

Rules of Procedure for Permit Application Review and Approval

in Accordance with Ontario Regulation 180/06 as amended by
Ontario Regulation 63/13 made under Section 28 of the
Conservation Authorities Act

Version 2(b)



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Lakehead Region Conservation Authority

1 Introduction

This document outlines the Rules of Procedure for Permit Application Review and Approval by the Lakehead Region Conservation Authority (LRCA) in accordance with Ontario Regulation 180/06 as amended by Ontario Regulation 63/13, Lakehead Region Conservation Authority: Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses (Appendix A), made under Section 28 of the *Conservation Authorities Act*.

This document has been prepared referencing the Ministry of Natural Resources documents entitled *Policies and Procedures for Conservation Authority Plan Review and Permitting Activities*, dated May 2010 and the *Draft Guidelines to Support Conservation Authority Administration of the "Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation"* dated April 21, 2008.

This document will be made available to Staff, Member Municipalities, Board of Directors of the LRCA and members of the public upon request.

1.1 Approval of Document

This document was adopted by the LRCA Board of Directors on June 25, 2014 by Resolution # 91/14. Version 2.0 of this document was adopted on August 26, 2015 by Resolution #82/15.

1.2 Effective Date of Document

The procedures in this document will come into effect on June 26, 2014. Permits processed after this date, regardless of when received at the Authority office, will be reviewed and approved according to this Procedure.

Amendments to this document will be required to be approved by the LRCA Board of Directors and will come into effect at the time of approval.

This document, once in effect, will replace any previous procedures and protocols related to Permit review and approval and Hearings.

1.3 Interpretation

Unless the context requires otherwise in these Rules or in the Hearing Guidelines, reference to the "Authority" or the "Authority Members" means the Lakehead Region

Conservation Authority as a corporate body carrying out its mandate, including when sitting as a Hearing Board hearing applications for permission.

Reference to “Staff” in these procedures and in the Hearing Guidelines means those employees at the Authority who have been designated by the Authority to exercise the powers and perform the duties referred to.

2 Background

2.1 *Conservation Authorities Act*

The *Conservation Authorities Act* was enacted in 1946 in response to erosion and drought concerns, recognizing that these and other natural resource initiatives are best managed on a watershed basis.

In 1956, in response to the severe economic and human losses associated with Hurricane Hazel (1954), amendments to the *Conservation Authorities Act* first empowered Conservation Authorities (CAs) to make Regulations to prohibit the filling in of floodplains. These Regulations were broadened in 1960 to prohibit or regulate the placing or dumping of fill in defined areas where, in opinion of the CA, the control of flooding, pollution or the conservation of land may be affected. In 1968, amendments to the *Conservation Authorities Act* further extended the Regulations to prohibit or control construction and alteration to waterways, in addition to filling.

In 1998, the *Conservation Authorities Act* was amended as part of the *Red Tape Reduction Act* (Bill 25), to ensure that Regulations under the Act were consistent across the province and complementary to provincial policies. Revisions were made to Section 28, which led to the replacement of the “Fill, Construction and Alteration to Waterways” Regulation with the current “Development, Interference with Wetlands and Alterations to Shorelines and Watercourses” Regulation in 2006. The main change was the addition of wetlands as a regulated feature.

The content of each Authority’s Regulation is made under Ontario Regulation 97/04. Under these regulations CAs may make regulations applicable to the area under their jurisdiction to prohibit, restrict, regulate or give required permission for certain activities in and adjacent to watercourses, wetlands, shorelines of inland lakes and the Great Lakes-St. Lawrence River System and other hazardous lands.

2.2 *History of LRCA Administration of the Regulation*

The LRCA has been administering Regulations under Section 28 of the *Conservation Authorities Act* since 1974. Initially the Regulation was known as the Fill, Construction

and Alteration to Waterways Regulation, O. Reg. 515/73 as amended by O. Reg. 158/74, which was replaced in 1991 by O. Reg. 152/91. In 2006, as a result of the Red Tape Commission, the Province of Ontario required all Conservation Authorities to replace the “Fill, Construction and Alteration to Waterways Regulation” with the Generic Regulation entitled “Development, Interference with Wetlands and Alterations to Shorelines and Watercourses”. The Regulation was changed to ensure all Conservation Authorities were regulating with a consistent Regulation. This was primarily to ensure abutting Authorities in Southern Ontario with common watersheds were administering the same Regulation. This was not an issue in the north.

The LRCA regulation was approved under O. Reg. 180/06. The regulation was amended on February 12, 2013 under O. Reg. 63/13. This amendment primarily clarified wording within the regulation; provided the ability of the Authority to delegate positive Permit decisions to Staff; extended Permit validity to a maximum of 60 months under specific circumstances; and enabled Conservation Authorities to require technical studies to support Permit applications.

Prior to this document taking effect, all Regulation Permits at the Lakehead Region Conservation Authority were processed through a Hearing held at the monthly Authority Board Meetings, and were approved or denied, with or without conditions, by the Authority Members, through the passing of a Resolution. The decision was based on provided Staff Reports which included recommendations to either permit or deny the application. Permits were then prepared by Staff and signed by the Chair of the Authority.

3 Applicant Requirements

3.1 Application and Fees

All applicants must submit a signed Application Form (Appendix B) and associated drawings, site plans, etc. for permission to undertake development within the regulated area. All applicable sections must be completed on the application form including a clear description of the proposed development. The prescribed fee must also be submitted to the Authority. The Schedule of Fees is attached as Schedule B to the Application Form. In addition, any other technical studies or plans as required by Staff will be required to be submitted.

3.1.1 Permission on land not owned by the Applicant

If the applicant is not the owner (i.e. agent, consultant, etc.) of the property, Schedule A – Letter of Authorization, found attached to the Application Form (Appendix B) must be submitted with the application.

If the work is to be carried out by a Campers Association or any other type of group ownership, a letter authorizing the work must be provided that is signed by the legal representative of the Association or group.

If work is to be carried out on a Municipal right-of-way, a letter authorizing the work must be provided that is signed by an authorized representative of the Municipality.

All applications are considered incomplete until the appropriate Letter of Authorization is received at the Authority, if applicable.

3.2 Pre-consultation

Pre-consultation with Authority Staff prior to submitting an application is encouraged to provide clarity and direction, to facilitate receipt of complete applications and to streamline the review and decision making process. Required information or studies can be discussed related to the specific project.

4 Review of Permits

Authority Staff will receive all Permit applications and associated fees at the Authority office.

4.1 Complete Application

Upon receipt of an application, Staff will review the application requirements for the specific project, and within 21 days of receipt of an application, notify the applicant in writing whether the application has been deemed complete or not.

If the application is deemed to be incomplete a written list of missing or needed information will be provided to the applicant.

During the review of a “complete application”, Staff may request additional information if it has been deemed that the application does not contain sufficient technical analysis. Delays in timelines for decision making may occur due to requests for additional

information to address errors or gaps in information submitted for review. Thus, an application may be put in abeyance 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”.

Applications will be deemed complete if the following list of requirements has been provided.

List of required information:

- Completed and signed Application Form
- Associated fee
- Schedule A, Letter of Authorization, if warranted
- Site Plan showing the type and location of the proposed development
- Start and completion dates of the development
- Elevations of existing building and site grades; and the proposed elevations of buildings and site grades after the development, if applicable
- Drainage details before and after development, if applicable
- Description of the methods to be used in carrying out alterations to watercourses or wetlands, if applicable
- Statement of the purpose of the alteration to the watercourse or wetland, if applicable
- Such other technical studies or plans as the Staff or Board of Directors may request.

If not satisfied with the decision on whether an application is deemed complete, the applicant can request an administrative review by the Authority’s Chief Administrative Officer and then if not satisfied, the Authority Members. The review will be limited to a complete application policy review and will not include review of the technical merits of the application. During this review, this list of required information listed above will be assessed and a determination will be made.

4.2 Decision Timelines for Permits

From the date of written confirmation of a complete application, the Authority (either Staff or Authority Members) will make a decision (i.e. recommendation to approve or referred to a Hearing) with respect to an application and pursuant to the *Conservation Authorities Act* within 30 days for a minor application and within 90 days for a major application.

Major application may include those that:

- are highly complex, requiring full technical review, and need to be supported by comprehensive analysis,
- do not conform to the *Draft Guidelines to Support Conservation Authority Administration of the "Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation"*, dated April 21, 2008 or other Authority approved Section 28 policies.

If a decision has not been rendered by the Authority within the appropriate timeframe (i.e. 30 days for minor applications/ 90 days for major applications) the applicant may submit a request for administrative review by the Chief Administrative Officer, and then if not satisfied, the Authority Members.

