

5.0 Permit Applications

A primary objective of the Toronto and Region Conservation Authority (TRCA) is to prevent the loss of life and property due to flooding and erosion. Accordingly, TRCA administers a natural hazard-based Regulation that captures watercourses, river and stream valleys, the Lake Ontario Shoreline, wetlands, and potential areas of interference around wetlands. Any proposed development, interference to wetlands, or alterations to shorelines or watercourses require a permit from TRCA. It is important to note that a permit can only be issued to the property owner, not an agent or contractor, and permits are not transferable. All permits are valid for 2 years. The following section outlines TRCA's permitting process.

5.1 Ontario Regulation 166/06

TRCA's permitting process is mandated under Section 28 of the *Conservation Authorities Act*. The Regulation currently administered by TRCA is Ontario Regulation 166/06: Development, Interference with Wetlands and Alterations to Shorelines and Watercourses. Pursuant to this Regulation, a permit is required from TRCA 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.

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

- i) the construction, reconstruction, erection or placing of a building or structure of any kind,
- ii) 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,
- iii) site grading,
- iv) the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere.

As described in Section 2.1.4 of this Manual, an extensive mapping exercise was undertaken by TRCA in support of Ontario Regulation 166/06. There are 132 maps that illustrate the regulated area throughout our jurisdiction. The regulated area is delineated by the Regulation Limit and identifies the area of interest, not the development limit. Flooding and erosion hazards associated with riverine systems and the Lake Ontario shoreline are captured in the mapping, along with wetlands and areas of interference around the wetlands.

5.2 Preliminary Consultation

It is important to discuss your proposal with TRCA staff prior to submitting a permit application. This preliminary consultation serves to identify how your proposal is affected by TRCA's programs and policies and identifies potential issues, constraints and study requirements. TRCA staff can inform you of what lies ahead in the permitting process, indicate whether your

proposal is supported in principle and discuss anticipated processing timelines. Preliminary consultation also allows you to confirm what constitutes a complete application and assess your submission based on TRCA's checklists and technical guidelines. Further, the limits of natural features can typically be determined through initial site visits. The submission of a complete application provides TRCA staff an opportunity to review your application in a comprehensive, efficient and timely manner. Incomplete applications are not subject to TRCA's targeted review timelines. Please note that it is the responsibility of an applicant to undertake due diligence to determine all required planning and permitting approvals.

5.3 Submission Requirements

To ensure the interests of TRCA are met, and to appropriately assess the technical aspects of your proposal, we require the submission of a number of information items with your permit application. Please note that the scale and complexity of your proposal will likely dictate which of the items listed below will apply to your application. Further note that the level of detail required for most of the studies and reports can vary widely depending on the property and the proposal. In some situations, a single-page letter from a qualified expert will be sufficient, while in other cases a major study will be necessary. Meeting with TRCA staff prior to submitting your permit application will help determine which of the items must be provided with your submission to consider it a complete application and establish the requirements for, and the scope of, any reports and studies.

COMPULSORY REQUIREMENTS

- Application Form (including Landowner Authorization, if applicable)
- Application Fee (Appendix I)
- Covering Letter, which outlines the proposal, provides contact names and describes all preliminary consultation and submission contents
- Appropriate Plans/Drawings
- Legal Survey

POTENTIAL TECHNICAL REQUIREMENTS

- Archaeological Assessment on TRCA Property
- Channel Crossings Assessment
- Erosion and Sediment Control Plans
- Floodline Delineation Study/Hydraulics
- Functional Servicing Plan
- Geotechnical/Slope Stability Study
- Grading Plans
- Headwater Drainage Feature Evaluation
- Hydrogeological Assessment
- Landscaping/Site Rehabilitation Plan
- Natural Systems Map (natural hazards and natural heritage features with requisite buffers, overlaid with existing site conditions, property boundaries, and proposed development and site alteration)
- Scoped or Full Environmental Impact and Enhancement Study
- Stormwater Management Facility Design
- Stormwater Management Study
- Structural Elevations and Construction Details
- Topsoil Stripping Review
- Water Balance Analysis
- Watercourse Erosion Analysis
- Other reports/studies identified through the checklists or staff consultation

The checklists and technical guidelines produced by TRCA should be consulted in preparation of all permit applications and all supporting studies accompanying an application. The checklists and guidelines are found in Section 7.0 of this Manual. Applicable fees are due when your application is submitted to TRCA.

