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# Chapter four

## IMPLEMENTATION



Landplan Collaborative

LaSalle Park Marina, Burlington, and Hamilton Harbour

## PLANNING/REGULATORY

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A wide range of existing legislation provides a planning and regulatory context for activities along the waterfront, and can be used to assist in implementing the Greenway Strategy. These can be grouped in six categories:

**A.1 Municipal planning and environmental assessment**

**A.2 Legislation affecting use of water's edge and offshore**

**A.3 Other regulatory instruments**

**A.4 Watershed strategies and subwatershed plans**

**A.5 Remedial Action Plans**

**A.6 Integrated Shoreline Management Plans**

Implementation mechanisms to carry out Greenway objectives can be grouped into three related categories

*A: Planning/Regulatory*

*B: Stewardship*

*C: Funding and Incentives*

*Within each of these categories, most mechanisms already exist, some are emerging, and a few others have been identified as being needed.*

### A. PLANNING/REGULATORY

#### A.1: Municipal planning and environmental assessment

##### Municipal planning:

In a regulatory sense, the Planning Act is the single most important piece of legislation. This Act establishes procedures for articulating and implementing provincial policies, for establishing Official Plans at the regional and local municipal level, and for local regulatory mechanisms such as zoning, Secondary Plans, site plan approval powers, etc.

All five upper tier municipalities, and 13 of the 22 local municipalities along the waterfront, have prepared or amended their Official Plans since *Regeneration* was published in June 1992. This has given them an opportunity to incorporate the ecosystem approach and policies reflecting the nine waterfront principles put forward by the Royal Commission on the Future of the Toronto

Waterfront. In addition, a number of municipalities (Metro Toronto, Durham Region, Burlington, Mississauga, Etobicoke, Ajax, Oshawa, Clarington, Port Hope, Cobourg) have completed or are in the process of undertaking specific waterfront studies.

Where necessary, specific policies related to Greenway Strategy actions can be added as Official Plans are updated or by amendment.

#### Environmental assessment:

Both federal and provincial environmental assessment legislation provide approval and appeal processes for major projects, with consideration of environmental effects (broadly defined to include ecological, economic, cultural and social factors) and alternatives.

The provincial Environmental Assessment Act, administered by the Ontario Ministry of Environment and Energy (MOEE), applies to public sector projects such as infrastructure, electrical generating and transmission facilities, etc. Approval processes under this Act can be combined with Planning Act approvals through consolidated hearings. Smaller-scale projects are often included within Class Environmental Assessments. Class EAs of particular interest along the waterfront include the Class EA for Municipal Water and Wastewater Projects, and the Class EA for Remedial Flood and Erosion Control Projects of the Conservation Authorities.

The environmental assessment process is especially useful in considering projects with complex or off-site effects. Along the waterfront, these may include projects with water quality implications (e.g. sewage treatment plant expansions), projects with potential to alter shoreline processes or aquatic linkages (e.g. lakefills, breakwaters), and projects which could lead to significant loss or fragmentation of natural habitats (e.g. marinas, new roads, utility corridors).

The Canadian Environmental Assessment Act, which was recently proclaimed as federal legislation under the Department of Environment, applies environmental assessment procedures to projects with federal funding such as harbour development, projects on federal lands or proposed by federal agencies, or projects where federal legislation applies.

## PLANNING ACT REFORM

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**S**ignificant amendments to the Planning Act through Bill 163, requiring among other things that municipal Official Plans and planning decisions be "consistent with" an integrated set of provincial policies, took effect in March 1995. The Lake Ontario Greenway Strategy implementation relies on these comprehensive policies (which incorporate earlier individual policy statements) and their implementation guidelines, particularly on their requirements for:

- protection of significant natural heritage features and areas, including stream corridors, habitats of endangered and threatened species, wetlands, woodlands, wildlife habitat, natural corridors, areas of natural and scientific interest, fish habitat, and shorelines of lakes, rivers and streams;
- directing development outside the regulatory shoreline to avoid danger to public safety or public health or property damage, and defining acceptable approaches to development within flood or erosion prone areas;
- encouraging planning to give priority to energy-efficient, low-polluting travel such as walking, bicycling, and public transit;
- managing growth and change to foster communities that are socially, economically, and culturally healthy, and that make efficient use of land, infrastructure, and public services and facilities;
- encouraging provision of reasonable access to public land and water bodies;
- encouraging conservation of significant landscapes, vistas, and ridge-lines, and of significant cultural heritage landscapes and built heritage resources;
- requiring prior documentation of archaeological resources before development, and preservation of significant archaeological sites;
- protecting significant linear corridors (such as abandoned rail lines);
- protecting prime agricultural areas for long-term agricultural use;
- requiring Environmental Impact Studies which will assist in avoiding negative effects and in generating data for monitoring cumulative effects.