Subsequent to receipt of a complete application, delays in timelines for decision making on an application may occur due to Authority requests for additional information to address errors or gaps in technical information submitted for review. Through an "Agreement to Defer Decision" between the applicant and the Authority, applications can be "put on hold" or returned to the applicant pending the receipt of further information to avoid premature refusals of Permits due to inadequate information.

5 Approval or Refusal of Permits

Permits will either be approved by delegated Authority Staff or the LRCA Members. Permits can only be refused by the Authority through the Hearing process if a Hearing is requested by the Applicant.

5.1 Delegated Approval Authority to Staff

The Water Resources Technologist or designate will receive and process all Permit applications. Staff reports and recommendations will be reviewed by the Watershed Manager prior to Permit issuance.

The Chief Administrative Officer and the Watershed Manager have the delegated authority to issue positive Permits as outlined below, under Section 28 of the *Conservation Authorities Act* and O. Reg. 180/06 amended by O. Reg. 63/13.

Permits will be reviewed and signed by the Chief Administrative Officer or in his/her absence, will be reviewed and signed by the Watershed Manager. The Chief Administrative Officer will be advised of all permits signed by the Watershed Manager.

5.1.1 Types of Permits that can be approved by Delegated Staff

Delegated Staff may issue Permits subject to all of the following:

- Permit validity period to be 24 months or less,

Only the following simple conditions may be imposed, when applicable:

- requirement for sedimentation control,
- requirement to follow a submitted design or drawing,
- requirement to use clean fill,
- requirement for pre and/or post surveys to confirm development specifications.

If other conditions are required the Permit must be approved by the Authority

5.1.2 Approval process to be used by Delegated Staff

Permit applications will be reviewed and if in Staff's opinion, as provided in O. Reg. 180/06 amended by O. Reg. 63/13, the control of flooding, erosion, dynamic beaches, pollution or the conservation of land will not be affected by the development or alteration, Staff will process the Permit, with or without simple conditions.

For each Permit a Permit Summary will be completed outlining the proposal, summary of investigative procedure and recommendation to approve the Permit with or without simple conditions. The Permit will be reviewed and signed by the Staff person delegated the Permit approval authority. Approved Permits will be circulated at the next scheduled Board Meeting, along with a monthly summary table outlining all approved Permits in the circulating binder.

The applicant will be provided with a cover letter, Permit Summary and the Permit personally or by regular or registered mail.

Where Permits with conditions are proposed, the Applicants will be advised that if they object to the conditions placed on the Permit they may request a Hearing with the Authority. The request for a Hearing must be made to the Chief Administrative Officer of the LRCA within 30 days of receiving notification of the proposed Permit with conditions.

5.2 Types of Permits to be approved by the LRCA Members

In the following circumstances, Permits recommended for approval by Staff, will be brought to the Authority Members for approval:

- Permits with conditions other than simple conditions, or
- Permits with a validity period longer than 24 months.

5.2.1 Approval process to be used for Permits brought to the Board of Directors for approval

When Permits are recommended for approval by Staff, but must be approved by the Authority Members, the following procedure will be followed. Staff will review the Permit and complete a Permit Summary report outlining: the proposal, summary of investigative procedure and Staff recommendation with or without conditions. The Permit will be summarized in the regular Board Meeting Agenda with a suggested resolution, with the full Permit Summary attached in the Agenda. The Board will review the Permit and either approve the Permit by resolution, or refer the decision to a Hearing at a later date. If the decision has been referred to a Hearing, the Authority's Hearing procedures will be followed.

If the Permit is approved, Staff will process the Permit which will be signed by the Chair or Chief Administrative Officer of the Authority and by the Applicant.

5.3 Types of Permits to be approved by formal Hearing

The following list of circumstances will require that the Application be brought to the Authority Members for a Hearing:

- the Authority Members refer an application to a Hearing;
- Applications where Staff are recommending refusal; or
- the Applicant objects to the proposed conditions

Refer to Section 6 and Appendix C for procedures related to Hearings.

5.4 Permit Amendments

Minor amendments to Permits that are not anticipated to substantially change the original purpose of the Permit and will not materially impact flooding, erosion, dynamic beaches, pollution or conservation of land will be approved by the Staff delegated

approval authority with a subsequent report to the Board in the next Board Meeting Agenda for information purposes.

Major amendments to Permits would be presented to the Authority Members for their consideration and either granted or denied by Resolution. Applicants would be advised in writing of the approved or denied amendment request.

Permit amendments will be subject to the applicable Permit Amendment fee prescribed in the current LRCA Schedule of Fees attached to the Application Form (Appendix B).

Applicants that are denied a Permit amendment or who choose instead of the amendment process to re-apply for a new Permit through the regular application process would have such application subject to all rules and regulations in force at the time of application.

6 Hearings

A person who has been refused a permit by a process other than a Hearing or who objects to the proposed conditions imposed on a Permit may, within 30 days of receiving the Permit request a Hearing by writing to the Chief Administrative Officer of the LRCA. A Hearing will be scheduled with the Authority to review the conditions imposed on the Permit.

When Hearings are required, the LRCA Members sitting as the Hearing Board will act as the decision-making tribunal. Hearings will be held during the LRCA's regularly scheduled Meetings or at a Special Meeting of the Board of Directors.

All Hearings will be conducted according to the current version of the *Section 28(12) Conservation Authorities Act Hearing Guidelines*.

7 Period of Validity for Permits

Except as provided below, Permits may be issued for a maximum period of 24 months by Staff or the Authority Members. By regulation, a Permit shall not be extended beyond the maximum period of validity being 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 re-application will apply.

Notwithstanding the foregoing, Permits may be granted for up to 60 months under the following conditions:

- projects that, in the opinion of the Authority, cannot reasonably be completed within 24 months from the day the Permit is granted, or
- projects that require Permits or approvals from other regulatory bodies that, in the opinion of the Authority, cannot reasonably be obtained within 24 months from the day the permission is granted.

Permits issued for more than 24 months and up to 60 months may only be granted by the Authority's Members. Staff may not issue Permits for a period greater than 24 months including extensions.

Permits are issued under either the 24 month maximum validity category or the 60 month maximum validity category. Once a Permit has been issued in the former it cannot be transferred to the latter category.

Permits will normally be issued for a period of 24 months; however Staff may use their discretion to shorten the period of validity if warranted. If a Permit is issued for a period less than the maximum period of validity, the Chief Administrative Officer or Authority Members may extend the Permit up to the maximum allowed period of 24 months or 60 months. The granting of an extension for a different period of time other than the period of time requested does not constitute a refusal of an extension.

7.1 Permit Extensions

Extensions will be subject to the applicable Permit Extension Fee prescribed on the current Authority's Schedule of Fees (Appendix B).

For a Permit to be extended the following will be required:

- the Applicant must request in writing that their approved Permit be extended at least 60 days before the expiry of the Permit,
- no extension of the Permit had previously been granted,
- the application sets out the reason for which an extension is required, and, in the opinion of Staff or of the Authority Members (whichever approved the Permit), demonstrates that circumstances beyond the control of the applicant will prevent completion of the project before the expiry of the Permit.

The Authority may refuse an extension of a Permit if it is of the opinion that the requirements listed above have not been met. Before refusing an extension of a Permit, the Authority shall give notice of intent to refuse the Permit holder, indicating that the extension will be refused unless:

- the Permit holder requires or requests a Hearing, and
- at the Hearing, the Permit holder satisfies the Authority that the requirements for an extension have been met.

If a Hearing is required, the Permit holder will be given at least five days notice of the Hearing, which will normally be scheduled at the next regular Board Meeting.

After holding the Hearing, the Authority shall:

- refuse the extension, or
- grant an extension for such period of time as it deems appropriate, as long as the total period of validity of the permission does not exceed the applicable maximum period allowed.

All extension requests, whether approved or not will be notified in writing of the approval or refusal of extension.

7.2 Permit Cancellations

The Authority may cancel a Permit if it is of the opinion that the conditions of the Permit have not been met.

If a Permit holder has not met the conditions of the Permit, Staff will provide a Staff Report to the Authority at a regular Authority Meeting with a recommendation to cancel the Permit. If the Authority concurs, the Permit holder will then be notified in writing of the recommendation to cancel the Permit. The Permit holder will be given the opportunity to show why the Permit should not be cancelled at a Hearing at a future Authority Meeting. The Permit holder will be given at least five days' notice of the Hearing, in accordance with O. Reg. 180/06.

After holding the Hearing, the Authority shall:

- cancel the Permit,
- provide additional time for the Permit holder to meet the conditions, or
- allow the Permit to remain in effect.