5.4 Review and Approval Procedures

When a permit application is submitted to TRCA, its review is facilitated by a planner in our Planning and Development Division. The planner first reviews the application to confirm TRCA's interest in the proposal and determine if the submission is complete based on our complete application checklists. If the application is incomplete, the planner will request the required information. If an application is complete, or following the submission of additional information, the planner will conduct a thorough review of the proposal. Permit applications are assessed to determine if proposed works will affect the control of flooding, erosion, dynamic beaches, pollution or the conservation of land, as required by the *Conservation Authorities Act* and Ontario Regulation 166/06, in accordance with TRCA's programs and policies, as well as other applicable legislation and policy.

Following the TRCA planner's review, applications are circulated, if necessary, to TRCA technical staff for review. Depending upon the proposal, an application may need to be reviewed by TRCA's water resources engineers, geotechnical engineers, ecologists, hydrogeologists, Conservation Lands and Property Services staff, or Archaeology staff.

Once an application is reviewed by technical staff, and all necessary site visits are conducted to determine or stake the limits of natural features or the physical top-of-bank (Appendix B), the TRCA planner coordinates the review comments. It is important to note that a site visit may reveal the need for additional technical studies. If there are outstanding questions or concerns, the planner will issue a letter detailing our issues or recommendations. In some instances, a meeting is scheduled with the applicant to discuss these comments. TRCA's comments will typically be directed to the agent and copied to the property owner.

When all concerns have been addressed to the satisfaction of TRCA staff, the planner prepares a report for the consideration of our Executive Committee. It is important to note that all TRCA permit applications must be approved by the Executive Committee. Permit reports provide the rationale and justification for the approval of the proposed works and must be finalized two weeks prior to an Executive Committee meeting, generally scheduled for the first Friday of each month. Once a report is finalized, it is added to the agenda of the Executive Committee meeting. If staff are unable to forward a recommendation of approval to the Executive Committee, the applicant is notified and invited to attend a hearing. Please refer to Section 5.9 for more information on this process.

When a permit application is approved by the Executive Committee, the plans and supporting documents are officially stamped by the TRCA planner. One copy of the approved permit is sent to the applicant, one copy is sent to the municipality, one copy is retained for TRCA's reference, and one copy is provided to TRCA Enforcement staff for use in the field.

Under the legislation, the maximum validity of a permit is 24 months. If the works are not completed within the expiry date of the permit, the applicant must re-apply and delays in

approval may result. Typically, the current policies in place at the time of the re-application will apply.

These review and approval procedures are illustrated in Figure 12. The fee schedule for TRCA's permitting services (Appendix I) identifies and defines the various permit categories.

5.4.1 Fisheries Requirements

As noted in Section 2.4 of this Manual, TRCA has a Level III agreement with Fisheries and Oceans Canada (DFO) that provides us with the authority to review projects on behalf of DFO under Section 35(1) of the *Fisheries Act*, for potential harmful alteration, destruction and disruption (HADD) of fish habitat. Accordingly, during the review of permit applications, TRCA staff must be cognizant of the fisheries timing windows established by the Ministry of Natural Resources (MNR). Fisheries timing windows are periods of time when work in or near a stream can be conducted with reduced risk to fish and fish habitat. Any time that any works come into contact with, or impact fish habitat, is considered to be "in-water works". All in-water works should adhere to the timing windows. Generally, the coldwater timing window begins June 15 and ends September 15, while the warmwater timing window begins July 1 and ends March 31. Timing windows should always be confirmed with TRCA staff.