Dr. J.D. Murray

Port of Toronto

## **A.2: Legislation affecting use of water's edge and offshore**

### **Navigable Waters Protection Act:**

This federal legislation, administered by the Department of Transport, requires permits for any works within navigable waters, including Lake Ontario and major tributaries.

### **Fisheries Act:**

This federal legislation, with administration shared between the Department of Fisheries and Oceans and the Ontario Ministry of Natural Resources (MNR), regulates fish habitat protection and pollution prevention. Major elements of the habitat protection provisions have been incorporated into the provincial *Comprehensive Set of Policy Statements*. The Act requires no net loss of fish habitat; mitigation measures and/or compensation to replace habitat may be frequently considered.

### **Beds of Navigable Waters Act:**

Administered by MNR, this Act defines and protects navigable waters for public use; and establishes a process to regulate use of beds of navigable waters for such works as dams, wharfs, docks, tunnels, pipes, or placing of fill.

### **Public Lands Act:**

This legislation, which is administered by MNR, applies where waterlots or shoreline are in Provincial ownership. It requires permits for placing of buildings or structures on public lands (including beds of navigable waters). The Act also requires permits for dredging or filling of shore lands (public or private), including lands seasonally inundated, and assigns ownership of lands with shipwrecks.

### **Conservation Authorities Act:**

Under this Act, which is administered by MNR, conservation authorities (CAs) can enact regulations controlling the alteration of waterways and the placement of fill or construction in areas subject to flooding or erosion. These regulations can include Great Lakes shoreline as well as tributary streams; regulations are in place on only parts of the Greenway shoreline. CAs have primary responsibility for administering the *Great Lakes – St. Lawrence River Shoreline Policy*.

### **Lakes and Rivers Improvement Act:**

Permits are required for direct alteration of a watercourse under this legislation, which is administered by MNR, to ensure the suitability of the location and nature of “improvements”, which include protection works along the shoreline and projects in the water. The Act has broad objectives related to “the use, management and perpetuation of the fish, wildlife and other natural resources dependent on these waters, and the preservation of natural amenities”, and could probably be applied more broadly than it has been.

### **Municipal Act:**

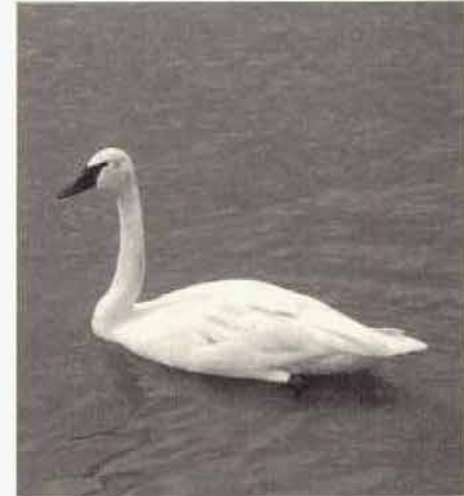
This Act, administered by the Ministry of Municipal Affairs (MMA), establishes the framework for municipal operations. It provides the ability for a municipality to pass a by-law requiring approval for construction over any public shore, bay, harbour, river or water; establishes building permit requirements for retaining walls; and allows the passage of by-laws to regulate tree-cutting or site clean-up agreements.

### **Environmental Protection Act:**

This legislation, administered by MOEE, provides the authority for MOEE to require that a property owner take action to prevent an adverse effect from the presence or discharge of a contaminant. It also allows MOEE to order that a contaminated property be restored in a manner consistent with existing guidelines, standards and procedures. This legislation requires Certificates of Approval for sources of air emissions and other discharges to the environment that could cause an adverse effect and describes liability for spills. It also requires approvals for construction of lakefill projects, as described in the *Guide to Shoreline Approvals for Landowners*.