8 Appeals

Subsection 28(15) of the *Conservation Authorities Act* provides that a person who has been refused permission or who objects to the conditions imposed on a permission may, within 30 days of receiving the reasons may appeal to the Minister of Natural Resources and Forestry. Further to passage of the *Building Better Communities and*

Conserving Watersheds Act, 2017 effective April 3, 2018 this appeal has been assigned to the Mining and Lands Tribunal through Order in Council 332/2018. The Mining and Lands Tribunal is part of the Environment and Land Tribunal Cluster (ELTO) of the Ministry of the Attorney General. The Mining and Lands Tribunal may: refuse the permission; or, grant the permission, with or without conditions.

In the event of an Appeal, a copy of the Hearing Record will be forwarded by Authority Staff to the Mining and Lands Tribunal. The record will include the following:

1. The completed Application Form
2. The Notice of Hearing
3. Any orders made by the Board (e.g. for adjournments; disclosure)
4. All evidence filed with the Board at the Hearing
5. The decision and reasons for decision of the Board
6. The Notice of Decision sent to the applicant.

9 Municipal Drains – *Drainage Act* and *Conservation Authorities Act* Protocol

Municipalities are responsible for managing, maintaining, repairing and improving drainage systems that have been constructed under the authority of the *Drainage Act*. Generally, Municipal Drains are designed by a drainage engineer and constructed by the municipality. The *Conservation Authorities Act* does not exempt the creation, modifications/extensions, maintenance or repairs of Municipal Drains from requiring approval under O. Reg. 180/06; therefore, municipalities are required to obtain approval from the Authority for all activities concerning Municipal Drains. Procedures related to the approval of activities related to Municipal Drains will follow the *Drainage Act* and *Conservation Authorities Act* Protocol (Protocol for Municipalities and Conservation Authorities in Drain Maintenance and Repair Activities), MNRF, dated 2012.

9.1 Maintenance and Repairs to Existing Municipal Drains

Upon receipt of a Drain Maintenance or Repair Notification form staff will review the form and determine if the work requires an LRCA application under O. Reg. 180/06 or if the work qualifies for permission under the issuance of a Standard Compliance Requirements (SCR) form. The SCR, if followed, serves as the written permission to proceed with work under the *Conservation Authorities Act*. SCR's are issued by the Chief Administrative Officer or delegated staff. If a permit is required, approval will follow the procedures set out in the *Rules of Procedure for Permit Application Review and Approval*.

9.2 New Municipal Drains and the Extension of Existing Drains

New Municipal Drain works, including new sections of existing drains, will require permits supported by appropriate study under O. Reg. 180/06 if the proposed works are located within the regulated area.

Approval of permit applications for new drains and extensions of existing drains will follow the procedures outlined in the *Rules of Procedure for Permit Application Review and Approval*.

9.3 Potential Study Requirements Where Permits Are Required

Where proposals to maintain, repair, improve, modify, or create a municipal drain require a permit under O. Reg. 180/06, the LRCA may require related studies be undertaken in order to quantify anticipated impacts and recommend mitigation measures. The extent of such studies will depend on the nature of anticipated impacts of the works. The applicant should pre-consult with Authority staff in this regard.

Appendix A:
Ontario Regulation 180/06
as amended by Ontario
Regulation 63/13

Conservation Authorities Act
Loi sur les offices de protection de la nature

ONTARIO REGULATION 180/06

**LAKEHEAD REGION CONSERVATION AUTHORITY: REGULATION OF DEVELOPMENT,
INTERFERENCE WITH WETLANDS AND ALTERATIONS TO SHORELINES AND
WATERCOURSES**

Consolidation Period: From February 8, 2013 to the [e-Laws currency date](#).

Last amendment: O. Reg. 63/13.

This Regulation is made in English only.

Definition

1. In this Regulation,

“Authority” means the Lakehead Region Conservation Authority. O. Reg. 180/06, s. 1.

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, which information is available at the head office of the Authority,
 - (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, an allowance of 30 metres inland to accommodate dynamic beach movement, which information is available at the head office of the Authority, and
 - (iv) an allowance of 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 opposite 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 wetlands greater than 2 hectares in size, and areas within 30 metres of wetlands less than 2 hectares in size. O. Reg. 180/06, s. 2 (1); O. Reg. 63/13, s. 1 (1-3).

(2) All areas within the jurisdiction of the Authority that are described in subsection (1) are delineated as the “Regulation Limit” shown on a series of maps filed at the head office of the Authority under the map title “Ontario Regulation 97/04: Regulation for Development, Interference with Wetlands and Alterations to Shorelines and Watercourses”. O. Reg. 63/13, s. 1 (4).

(3) If there is a conflict between the description of areas in subsection (1) and the areas as shown on the series of maps referred to in subsection (2), the description of areas in subsection (1) prevails. O. Reg. 63/13, s. 1 (4).

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. O. Reg. 180/06, s. 3 (1).

(2) The permission of the Authority shall be given in writing, with or without conditions. O. Reg. 180/06, s. 3 (2).

(3) Subject to subsection (4), the Authority’s executive committee, or one or more employees of the Authority that have been designated by the Authority for the purposes of this section, may exercise the powers and duties of the Authority under subsections (1) and (2) with respect to the granting of permissions for development in or on the areas described in subsection 2 (1). O. Reg. 63/13, s. 2.

(4) A designate under subsection (3) shall not grant a permission for development with a maximum period of validity of more than 24 months. O. Reg. 63/13, s. 2.

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 proposed 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 the development.
5. Drainage details before and after the development.
6. A complete description of the type of fill proposed to be placed or dumped.
7. Such other technical studies or plans as the Authority may request. O. Reg. 180/06, s. 4; O. Reg. 63/13, s. 3.

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. O. Reg. 180/06, s. 5.

Permission to alter

6. (1) The Authority may grant 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. O. Reg. 180/06, s. 6 (1); O. Reg. 63/13, s. 4 (1).

(2) The permission of the Authority shall be given in writing, with or without conditions. O. Reg. 180/06, s. 6 (2).

(3) Subject to subsection (4), the Authority’s executive committee, or one or more employees of the Authority that have been designated by the Authority for the purposes of this section, may exercise the powers and duties of the Authority under subsections (1) and (2) with respect to the granting of permissions for alteration. O. Reg. 63/13, s. 4 (2).

(4) A designate under subsection (3) shall not grant a permission for alteration with a maximum period of validity of more than 24 months. O. Reg. 63/13, s. 4 (2).

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.
5. Such other technical studies or plans as the Authority may request. O. Reg. 180/06, s. 7; O. Reg. 63/13, s. 5.

Cancellation of permission

8. (1) The Authority may cancel a permission granted under section 3 or 6 if it is of the opinion that the conditions of the permission have not been met. O. Reg. 180/06, s. 8 (1); O. Reg. 63/13, s. 6 (1).

(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. O. Reg. 180/06, s. 8 (2).

(3) Following the giving of the notice under subsection (2), the Authority shall give the holder at least five days notice of the date of the hearing. O. Reg. 180/06, s. 8 (3); O. Reg. 63/13, s. 6 (2).

Period of validity of permissions and extensions

9. (1) The maximum period, including an extension, for which a permission granted under section 3 or 6 may be valid is,

(a) 24 months, in the case of a permission granted for projects other than projects described in clause (b); and

(b) 60 months, in the case of a permission granted for,

(i) projects that, in the opinion of the Authority or its executive committee, cannot reasonably be completed within 24 months from the day the permission is granted, or

(ii) projects that require permits or approvals from other regulatory bodies that, in the opinion of the Authority or its executive committee, cannot reasonably be obtained within 24 months from the day permission is granted. O. Reg. 63/13, s. 7.

(2) The Authority or its executive committee may grant a permission for an initial period that is less than the applicable maximum period specified in subsection (1) if, in the opinion of the Authority or its executive committee, the project can be completed in a period that is less than the maximum period. O. Reg. 63/13, s. 7.

(3) If the Authority or its executive committee grants a permission under subsection (2) for an initial period that is less than the applicable maximum period of validity specified in subsection (1), the Authority or its executive committee may grant an extension of the permission if,

(a) the holder of the permission submits a written application for an extension to the Authority at least 60 days before the expiry of the permission;

(b) no extension of the permission has previously been granted; and

(c) the application sets out the reasons for which an extension is required and, in the opinion of the Authority or its executive committee, demonstrates that circumstances beyond the control of the holder of the permission will prevent completion of the project before the expiry of the permission. O. Reg. 63/13, s. 7.

(4) When granting an extension of a permission under subsection (3), the Authority or its executive committee may grant the extension for the period of time requested by the holder in the application or for such period of time as the Authority or its executive committee deems appropriate, as long as the total period of validity of the permission does not exceed the applicable maximum period specified in subsection (1). O. Reg. 63/13, s. 7.