The application of the fisheries timing windows is just one component of TRCA's fisheries approval process (Appendix D). For any project that could impact fish habitat, TRCA staff must review and evaluate the proposal for its design, potential impacts, and ultimately if it constitutes a HADD, regardless of internal and external permitting requirements. Proponents must therefore submit a number of information items and technical assessments that serve to characterize environmental conditions, assess impacts and issues, devise mitigation measures, and determine the parameters, methods, frequency, and duration of monitoring and reporting requirements.

It should be noted that work that may not require a TRCA permit may still require a fisheries review subject to the Level III agreement. Please refer to Section 2.4 of this Manual for more information on TRCA's agreement with DFO and the procedures associated with identifying a HADD.

5.4.2 Requirements to Access TRCA Property

When works require access to TRCA property, the proponent must obtain permission from TRCA Conservation Lands and Property Services staff to enter the lands. This process is facilitated by TRCA Planning and Development staff.

A "Permission to Enter" is provided by TRCA once staff are satisfied with a proposal. The permission specifies a number of terms and conditions, which may include such items as the period of time that the permission is in effect, indemnification, archaeological investigation, and liability insurance.

In instances where land or a permanent easement is required for a project, approval of the Authority Board is required. Approval of the Minister of Natural Resources and *Planning Act* approvals may also be required. The proponent should anticipate that this process will take between 12 and 18 months from the initial request to TRCA.

5.4.2.1 Archaeological Assessment Requirements on TRCA Property

When any ground disturbance is proposed on TRCA property, the proponent is required to coordinate with TRCA Planning and Development staff to facilitate an archaeological assessment, to be conducted by TRCA Archeology staff, prior to permit issuance and prior to any work commencing on the lands.

The archaeological community has long recognized that the unique riverine association of TRCA property provides an unlimited potential for holding archaeological resources. Recognizing the heritage value of these resources, TRCA, working with the Province, prepared an Archaeological Master Plan that documented archaeological sites and made recommendations for the proper management of these resources. As a result, in 1988, TRCA adopted the Archaeological Heritage Strategy, the intent of which is to present a balanced and integrated program of inventory, management, and interpretation for archaeological heritage resources. The Archaeological Resource Management Program is comprised of two main components: Education and Resource Management. The latter is relevant to TRCA's planning and permit review process.

The goal of the Archaeological Heritage Resource Management Program is to manage the archaeological resources found on TRCA property with respect to legislative requirements and approved technical practices. Archaeological resources on TRCA property are managed as a community resource. Ongoing programs identify new resources and make appropriate recommendations regarding the management of the resource. To this end, TRCA Planning and Development staff and TRCA Archeology staff ensure that an archaeological assessment is conducted on any TRCA property that is proposed for disturbance through a permit application.

Proponents are encouraged to provide early notification of such a proposal, preferably the year before construction is scheduled, in order for TRCA Archeology staff to schedule fieldwork in the appropriate season. In addition, the proponent must provide plans of final, or near-final, alignment to TRCA as early as possible; this obliges the proponent to obtain a "Permission to Enter" from TRCA's Conservation Lands and Property Services staff, as described above in Section 5.4.2. TRCA Archeology staff will conduct the initial Phases 1 and 2 investigations, prepare a report for approval by the Ministry of Culture, and follow up with the proponent regarding any additional studies. A more detailed checklist of all pre- and post-fieldwork requirements is included in a copy of the application form for archaeological review on TRCA property, which is available from TRCA staff.

The last step in this process is for proponents to acquire an easement, or other property interest, from TRCA Conservation Lands and Property Services staff, which would facilitate the proponent's proposed work under their permit on TRCA property, as described above in Section 5.4.2.

5.5 Permission for Minor Works Protocol

The Permission for Minor Works Protocol is an interim initiative designed to streamline the approval process for proposals that are either minor in nature or, due to their size and location, are considered not to impact the control of flooding, erosion, dynamic beaches, pollution or the

conservation of land. The protocol includes a list of eligible minor works and evaluation criteria (Appendix E).

