for six months or more from the date of receipt of the application may be deemed inactive. For inactive files, a letter or e-mail will be sent to the applicant requesting a written status update within a specified time period (normally one month). The applicant will be granted, in writing, up to six months to complete the application. If no contact is made with Cataraqui Conservation within the specified time period, the file can be closed.

7 Cataraqui Conservation Projects That Require Permission

For Cataraqui Conservation-initiated projects that require a permit or letter of permission under the Regulation, an application and plans are to be prepared by the project lead and then processed in the manner described in section 2.0. Staff will normally forward the application and plans to another conservation authority (or another party) for peer

review. Cataraqui Conservation will have regard for the technical advice generated during the peer review and will implement best practices as it undertakes its projects.

Preparation of the permit or letter of permission will be as described by section 2.6 above and written comments from the conservation authority or other party undertaking the peer review are to be appended to the permit (typically as an Appendix 'B' to the permit).

8 Protocols

There are protocols in place for certain activities and agencies doing work within regulated areas.

8.1 Drainage Act and Conservation Authorities Act Protocol

The Drainage Act and Conservation Authorities Act (DART) Protocol (2012) was developed to improve communications, promote best practices for drain maintenance and repair activities, and simplify the permitting process under the *Conservation Authorities Act* related to municipal drains by using standardized requirements. The current protocol is attached as Appendix 'F' to these procedures. Staff will have regard for this protocol when issuing permits for municipal drain maintenance and repair activities.

8.2 Memorandum of Understanding Conservation Ontario and Hydro One

The Memorandum of Understanding (MOU) between Conservation Ontario and Hydro One (2011) details the protocol that will be followed between conservation authorities and Hydro One when Hydro One work activities are planned or undertaken on lands regulated under the *Conservation Authorities Act* (Appendix 'G' to these procedures).

9 Legal Inquiries

The Conservation Authority often receives requests for site-specific information regarding Ontario Regulation 148/06 as parties undertake their due diligence research for legal, real estate or financial purposes. Cataraqui Conservation issues a letter in response to each request, on a fee-for-service basis per the latest approved fee schedule.

Staff evaluate the property with respect to features regulated under Ontario Regulation 148/06, such as flooding hazards and erosion hazards, and whether there is any directive, order or breach of regulation under CRCA jurisdiction with respect to the current use of the subject property. In particular, staff confirm whether or not a permit

under Ontario Regulation 148/06 has ever been issued in the past, and whether there are any outstanding violations associated with the property.

Generally a site inspection is not undertaken for a legal inquiry, since the person/party making the inquiry has not yet taken possession of the land.

10 Property Inquiries

The Conservation Authority often receives requests for site-specific information on a property to determine if there are constraints to development and applicable policies and regulations. Cataraqui Conservation issues a letter in response to each request, on a fee-for-service basis per the latest approved fee schedule.

A site inspection may be undertaken for a property inquiry, depending on the level of detail requested by the inquirer. Landowner permission to enter the property is required where the inquirer is not the legal owner.

A property inquiry letter generally includes the following information:

- the municipal official plan designation and zoning for the property;
- confirmation with respect to Ontario Regulation 148/06 and applicable guidelines for implementing the Regulation;
- information pertaining to potential natural hazards such as flooding and erosion;
- information pertaining to natural heritage features and water resources considerations;
- an opinion on the suitability of the land for the proposed purpose;
- identification of an appropriate building envelope on the property; and
- adequacy of vehicular access.

It is important that any written correspondence include a statement that findings are based on conditions on the site at the time of review, on current legislation and policy, and on the nature of the proposal at the time of writing, and therefore that the findings are subject to change.