(5) For the purposes of this section, the granting of an extension for a different period of time than the period of time requested does not constitute a refusal of an extension. O. Reg. 63/13, s. 7.

(6) The Authority or its executive committee may refuse an extension of a permission if it is of the opinion that the requirements of subsection (3) have not been met. O. Reg. 63/13, s. 7.

(7) Before refusing an extension of a permission, the Authority or its executive committee shall give notice of intent to refuse to the holder of the permission, indicating that the extension will be refused unless,

(a) the holder requires a hearing, which may be before the Authority or its executive committee, as the Authority directs; and

(b) at the hearing, the holder satisfies the Authority, or the Authority's executive committee, as the case may be,

(i) that the requirements of clauses (3) (a) and (b) have been met, and

(ii) that circumstances beyond the control of the holder will prevent completion of the project before the expiry of the permission. O. Reg. 63/13, s. 7.

(8) If the holder of the permission requires a hearing under subsection (7), the Authority or its executive committee shall give the holder at least five days notice of the date of the hearing. O. Reg. 63/13, s. 7.

(9) After holding a hearing under subsection (7), the Authority or its executive committee shall,

(a) refuse the extension; or

(b) grant an extension for such period of time as it deems appropriate, as long as the total period of validity of the permission does not exceed the applicable maximum period specified in subsection (1). O. Reg. 63/13, s. 7.

(10) Subject to subsection (11), one or more employees of the Authority that have been designated by the Authority for the purposes of this section may exercise the powers and duties of the Authority under subsections (2), (3) and (4), but not those under subsections (6), (7), (8) and (9). O. Reg. 63/13, s. 7.

(11) A designate under subsection (10) shall not grant an extension of a permission for any period that would result in the permission having a period of validity greater than 24 months. O. Reg. 63/13, s. 7.

Appointment of officers

10. The Authority may appoint officers to enforce this Regulation. O. Reg. 180/06, s. 10.

Flood event standards

11. (1) The 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 Timmins Flood Event Standard, the 100 Year Flood Event Standard and the 100 year flood level plus wave uprush, described in Schedule 1. O. Reg. 180/06, s. 11 (1).

(2) The Timmins Flood Event Standard applies to all watersheds within the area of jurisdiction of the Authority except for,

- (a) The main channel of the Kaministiquia River where the 100 Year Flood Event Standard applies; and
- (b) Lake Superior in the Great Lakes-St. Lawrence River System where the 100 year flood level plus wave uprush applies. O. Reg. 180/06, s. 11 (2).

12. REVOKED: O. Reg. 63/13, s. 8.

13. OMITTED (REVOKES OTHER REGULATIONS). O. Reg. 180/06, s. 13.

SCHEDULE 1

1. The Timmins Flood Event Standard means a storm that produces over a 12-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, a rainfall such that the number of millimetres of rain referred to in each case in Table 1 shall be modified by the percentage amount 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

15 millimetres of rain in the first hour
20 millimetres of rain in the second hour
10 millimetres of rain in the third hour
3 millimetres of rain in the fourth hour
5 millimetres of rain in the fifth hour
20 millimetres of rain in the sixth hour
43 millimetres of rain in the seventh hour
20 millimetres of rain in the eighth hour
23 millimetres of rain in the ninth hour
13 millimetres of rain in the tenth hour
13 millimetres of rain in the eleventh hour
8 millimetres of rain in the twelfth hour

TABLE 2

Column 1	Column 2
Drainage Area (square km)	Percentage
26 to 50 both inclusive	97
51 to 75 both inclusive	94
76 to 100 both inclusive	90
101 to 150 both inclusive	87
151 to 200 both inclusive	84
201 to 250 both inclusive	82
251 to 375 both inclusive	79
376 to 500 both inclusive	76
501 to 750 both inclusive	74
751 to 1000 both inclusive	70

1001 to 1250 both inclusive	68
1251 to 1500 both inclusive	66
1501 to 1800 both inclusive	65
1801 to 2100 both inclusive	64
2101 to 2300 both inclusive	63
2301 to 2600 both inclusive	62
2601 to 3900 both inclusive	58
3901 to 5200 both inclusive	56
5201 to 6500 both inclusive	53
6501 to 8000 both inclusive	50

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 that has a probability of occurrence of one per cent during any given year.

O. Reg. 180/06, Sched. 1.

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Appendix B:
LRCA Permit Application
Form

Application Form
*Development, Interference with Wetlands and
Alterations to Shorelines and Watercourses, O. Reg. 180/06*

130 Conservation Road, P.O. Box 10427, Thunder Bay, ON P7B 6T8
Telephone 344-5857, Fax 345-9156, Email: info@lakeheadca.com, www.lakeheadca.com

Office Use Only
Submission #
Fee \$
Payment Type:
Date received:

Please read, complete form where applicable, date and sign this application

08.27.15

SECTION 1- Applicant Information/Project Location						
Applicant or Agent Information:						
Name:						
Organization/Company (if applicable)						
Mailing Address:					Postal code:	
					Fax:	
					Telephone:	
Email:					Cell:	
Property Owner Information: Same as above : ☐						
Name:						
Mailing Address:					Postal code:	
					Fax:	
					Telephone:	
Email:					Cell:	
<i>Correspondence will be sent to the owner and copied to the applicant (if different)</i>						
Subject Property: Same as above : ☐						
Municipal Address:						
Municipality:						
Nearest Major Intersection:						
Legal Address: (if no fire number issued)	Lot:		Concession:		Registered Plan:	
Has a previous application to the LRCA been filed on this property?						
☐ No ☐ Yes (provide details):						

Pre-consultation with LRCA staff is strongly suggested to verify a complete application is being submitted. All applications must be deemed "complete" with technical supportive documents (if required) before the application is processed.

Pre-Consultation
Have you conducted any pre-application consultation with the LRCA to determine site issues, and technical requirements for a "complete" application? ☐ No ☐ Yes Have you received a LRCA site map showing the regulated areas on the property? ☐ No ☐ Yes Are there any other required approvals? (e.g. Ministry of Natural Resources and Forestry, Fisheries and Oceans Canada, TB District Health Unit) ☐ No ☐ Yes (provide details):

SECTION 2: Submission Requirements – CHECK LIST

1. Completed and signed Application Form.
2. Each application must be accompanied by the appropriate Project Details Schedule applicable to the type of work – see the list of Schedules on Page 3 of this form.
3. Each application must be accompanied by the appropriate fee as noted on the current Fee Schedule.
4. If the applicant is not the owner, the Letter of Authorization (Schedule A) must be completed.
5. If the land is a Camper's Association or group ownership a letter of authorization must be provided signed by the legal representative of the group.
6. If the land is a Municipal right-of-way a letter of authorization must be provided signed by the authorized representative of the Municipality.
7. Additional studies as requested by the Authority (i.e. geotechnical study, Environmental Impact Statement, etc.).
8. Copies of applicable drawings including Site Plan, Cross-Section, Site Grading and Elevation Plans, Blueprints, etc. must be submitted with the application.

Examples of information that should be included on your site plan(s): See Page 4 - Sample Site Plans

Project Type:	Details to be included:
Construction, Renovation, Reconstruction	➤ Location, dimensions, watercourses, structures, drainage/flow path, existing and proposed grades, geodetic elevations
Placement of Fill, Dredging, Site Grading	➤ Location, dimensions, watercourses, drainage/flow path, existing and proposed grades, sediment and erosion control measures
Alteration to Shorelines and Watercourses	➤ Location, plan view (existing/proposed), cross-section (existing/proposed), dimensions, structures, size of rock being used, sediment and erosion control measures

Section 3: Permit Review Procedures

Permits are issued by the Conservation Authority or designated Staff, under the current *Rules of Procedure for Permit Application Review and Approval*. Applicants will be notified within 21 days of whether or not their application is considered complete. From the date of confirmation of a complete application the Authority or designated Staff will make a decision with respect to the application within 30 days for minor applications and within 90 days for major applications. If Staff is recommending refusal of the application and the owner wishes to proceed with the proposal, the Authority will convene a Hearing to consider the application. If the owner objects to the proposed conditions of the approval they may request a Hearing. Applicants will be given notice of all Hearings prior to being held. All Hearings will be conducted according to the document entitled *Section 28 (12) Conservation Authorities Act Hearing Guidelines, Lakehead Region Conservation Authority*. The Authority may at any time cancel any permission given under the Regulation if in the opinion of the Authority the condition(s) on the permit are not complied with. Any false or misleading statement in this application may result in cancellation of any permission issued on the basis of this application.