When a permit application is submitted, a TRCA planner screens it for compliance with the protocol and TRCA policy, and if necessary, circulates it to technical staff. Once an application is reviewed and any necessary site visits are conducted to determine the limits of natural hazards or features, the planner will assess the status of the application. If staff has no objections to the proposal, a Letter of Approval is issued. If there are outstanding questions or concerns, the planner will issue a letter detailing our issues or recommendations. TRCA's comments will typically be directed to the agent and copied to the property owner. When the proposal is modified to the satisfaction of TRCA staff, a Letter of Approval is issued by staff to the property owner. Though issued at the staff level, each Letter of Approval granting the Permission for Minor Works is sent to TRCA's Executive Committee for ratification.

Where any works above are considered by staff to be contrary to TRCA policies, or there are significant environmental issues, or where staff are aware of community or third party concerns, a report on the application will be forwarded to the Executive Committee for review and approval, as per our regular permitting procedures.

5.6 Permission for Routine Infrastructure Works Protocol

The Permission for Routine Infrastructure Works Protocol is an interim initiative designed to streamline the approvals process for infrastructure projects that are considered routine in nature that do not adversely affect the control of flooding, erosion, dynamic beaches, pollution, or the conservation of land.

Proponents are required to submit a permit application and associated processing fee. TRCA staff will screen the application for compliance with the protocol and TRCA policy, and if necessary, circulate it to technical staff. Provided the qualification criteria associated with the protocol are satisfied (Appendix E), a Letter of Approval will be issued together with appropriate drawings stamped as being reviewed and approved by TRCA. Though issued at the staff level, each Letter of Approval granting the Permission for Routine Infrastructure Works is sent to TRCA's Executive Committee for ratification.

Projects considered under the protocol include road or pathway resurfacing or reconstruction; structure maintenance; sewer watermain or utility installation or maintenance, or maintenance within an existing roadway; sewer, watermain or utility watercourse crossing by trenchless technology; offline stormwater management pond maintenance; and drainage structure general maintenance. Projects must be classified as a Schedule A in accordance with the Municipal Class Environmental Assessment, or its equivalent under another Class Environment Assessment. The review process associated with the issuance of an approval letter will ensure that TRCA maintains our legal obligations under Ontario Regulation 166/06, while providing an opportunity to expedite the review process and improve service delivery to municipalities and agencies.

5.7 Permission for Emergency Works Protocol

The Permission for Emergency Works Protocol is an interim initiative designed to allow agencies to maintain existing infrastructure that is at immediate risk of failure or other public

safety concerns. Emergency works are defined as situations where there is deemed an imminent threat of injury to persons, loss of life or loss of property and are unexpected occurrences. The proponent must submit a temporary solution that will not impact the control of flooding, erosion, dynamic beaches, pollution or the conservation of land. Municipal road, water and sewer failures are the most common examples of projects requiring emergency action.

When a Permission for Emergency Works application is submitted, a TRCA planner screens it for compliance with the protocol and TRCA policy, consults with senior staff, and if necessary, circulates it to technical staff. Recognizing the urgency for implementing a temporary solution to the problem, staff will expedite the review process. Once an application is reviewed and any necessary site visits are conducted to determine the limits of natural hazards or features, the planner will assess the status of the application.

If staff have no objections to the proposal, a Letter of Authorization is issued by the Director of Planning and Development. If there are outstanding questions or concerns, the planner will issue a letter detailing our issues or recommendations. When the proposal is modified to the satisfaction of TRCA staff, the Letter of Authorization is issued. Though issued at the staff level, each Letter of Authorization granting Permission for Emergency Works is sent to TRCA's Executive Committee for ratification and a permit for these works is issued.

Often, one of the conditions for issuing the Letter of Authorization is a commitment from the proponent that a permanent solution will be sought. This may entail the undertaking of an Environmental Assessment to determine the preferred alternatives or solutions, or it may entail a separate permit application that would follow the regular review process.