### **Ontario Water Resources Act:**

This Act, administered by MOEE, regulates water supply and quality and requires notification and/or permits for open water disposal of dredged materials, hydraulic dredging, major marine construction, and marine activities in designated water supply areas (i.e. near water intake pipes).



Trumpeter swan

Daphne Seemittington



By J.D. Murray

Fishing in the fog

**A.3: Other regulatory instruments**

**Harbour Commissions Act:**

This federal legislation regulates the activities of the Oshawa Harbour Commission.

**Toronto Harbour Commissioners Act:**

This federal legislation established and regulates the Toronto Harbour Commission.

**Hamilton Harbour Commission Act:**

This federal legislation established and regulates the Hamilton Harbour Commission.

**Fishing and Recreational Harbours Act:**

This federal legislation, administered by the Department of Fisheries and Oceans, regulates the use, management, and maintenance of “scheduled harbours”, which include part or all of the harbours at the following locations:

- Bronte Harbour
- Oakville Harbour
- Port Credit
- Bluffers Park
- Whitby Harbour
- Port Darlington
- Port of Newcastle
- Port Hope
- Cobourg
- Presqu’ile Point
- Brighton
- Trenton

**Health Protection and Promotion Act:**

This is provincial legislation, administered by the Ministry of Health, which empowers a Medical Officers of Health to use regulations in cases of health hazards, such as requiring the posting of beaches during periods of high bacterial levels.

**Aggregate Resources Act:**

This Act, administered by MNR, regulates the approval and management of pit and quarry operations such as those on the waterfront owned by St. Marys Cement and St. Lawrence Cement. The Act has discretionary powers to require environmental impact studies and mitigation prior to issuing of licences.

**Endangered Species Act:**

This Act, administered by MNR, requires protection of endangered species and their habitat; it currently applies to only one known species and location along the waterfront (hoary mountain mint in Burlington).

**Ontario Heritage Act:**

This legislation, administered by the Ministry of Culture, Tourism and Recreation (MCTR), enables municipalities to establish Local Architectural Conservation Advisory Committees, to designate properties of historic or architectural interest, to enter agreements to protect designated properties, and to create heritage districts and establish guidelines to protect their character. The Minister of Culture, Tourism and Recreation can designate archaeological sites for protection and can establish other policies and programs for the conservation of heritage. Significant revisions to strengthen this Act have been proposed, so that municipalities can more effectively protect their cultural heritage.

**Provincial Parks Act:**

This legislation, administered by MNR, regulates management of provincial parks within the Greenway at Darlington and Presqu'ile.

**Trees Act:**

This provincial legislation, administered by MNR, allows Regions and Counties to adopt tree-cutting by-laws.



Presqu'ile Provincial Park

Eari Arthur, Northumberland Tourism Bureau



#### **A.4: Watershed strategies and subwatershed plans**

Over the past several years, watershed strategies of varying kinds have been prepared for several tributary rivers including the Credit, Don, and Lynde Creek, and more strategies are under development. In most cases, strategy development is led by the local conservation authority, in partnership with municipalities and local interest groups. The impetus to prepare watershed strategies is often related to development applications or other proposed activities with the potential to affect the health of the watershed.

Watershed strategies are intended to outline how characteristics of the watershed (including water, land, and habitat) can be protected and enhanced as land uses change. They also set the stage for the preparation of subwatershed plans, which include further details on water resource management strategies. Subwatershed plans address issues such as stormwater management, and have most frequently been used in association with rapidly developing areas. Much of the implementation of practices developed through these plans is through the municipal planning approval process.

Both of these mechanisms have the potential to maintain water flow regimes and significantly improve water quality and habitat connections in waterfront tributaries, and they should be regarded as important planning tools in all watersheds feeding into the Greenway. Improvements to streamline the process of developing and implementing these strategies and plans would help to encourage their use.

#### **A.5: Remedial Action Plans**

As outlined in Chapter Two, Remedial Action Plans are the primary planning tool for defining measures necessary to reverse water and habitat quality problems in the four Areas of Concern along the waterfront. The development of Remedial Action Plans involves a substantial amount of data collection and analysis leading to a problem definition, and opportunities for public involvement in assessing solutions. The implementation of Remedial Action Plans will remain the primary vehicle for environmental rehabilitation in these areas. (See also Action 1.1).