Be advised that other municipal (e.g. building permit, etc.), provincial (e.g. MNRF Work Permit, etc.) or federal (e.g. *Federal Fisheries Act*, etc.) approvals or permits may also be required.

Permits issued by the LRCA are issued to the current owner of the property and are not transferrable.

SECTION 4 – Notice of Collection

Pursuant to the *Municipal Freedom of Information and Protection of Privacy Act*, the personal information contained in this form is collected under the authority of the *Conservation Authorities Act*. This information is used to assess applications and where approved, issue the Development, Interference with Wetlands and Alterations to Shorelines and Watercourses permit. Information on this form may be disclosed to Government and Municipal agencies for review, comment, or to members of the public through the Freedom of Information process or in the Hearing process. Questions related to the collection of information should be directed to the General Manager/Secretary-Treasurer, LRCA, 130 Conservation Road, P.O. Box 10427, Thunder Bay, ON, P7B 6T8, 807-344-5857.

SECTION 5 - Applicants Statement

By signing this application, consent is given to the LRCA, its employees and other persons as required by the LRCA, to access the property, for the purpose of inspection, obtaining information, and/or monitoring any and all works, activities and/or construction pertaining to the property in addition to the works as approved under cover of any permit issued by the LRCA.

In addition to any other conditions that may be imposed on a Permit, I agree that the Permit will be subject to the standard conditions set out in Schedule "A" to this application.

I acknowledge and agree that any false or misleading statement made on this application will render null and void any permission granted in the discretion of the Authority.

I hereby declare that I have read the above statements and that the information I have provided is true and correct to the best of my knowledge and belief and that, all of the above information, plans and submissions to be true, valid and current. I further accept the aforementioned terms and conditions to be binding upon the registered owner(s) of the property and all assigned agents, contractors and/or constructors acting on my behalf. I have authority to bind the foregoing to these terms and conditions.

Signature of Owner:	Date:
Signature of Agent:	Date:

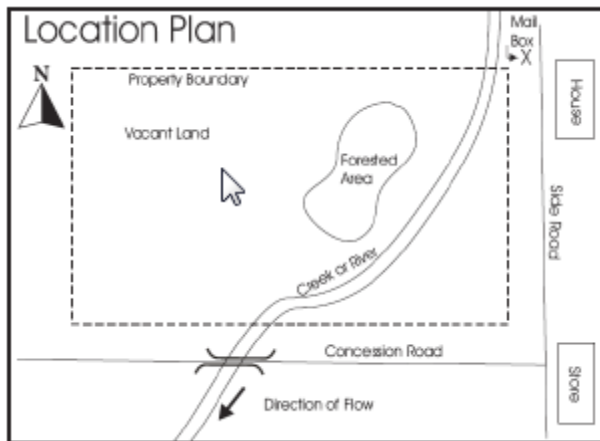
Check all applicable Schedules to be submitted with this application:

- ☐ Schedule A – Letter of Authorization
- ☐ Schedule B – Project Details – Construction, Addition and Demolition
- ☐ Schedule C – Project Details – Placement/Removal of Fill and Site Grading
- ☐ Schedule D – Project Details – Alteration to Shorelines and Watercourses
- ☐ Schedule E – Project Details – Infrastructure and Water Crossings
- ☐ Schedule F – Project Details – Other

Internal Use Only

Inspection Date:		Regulatory Flood Elevation:	
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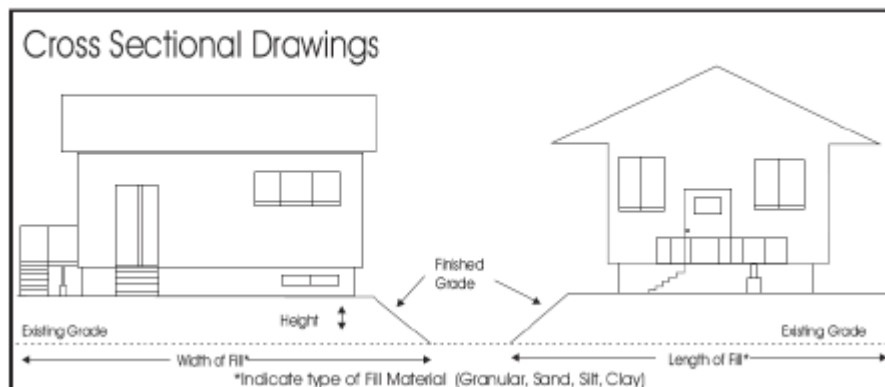
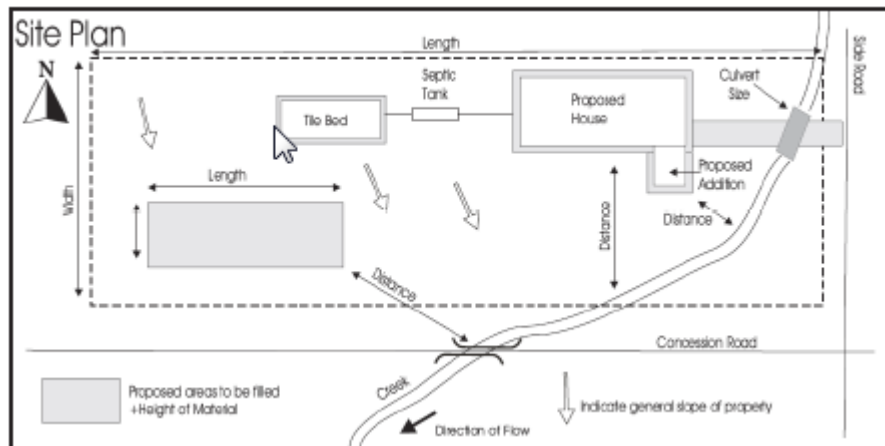
Application Form Revision Date: August 27, 2015



Instructions:

These drawings are not for design purposes. They are examples to illustrate the minimum level of detail required to enable the LRCA to process your application.

Drawings should include the location and dimensions of proposed works (i.e. buildings, quantity and areas of fill, landscaping features, culvert(s) and location of existing buildings or features, location of water bodies, wetlands and drainage areas.



Cross sections must show existing and final grade elevations, existing and finished floor elevations and lowest openings into buildings.

Elevations must be geodetic (as determined by an Ontario Land Surveyor).

**Appendix C: Section 28
(12) Conservation
Authorities Act Hearing
Guidelines, LRCA**

Section 28 (12) Conservation Authorities Act Hearing Guidelines

Lakehead Region Conservation Authority

Version 1(a)



Version	Approval Date	Resolution #
1.0	June 25, 2014	91/14
1(a)	July 17, 2018 (Mining Lands Tribunal change)	

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Appendix A: Pre-Hearing Templates

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- Notice of Hearing
- Hearing Procedure
- Permit Summary /Staff Report

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Appendix C: Post-Hearing Templates

- Notice of Decisions/Reasons
- Record of Decision
- Permit

1 Introduction

1.1 Application

These guidelines apply to Hearings before Lakehead Region Conservation Authority under Subsection 28(12) of the *Conservation Authorities Act*.

1.2 Conflict with Legislation

Where these Guidelines are in conflict with any applicable Statute or Regulation, the Act or Regulation governs.

1.3 Statutory References

These Guidelines contain summaries of and other references to Statutes and Regulations for the purpose of convenience. For accurate reference, the official version of the legislation should be used.

2 Interpretation

2.1 Definitions

In these Guidelines,

“Authority” means The Lakehead Region Conservation Authority.

“Chair” means the Chair of the Authority or, in the context of a Hearing Event, the person who acts as chair for purposes of the Hearing Event.

“Hearing Event” means a procedure held by the Authority at any stage of a proceeding and includes a motion, pre-hearing conference and Hearing whether in the form of an Oral Hearing, Electronic Hearing or Written Hearing.

“Member” means a member of the Authority.

“Oral Hearing” means a Hearing Event at which the parties or their counsel or representatives attend before the Authority in person.

“Participant” means a person who wishes to make a statement to the Authority at a Hearing but who does not wish to participate fully throughout the Hearing and may attend only part of the Hearing.

“Party” means a person who will fully participate in the proceedings and who may present evidence, cross examine witnesses and make submissions. Party status does not confer a right to Appeal a decision of the Authority unless specially permitted under the relevant Statute or Regulation.

“person” includes a corporation.

“Written Hearing” means a Hearing Event by means of the exchange of documents whether in written form (hard copy) or by electronic means.

2.2 Authority and Staff

Unless the context requires otherwise in these Rules or in the Hearing Guidelines, reference to the “Authority” or the “Authority Members” means the Lakehead Region Conservation Authority as a corporate body carrying out its mandate, including when sitting as a Hearing Board hearing applications for permission.