Where any works above are considered by staff to be contrary to TRCA policies, or there are significant environmental issues, or where staff are aware of community or third party concerns, staff will seek advice on the application with the Director of Planning and Development or the Chief Administrative Officer.

5.8 Debris Jam Clearance Protocol

TRCA has developed a Debris Jam Clearance Protocol to clearly define the review and approval process associated with removing in-stream blockages (Appendix F). The protocol identifies the information and assessment requirements for the removal of blockages due to debris from fallen or eroded trees or branches, or urban debris or garbage that may be dumped or carried into a watercourse, and for the removal of any natural woody material within a watercourse or waterbody. It is important to note that application of the protocol is not required for the removal of minor urban debris items, such as tires and shopping carts, where removal can be completed by hand and the material is not embedded in the bed or banks of the watercourse.

5.9 Level of Service

TRCA is committed to meeting reasonable review times for all permit applications. Review periods are established on the premise that a level of pre-consultation has been conducted and that the guidelines and most recent policies of TRCA have been addressed. Commitment to review times also assumes submissions are complete. Applications are reviewed based on

the order they are submitted and a 30 to 60 business day review period is targeted for regular permits. For applications subject to TRCA's Permission for Minor Works Protocol, a review period of 2 weeks is targeted. Incomplete applications are not subject to TRCA's targeted timelines.

In many cases, re-submissions are required to address outstanding information needs. The review of re-submissions can require significant time depending on the level of information that is added. Generally 15 business days can be assumed for the review of re-submissions, unless they are identified as complex. Itemizations of how the new or revised plans or studies address each of TRCA's comments from the previous submission will help to expedite the review process.

Please note the use of the word "targeted" in reference to the review periods. Each permit application is different by virtue of the specifics of the property, its location, and the nature of the proposed development. Your application may therefore be resolved in more or less time depending on the combination of these factors. Also, review period targets may be affected by workload or unexpected occurrences.

5.10 Refusal of a Permit

As previously noted, permit applications made under Ontario Regulation 166/06 are assessed to determine if the proposed works will affect the control of flooding, erosion, dynamic beaches, pollution or the conservation of land in accordance with TRCA's programs and policies. Recommendations are forwarded to TRCA's Executive Committee, which decides whether to approve or refuse each application. If staff recommend refusal of an application, then the owner may appeal and the Executive Committee will convene as a Hearing Board to consider the application. The owner will be notified of a hearing date which they or their agent may attend.

Upon hearing about the application from the perspectives of TRCA staff and the owner/agent, the Hearing Board will make a decision. If the application is refused by the Hearing Board, the applicant will be notified of the reasons in writing. Within 30 days of the notification, the applicant may appeal the decision to the Mining and Lands Commissioner. 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. This process is illustrated in Figure 12. Please refer to Ontario Regulation 166/06 and the Hearing Guidelines (October 2005) prepared by Conservation Ontario and MNR for the legal details of these procedures.

5.11 Enforcement

Enforcement is an important component of the management of natural hazards and features of our watersheds. Accordingly, TRCA has Enforcement Officers who regularly inspect and file reports on works approved under Ontario Regulation 166/06. In cases where works are carried out without proper authorization from TRCA, Enforcement Officers will notify the proponent of the violation and may lay charges. Given that a primary objective of our enforcement staff is to

ensure compliance with Ontario Regulation 166/06 and the policies adopted by TRCA, our Officers undertake the following:

- Provide information (e.g. regulatory requirements and development restrictions);
- Liaise with contractors/excavators on approved work sites;
- Undertake inspections of potential violation sites as a preventative measure;
- Regularly inspect permitted activity sites for compliance with approved permits;
- Resolve minor infractions through landowner cooperation;
- Resolve violations by notice through discussions, removal, restoration or the permit process, where possible; and,
- Process legal proceedings when necessary to ensure compliance.

Figure 12 – Review Procedures for Permit Applications