Reference to “Staff” in these procedures Guidelines means those employees at the Authority who have been designated by the Authority to exercise the powers and perform the duties referred to.

3 General

3.1 Interpretation of Guidelines

These Guidelines shall be liberally interpreted to secure a just, fair, expeditious and cost-effective determination of every proceeding.

3.2 Matters not dealt with in the Guidelines

The Authority may at anytime in a proceeding make orders with respect to the procedure and practices that apply in the proceeding. If these Guidelines do not provide for a matter of procedure, the Authority may do whatever is necessary and permitted by law to enable it to adjudicate effectively and completely on any matter before it. Without limiting the foregoing, the Authority may follow the Procedural Guidelines for Hearings before the Mining and Lands Commissioner when exercising the authority, power and duties of the Minister under Subsection 28(5) of the *Conservation Authorities Act* or the Rules of Civil Procedure where appropriate.

3.3 Technical Objections

Substantial compliance with the requirement of these Guidelines is sufficient.

3.4 Authority May Exempt from the Guidelines

The Authority may grant all necessary exceptions from these Guidelines or from a Procedural Order, or grant other relief as it considers appropriate to ensure that issues are dealt with in a just, fair, expeditious and cost-effective manner.

3.5 Extension or Reduction of Time

The Authority may extend or reduce any time required in these Guidelines.

3.6 Effective Date

These Guidelines come into effect when approved by a Resolution of the Authority and replace any previous guidelines, protocols, procedures and policies relating to Hearing Events

3.7 Amendments to Guidelines

Amendments to these Guidelines must be approved by a Resolution of the Authority.

4 Pre-Hearing Procedures

4.1 Pre-Hearing Documentation

Staff will prepare a pre-Hearing package which will be provided to the Applicant with sufficient time to allow the Applicant to prepare for the Hearing. Applicants will be given a minimum of four weeks prior to the Hearing to prepare a report outlining their positions, unless the Applicant is agreeable to a shorter notification period. When possible, the applicant will be consulted to determine an agreeable date and time based on the regular Authority Meeting schedule or at a Special Meeting of the Authority if warranted.

Written Applicant reports must be received at the Authority office a minimum of two weeks prior to the scheduled Hearing otherwise the Hearing may proceed without an Applicant report or be re-scheduled to a later date in order to facilitate a fair Hearing and avoid surprise, in the discretion of the Authority.

The pre-Hearing package will be either delivered personally or sent by mail, fax or email to the Applicant and will consist of the following documents signed by the Chief Administrative Officer:

- Cover Letter
- Notice of Hearing
- Summary of Hearing Procedures
- Staff report which will include an outline of the proposal, investigative procedure and Staff recommendation to either approve or deny the application, with or without conditions.

Pre-Hearing templates are included in Appendix A.

The Authority Members will receive a copy of the Hearing Procedures and Staff Report within their regular Board Meeting Agenda. They will also receive a copy of any submitted reports prepared by the Applicant.

If the Applicant is not the landowner, but a prospective owner, the Applicant must have the written authorization of the registered landowner

4.2 Disclosure

The Authority may, at any stage of the proceedings make orders for:

- (a) the exchange of documents;
- (b) the oral or written examination of a party;
- (c) the exchange of witness statements and reports of expert witnesses;
- (d) the provision of particulars;
- (e) any other form of disclosure.

An order for disclosure cannot require the disclosure of privileged information

4.3 Pre-Hearing Conferences

The Authority may direct the parties to participate in a pre-hearing conference to consider:

- (a) the settlement of any or all of the issues;
- (b) the simplification of the issues;
- (c) facts or evidence that may be agreed upon;
- (d) the dates by which any steps in the proceeding are to be taken or begun;

- (e) the estimated duration of the hearing; and
- (f) any other matter that may assist in the just and most expeditious disposition of the proceeding.

The Chair may designate a Member of the Authority or any other person to preside at the pre-hearing conference

A Member who presides at a pre-hearing conference may make such orders as he or she considers necessary or advisable with respect to the conduct of the proceeding, including adding parties.

A Member who presides at a pre-hearing conference at which the parties attempt to settle issues shall not preside at the Hearing of the proceeding unless the parties consent.

5 Hearings

Applicants for Permits under Regulation 180/06 have a right to require a Hearing under Subsection 28(12) of the *Conservation Authorities Act*.

The following list of circumstances will require that the Application is brought to the Authority for a Hearing:

- The Authority refers the Application to a Hearing;
- The Applicant requests a Hearing because:
 - (a) Staff are recommending refusal of the Application; and/or
 - (b) the Applicant objects to the proposed conditions of approval.

When Hearings are required, the Authority, acting as the Hearing Board will act as the decision-making tribunal. The Authority is empowered by law to make a decision, and is governed by the *Statutory Powers Procedures Act*. It is the purpose of the Authority 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 be refused. A Permit may be refused if in the opinion of the Authority the proposal adversely affects the control of flooding, erosion, pollution, dynamic beaches or conservation of land.

Hearings will be held during the Authority regularly scheduled Board Meetings or at a Special Meeting.

The Chief Administrative Officer may obtain legal advice and request the solicitor's attendance at the Hearing if deemed necessary.

The Hearing does not address the merits of the activity or appropriateness of a proposed development in the context of planning under the *Planning Act*. The Hearing Board is to determine whether or not the proposed development will affect the control of flooding, erosion, dynamic beaches or pollution or the conservation of land and whether a Permit should be granted for it.

As provided in Subsection 28(13) of the *Conservation Authorities Act*, after holding a Hearing, the Authority shall:

- refuse permission,
- grant the permission with conditions, or
- grant the permission without conditions.

6 Conducting a Hearing

6.1 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 public security, intimate financial, personal or other matters would be disclosed at hearings.

6.2 Hearing Procedure

The Hearing will generally follow the procedures outlined in Appendix "A".

6.3 Parties and Participants

The Authority may grant a person status as a Party or Participant at the Hearing.

In making such a determination the Authority may consider, among other things, the following:

- (a) Does the person have an interest in the subject matter of the proceeding?
- (b) Might the person be adversely affected by the decision?
- (c) Is there a question of law or fact involved in the hearing which is common to a matter involving the person, the Applicant and the Authority?
- (d) Is the interest of the person substantial?
- (e) Is there a public interest in permitting the participation?

- (f) Will permitted participation cause undue delay?

6.4 Attendance of Hearing Board Members

Except with the consent of the Applicant or in extraordinary circumstances as determined by the Authority, such as the death of a Member, 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, it shall be adjourned until the Member returns, provided that if in the opinion of the Authority it is not possible or practical for such Member to continue to participate or if the Applicant consents, the Hearing may be continued by those remaining who had been Members present at the Hearing.

6.5 Adjournments

The Authority 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.

If the Authority requires additional information; the Hearing may be adjourned pending clarification or acquisition of details requested. Where practical the time and date for recommencement of the Hearing will be specified in the adjournment resolution.

Any adjournments shall be noted in the Hearing record.

6.6 Orders and Directions

The Authority is entitled to make orders or directions to maintain order and prevent the abuse of its Hearing processes.

If the applicant has any questions to ask of the Authority, he/she is free to do so, provided all questions are directed to the Chair.

Pursuant to the *Statutory Powers Procedure Act*, the Board may limit questioning where it is satisfied that there has been full and fair disclosure of the relevant facts. Questions may be limited by the Chair where questioning has clearly gone beyond reasonable or proper grounds or the subject matter is irrelevant, inadmissible or repetitive.

6.7 Evidence under Oath or Affirmation

Evidence presented at the Hearing will be informal and will not be presented under oath or affirmation unless decided by the Hearing Members.

6.8 Copies of Documents

The Authority may receive a copy rather than the original document; provided that, it may require copies of the document certified or authenticated in such manner as the Authority may determine.

6.9 Privilege, Hearsay

Privileged information, such as solicitor/client correspondence, cannot be heard. Second hand information (hearsay), if relevant to the issues of the Hearing, may in the discretion of the Authority be heard and the Authority will determine the weight to be assigned to it.

6.10 Judicial Notice

The Authority may take into account matters of common knowledge such as geographic or historic facts, times, measures, weights, and generally recognized scientific or technical facts, information or opinions or matters within its specialized knowledge without hearing specific evidence to establish their truth.

6.11 Authority Representative

Prior to the Hearing the Chief Administrative Officer will appoint a representative (i.e. Staff member or legal counsel) to represent the Authority during the Hearing. The representative will present the information (i.e. Staff Report or any other material) on behalf of the Authority and ask questions on behalf of Authority Staff.

6.12 Record of Attending Hearing Board Members

Minutes of the Hearing will be recorded including the names of the members of the Hearing Board, Authority Staff, Applicant and others participating in the Hearing.

6.13 Opening Remarks

The Chair shall convene the Hearing by making the Chair's remarks, a sample of which is attached as Appendix B.

6.14 Conflict of Interest Declaration

The Chair will ask the Members of the Hearing Board whether or not they have a conflict of interest to declare. Members declaring a conflict of interest will not participate in the Hearing.

6.15 Introduction of Applicant

The Applicant/owner, his/her agent and others wishing to speak will identify themselves and declare whether the support or oppose the Application.

6.16 Requirements for Applicant Evidence

The Applicant and his and/or her agent will present evidence related to the Applicant's position regarding the permit in question.

Consideration must be given to the effect the proposed activity would have on the control of flooding, erosion, dynamic beaches, pollution or the conservation of land and other matters relevant to the Application and the requirements of the *Conservation Authorities Act* and the Regulations thereunder.

The Applicant may be represented by legal counsel or an agent, if desired.

The Applicant may present evidence in the Hearing personally and may call expert and other witnesses.

6.17 Deliberation

The Authority may discuss and vote on the application in open session to provide a timely and transparent decision or it may move into in-camera or reserve its decision if deemed appropriate.

If the Authority determines that additional time is required to confer, it may reserve its decision to be delivered at a future sitting of the Authority or it may be provided to the Parties in writing.

The Board members shall not discuss the Hearing with others prior to the decision of the Board being finalized.

6.18 In-Camera Session of the Board

If deemed appropriate the Authority may pass a resolution to move into an in-camera session to discuss the Hearing proceedings in private. The in-camera portion of the Hearing will be closed to the public and the Applicant. The Authority will pass a resolution to move out of in-camera and then will move out of the In-Camera Session.

6.19 Hearing Decision

A resolution will be tabled and the Authority will pass a resolution issuing a decision to:

- refuse permission,
- grant the permission with conditions, or
- grant the permission without conditions.

If the decision is “to refuse”, the Chair will notify the Applicant of his or her right to appeal the decision to the Minister of Natural Resources within 30 days of receipt of the decision.

6.20 Corrections in Decision

The Authority may, at anytime and without prior notice, correct a typographical error, a calculation error, a misstatement, a technical error, ambiguity or failure to pronounce on a matter that should have been provided for in the decision.

7 Post-Hearing Procedures

After the completion of the Hearing a post-Hearing package will be prepared by Staff. The post-Hearing package will consist of:

- Cover letter
- Notice of Decision
- Reason for Decision
- Record of Decision
- Permit, if approved.
- Copy of Board Resolution.

Post-Hearing templates are attached in Appendix C.

The post-Hearing package will be mailed by regular or registered mail, personally delivered or sent by e-mail or fax to the Applicant and to any other Parties to the Hearing.

8 Appeals

Subsection 28(15) of the *Conservation Authorities Act* provides that a person who has been refused permission or who objects to the conditions imposed on a permission may, within 30 days of receiving the reasons may appeal to the Minister of Natural Resources and Forestry. Further to passage of the *Building Better Communities and Conserving Watersheds Act, 2017* effective April 3, 2018 this appeal has been assigned to the Mining and Lands Tribunal through Order in Council 332/2018. The Mining and Lands Tribunal is part of the Environment and Land Tribunal Cluster (ELTO) of the Ministry of the Attorney General. The Mining and Lands Tribunal may: refuse the permission; or, grant the permission, with or without conditions.

In the event of an Appeal, a copy of the Hearing Record will be forwarded by Authority Staff to the Mining and Lands Tribunal. The record will include the following:

1. The completed Application Form
2. The Notice of Hearing
3. Any orders made by the Board (e.g. for adjournments; disclosure)
4. All evidence filed with the Board at the Hearing
5. The decision and reasons for decision of the Board
6. The Notice of Decision sent to the applicant.

Appendix A: Pre-Hearing Templates

Date

Name

Address

Thunder Bay, ON

Address

Dear Name:

**Re: Conservation Authorities Act 28(3)
Development, Interference with Wetlands and Alterations to Shorelines and
Watercourses Application # #/17
Municipal Address – Project Description**

Enclosed is Notice of the Hearing which will be held by the Lakehead Region Conservation Authority on **date**, commencing at 4:30 p.m. at the Administrative Office located at 130 Conservation Road related to your application. You may appear in person or be represented by counsel to support your application.

The following documents relating to the Hearing are enclosed:

- (a) Hearing Guidelines; and
- (b) Hearing Procedure Summary

It is recommended that you prepare a report outlining your position which will be provided to the Authority prior to the Hearing. All reports must be received at the Administrative Office prior to **date**, in order to be included in the Hearing filings. Neither Staff nor the applicant will be able to present new material at the Hearing without special permission from the Authority, so it is important that your report be thorough and complete.

It is the Staff's opinion that the proposed project **will/ will not** adversely affect the control of flooding, erosion, pollution, dynamic beaches or conservation of land; therefore, staff are recommending **approval/denial** of the application to the Board of Directors with the following conditions in addition to the standard conditions which you approved in making the Application.

Conditions:

1.

This information is current as of this date and accurate to the best of our knowledge. Our opinion may be amended as more accurate data becomes available.

If you should have any questions, please feel free to call our office.

Yours truly,

Tammy Cook
Chief Administrative Officer

/mds

Enclosure(s)

LAKEHEAD REGION CONSERVATION AUTHORITY

130 Conservation Road, P.O. Box 10427, Thunder Bay, Ont. P7B 6T8 Phone 344-5857

IN THE MATTER OF

THE CONSERVATION AUTHORITIES ACT, R.S.O. 1990, CHAPTER C27 AS AMENDED;

AND IN THE MATTER OF AN APPLICATION

BY: Name

FOR: Project

IN RESPECT OF THE FOLLOWING PROPERTY:

Legal Address

Legal Address

Legal Address

FOR THE PERMISSION OF THE LAKEHEAD REGION CONSERVATION AUTHORITY PURSUANT TO A REGULATION MADE UNDER SECTION 28 OF SAID ACT.

NOTICE OF HEARING

TAKE NOTICE THAT A HEARING BEFORE THE LAKEHEAD REGION CONSERVATION AUTHORITY WILL BE HELD UNDER SUB-SECTION 28(3) OF THE CONSERVATION AUTHORITIES ACT AT THE OFFICES OF SAID AUTHORITY AT 130 CONSERVATION ROAD, THUNDER BAY, ONTARIO AT THE HOUR OF 4:30 P.M. ON September 23, 2017 WITH RESPECT TO THIS APPLICATION:

Application # #/17

AND FURTHER TAKE NOTICE THAT IF YOU DO NOT ATTEND AT THIS HEARING, THE LAKEHEAD REGION CONSERVATION AUTHORITY MAY PROCEED IN YOUR ABSENCE AND YOU WILL NOT BE ENTITLED TO ANY FURTHER NOTICE IN THE PROCEEDINGS.

DATED THE _____ DAY OF _____, 2017

DELIVERED

LAKEHEAD REGION CONSERVATION AUTHORITY

PER: _____

T. COOK

CHIEF ADMINISTRATIVE OFFICER

LAKEHEAD REGION CONSERVATION AUTHORITY

130 Conservation Road, PO BOX 2476, Thunder Bay ON P7B 5J9 Phone: 344-5857

HEARING PROCEDURE

IN THE MATTER OF

THE CONSERVATION AUTHROITIES ACT, R.S.I. 1990, CHAPTER C27 AS AMENDED

AND IN THE MATTER OF AN APPLICATION FOR PERMISSION

BY: _____

FOR: _____

IN RESPECT OF THE FOLLOWING PROPERTY: _____

DATED THIS _____ DAY OF _____ AT THUNDER BAY IN THE DISTRICT OF THUNDER BAY

The following is a guideline for the information of the Parties as to the order of proceedings generally followed by the Authority. The Authority has the right to vary the proceeding process so as to achieve a fair and expeditious hearing.

Order of Proceeding

1. Chair's opening remarks which may include, among others, the following:
 - That the Hearing is held under Subsection 28 (12) of the *Conservation Authorities Act*.
 - That the proceedings will be conducted according to the *Statutory Power Procedure Act* and the Authority's Guidelines.
 - Whether or not the evidence is to be given under oath or affirmation.
 - Whether the procedures detailed below will be relaxed or abbreviated so as to efficiently deal with the issues.
 - That the Authority may ask questions of witnesses for clarification at any time during their evidence.
2. Conflict of interest declarations of Authority Members.
3. Parties and Authority Staff will identify themselves and state whether they support or oppose the application.
4. Preliminary, matters or motions, such as applications for party or participant status will be heard.
5. The Authority Staff representative may provide a preliminary overview of the evidence where doing so will assist in identifying the nature of the application and the issues for determination.
6. The evidence of the Applicant will be heard. As with the evidence of other witnesses, evidence in Chief will be given, followed by cross examination, if any, followed by limited re-examination or response evidence of the Applicant to explain unforeseen matters that arose during cross examination.
7. Presentation of evidence of persons in support of the application.
8. Presentation of evidence of Authority Staff and other Authority witnesses.
9. Presentation of evidence of persons opposing the application.
10. Presentation of limited reply evidence by the Applicant, responding only to matters raised by evidence of Authority or persons in opposition and which could not reasonably have been included in the Applicant's evidence in Chief.
11. Deliberation by the Authority either in open session or in camera.
12. Statement as to Authority decision or, if reserved that the decision to will be released in due course.
13. Completion and provision of post hearing documentation.



PERMIT SUMMARY
DEVELOPMENT, INTERFERENCE WITH WETLANDS AND ALTERATIONS TO SHORELINES
AND WATERCOURSES REGULATION
O. Reg. 180/06 as amended by O. Reg. 63/13

Permit No.: #/##

Type of Activity	
	Construct a Building or Structure
	Place or Remove fill
	Shoreline Alteration
	Interfere with an existing watercourse
	Interfere with a Provincially Significant Wetland

Permit Category	
	Small Works
	Standard Works
	Large Works
	Major Works
Fee	\$

Name: Name
 Address
 Address
 Address

Location: Legal Address
 Legal Address
 Municipality

Proposal Summary:

Summary of the Investigation Procedure:

Staff Recommendation:

Prepared by:	_____
	Water Resources Technologist
Reviewed by:	_____
	Watershed Manager

Appendix B: Chair's Remarks

LAKEHEAD REGION CONSERVATION AUTHORITY

130 Conservation Road, P.O. Box 10427, Thunder Bay, Ont. P7B 6T8 Phone 344-5857

GUIDELINE FOR CHAIR'S REMARKS

When dealing with Hearings with respect to
Ontario Regulation 180/06 as amended by Ontario Regulation 63/13

This is a Hearing under Section 28 of the *Conservation Authorities Act* in respect of an application by _____, for permission to _____.

The Province of Ontario has made Regulations under Section 28 of the *Conservation Authorities Act* which require the permission of the Authority for where a development may affect the control of flooding, erosion, dynamic beaches, pollution or conservation of land or may involve alteration to a shoreline or watercourse or interference with a wetland.

The Staff has reviewed this proposal and a copy of the Staff Report has been given to the Applicant.

The *Conservation Authorities Act* (Subsection 28 (12)) provides that:

"Permission required under a Regulation made under clause (1)(b) or (c) shall not be refused or granted subject to conditions unless the person requesting the 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 is to determine whether or not a permit is to be issued. In doing so, we will 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 and the Staff.

The Hearing will be conducted according to the *Statutory Powers Procedure Act* and the Authority Guidelines.

Evidence will/will not be required to be given under oath or affirmation.

As the Hearing proceeds, the procedures listed in the Hearing Procedure summary provided may be relaxed or abbreviated for efficiency.

The Authority may ask questions of witnesses for clarification at any time.

Appendix C: Post-Hearing Templates

July 18, 2018

REGISTERED MAIL

Name
Address
Address
Address

Dear Name:

Re: NOTICE OF DECISION
Hearing Pursuant to Section 28(12) of the *Conservation Authorities Act*
Development, Interference with Wetlands and Alterations to Shorelines and
Watercourses Application # #/17
Project Description
Municipal Address – Municipality
River Regulated Area

In accordance with the requirements of the *Conservation Authorities Act*, the Lakehead Region Conservation Authority provides the following Notice of Decision:

On DATE, the Board of Directors refused/approved your application/approved your application with conditions. A copy of the Board of Director's resolution # has been attached for your records. This decision is based on the following reasons:

In accordance with Subsection 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 28 (14), appeal to the Minister who may refuse the permission; or grant the permission, with or without conditions. Through Order in Council 332/2018 the responsibility for hearing the appeal has been transferred to the Mining and Lands Tribunal. 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:

Office of the Mining and Lands Tribunal
700 Bay Street, 24th Floor, Box 2400
Toronto, Ontario M5G 1Z6

A carbon copy of this letter should also be sent to this Conservation Authority. Should you require any further information, please do not hesitate to call our office.

Yours truly,

Donna Blunt
Chair

/mds

Attachments: Lakehead Region Conservation Authority Resolution #
Record of Decision
Permit #/##

LAKEHEAD REGION CONSERVATION AUTHORITY

130 Conservation Road, P.O. Box 10427, Thunder Bay, Ont. P7B 6T8 Phone 344-5857

RECORD OF DECISION

IN THE MATTER OF the Conservation Authorities Act, R.S.O. 1990, Chapter 27

AND IN THE MATTER OF AN APPLICATION

BY: **Name**

FOR: **Project Description**

IN RESPECT OF THE FOLLOWING PROPERTY:

Legal Address

Legal Address

Municipality

Regulated Area

FOR THE PERMISSION OF THE LAKEHEAD REGION CONSERVATION AUTHORITY pursuant to Regulations made under Section 28, Subsection 12 of the said Act

At a Hearing held before the Lakehead Region Conservation Authority, on the **DATE**, the application was **approved/denied** for the reasons outlined in the Notice of Decision.

MEMBERS OF THE TRIBUNAL WHO
CONCUR WITH THE DECISION:

MEMBERS OF THE TRIBUNAL WHO
DISSENT

Grant Arnold
Ed Chambers
Wendy Wright
Erwin Butikofer
Jim Vezina
Jim Byers
Donna Blunt
Andrew Foulds
Linda Rydholm
Andrea Goold
Umed Panu

DATED THE _____ DAY OF _____, **2018**

LAKEHEAD REGION CONSERVATION AUTHORITY

PER: _____
DONNA BLUNT
CHAIR



130 Conservation Road, P.O. Box 10427
Thunder Bay, Ontario, P7B 6T8
Telephone: 344-5857; Fax: 345-9156

Permit No. ##/17

Resolution # ##/17

Permit
Development, Interference with Wetlands and
Alterations to Shorelines and Watercourses
Ontario Regulation 180/06

This permit is issued under the authority of the *Conservation Authorities Act* and the regulations thereunder.

Note: The issuance of this Permit does not relieve the Applicant from obtaining any other approval, authority or permission from any person or agency, nor does it relieve the Applicant from the requirements of any law relating to the operation applied for.

This Permit is issued to:

Name of Permittee: **Name**

Post Office Address: **Address**

To conduct an operation from the **18 of May 2017**, to and including the **17 of May 2019**, on the following permit area:

Address

In accordance with your Application dated: **Date**

For the purpose of: **Project Description**

Subject to the following conditions:

1. The Permittee shall keep this permit or a true copy thereof on the work permit area.
2. The person in charge of the operation conducted pursuant to this Permit shall produce and show this Permit or the true copy thereof to any officer of the Lakehead Region Conservation Authority upon request.
3. Those conditions set forth on the reverse side of this Permit **and in Appendix A attached hereto.**

N.B.

Persons carrying on operations except as expressly permitted hereunder and in accordance herewith are guilty of an offence and on conviction liable to a fine of not more than Ten Thousand (\$10,000.00) Dollars or to a term of imprisonment of not more than three months.

Date: **Date**

Tammy Cook
Chief Administrative Officer
Lakehead Region Conservation Authority

Conditions

This Permit is subject to the following:

1. The Lakehead Region Conservation Authority (the Authority) may, at any time, revoke any Permit if, in the opinion of the Authority, the conditions of the permit are not complied with.
2. The Applicant covenants to indemnify and forever save and keep harmless the Lakehead Region Conservation Authority its officers, employees and agents from and against any and all claims, demands, suits, actions, damages, loss, cost or expenses arising out of any injury to persons, including death, or loss or damage to property of others or for economic loss or in any other manner whatsoever arising out of the issuance of this Permit or out of any operation, thing done or thing omitted to be done actually or purportedly as a result of the issuance hereof.
3. This Permit shall not be assigned or transferred.
4. Upon termination of this permit, the decision to issue a new permit shall be made in accordance with Regulations pursuant to the *Conservation Authorities Act* and the permittee has no right to, nor reasonable expectation for, the issuance of a new permit based on work done pursuant hereto.
5. The operation shall be conducted in such manner as will not adversely affect the control of flooding and erosion; dynamic beaches; pollution; or the conservation of land.

The Applicant accepts the issuance of this Permit including its conditions as set out above **and in Appendix "A."**

Dated at Thunder Bay this _____ day of _____ **2017.**

Applicant