

# Campaign Lake Simcoe's Response to the Draft Lake Simcoe Phosphorus Reduction Strategy, Lake Simcoe Protection Plan Updates, and Proposed Shoreline Protection Regulation Discussion Paper



**ENVIRONMENTAL | DEFENCE**



**Campaign Lake Simcoe**

Prepared with input from the Ladies of the Lake Conservation Association.

## **Campaign Lake Simcoe Response to the Draft Lake Simcoe Phosphorus Reduction Strategy**

Released February 17, 2010  
Comments made March 2010

### ***Summary***

Cities that sit on fault lines, such as San Francisco, have site-specific development standards that address the delicate tectonic conditions of the place. This principle should be translated into the recognition of an area's unique environmental challenges in place-specific development standards.

Reducing human development's impact on water quality is something we must do, not just for Lake Simcoe, but everywhere. The draft Lake Simcoe Phosphorus Reduction Strategy ("the Strategy") is a "culmination of the best science of today" and signals positive new directions for the protection of fragile ecosystems. The Lake Simcoe watershed will be a terrific place to showcase, experiment, and reap the benefits of new technologies and ecological thinking about how the environment, the economy, and society are linked and how to engage people in the challenges we face. But to be successful, the Province will need remove barriers to the use of new technologies, and be willing to put its money where its mouth is to help bring them online, fast. It also needs to engage with actors like farmers, residents, and businesses. The Province must build the strong and lasting partnerships that are essential to the long-term success of the Lake Simcoe Protection Plan, particularly when the funding earmarked for it expires.

In regards to development, Campaign Lake Simcoe has repeatedly stated: "Scientists say aquatic biological systems begin to degrade when 10 - 15% of a watershed is paved, or impervious. The watershed has *already* reached or exceeded the critical ecological threshold for impervious surfaces,"<sup>1</sup>. It is clear that increasing the development footprint in Simcoe County through the *Growth Plan* will affect the lake's health. It targets a 53% population increase in Simcoe County in 22 years<sup>2</sup>. About half of that growth will occur in the Lake Simcoe watershed, consuming 17,000 hectares (PRS p.22), almost 5% of the watershed. This Strategy anticipates that the additional Phosphorus load from these new developments will be 15.3 Tonnes/year, or at best 9.2 Tonnes/year with "enhanced stormwater management controls" (PRS p.22), representing, respectively an increase of 21% or 13% to today's Phosphorus load.

Under these challenging circumstances, we are pleased to see the province attempt to impose low impact development standards in this delicate watershed, through the proposed Phosphorus Reduction Strategy. Changes in the conditions

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<sup>1</sup> Campaign Lake Simcoe, March 2009. Plan For Success: A Citizens' Response to the Draft Lake Simcoe Protection Act. P.4.

<sup>2</sup> Simcoe Area Vision p. 5

that pollute the lake need to be made more strategically and more quickly than the Strategy proposes, but overall, this is a good start.

**Post your comments at [www.ebr.gov.on.ca](http://www.ebr.gov.on.ca), EBR Registry Number: 010-8986**

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### **Best features of the Strategy:**

1. New technologies are the cornerstone of this plan to reduce Phosphorus loads, and the promise they hold is exciting. While we applaud the province for advancing new environmental technologies, we caution that ecological health must remain the trigger for action. We must not put too much trust in unproven technologies to heal the lake, without removing the causes of the lake's ills. It is prudent that the Strategy does not rely on unproven technology in its estimates of potential load reductions.
2. Consistent with the Premier's promise, the Strategy proposes that there be no net increase in Phosphorus loading from the new development that must be accommodated in the watershed. This is to be achieved through low impact development (LID) (PRS p. 21.). This standard should be applied to developments that are in process but have not yet broken ground.

### **Our recommendations:**

1. In this plan, there is too much research and not enough action. The public wants to see improvements this year, and every year. We must see a reasonable, action-oriented program that invests dollars equally each year in pollution reduction activities and in research. This could address the enormously long, 35-year timeline for recovery.
2. Financial incentives and cost-sharing agreements must be offered to municipalities for important infrastructure costs like stormwater retrofits for existing development.
3. There is nothing new in this plan about enforcement. Enforcement is already a problem in the Lake Simcoe watershed, and the Conservation Authority is currently not up to the task alone. With all the new regulations to enforce, we

wonder who will be the point of contact if a member of the public has a question or wants to lodge a complaint about a polluting activity in the watershed.

4. There needs to be a greater emphasis in the Phosphorus reduction strategy (and the LSPP as a whole) on engaging with local stakeholders. The Province faces a unique opportunity on Lake Simcoe because of the unprecedented citizen initiative that exists in the watershed. The farmers, residents, businesses, and more environmentally-conscious politicians and municipal staff need to be made real partners in implementing the LSPP. They need to think of the problems Lake Simcoe faces as “*their* challenge”, something that is directly relevant to their lives. Engagement is the key to the success of the LSPP.

### ***Questions from the MoE:***

#### **Are the contributions fair and achievable?**

They are fair, but we wonder if this is the most strategic approach (PRS p.5). “The proportional contribution each source makes ... today will be the same proportional contribution it makes to the 44 Tonne/yr goal in the future,” (PRS p. 5). Surely there are some areas where reductions are easier than others, and those must be prioritized.

The rules about hooking septic systems up to sewers are unclear. This makes people hesitant to invest in new septic systems. The MOE should clarify the timeline for places where hook ups are required, inspect septic systems where they are not required to hook up to the sewer within five years, and require maintenance or system replacement in those places.

#### **Are there other ways to achieve these goals?**

It will cost more to develop in the watershed, and it should. Municipalities and developers, and the regulations they follow, have permitted development to pass on long terms costs of development to the environment for far too long. Municipalities will have to increase their Development Cost Charges as soon as possible to cover their costs.

Financial incentives and cost-sharing agreements must be offered to municipalities for important infrastructure costs like stormwater retrofits for existing developments.

#### **Are there other voluntary measures to achieve these goals?**

The suggested actions to be taken by homeowners on p. 24 are great, but if human engagement is deemed to be an effective way to accomplish goals there needs to be a proper strategy and funding. Establishing a strong Coordinating Committee with members that want to help carry out some of these would be extremely beneficial.

## **Are there other regulatory measures to achieve these goals?**

How is the province going to incent developers to do low impact development (LID) instead of buying Phosphorus credits (assuming a water quality trading program is adopted)? We propose that requiring LID will be a more environmentally effective solution, compared with using water quality trading in this context. It is direct and relatively inexpensive.

## **Other suggestions for minimizing the 14 t/year difference and achieving the 44 t/y target?**

There are known sources of atmospheric Phosphorus loading that could be reduced more aggressively without waiting for studies from University of Guelph to be completed. The province should prioritize action where an activity provides co-benefits for climate change adaptation or mitigation, source water protection, and for Phosphorus reduction, such as:

- Aggressively moving towards the 40% natural cover target
- Reducing single occupancy vehicle use
- Limiting urban sprawl
- Reducing household and industrial water usage
- Prohibiting cosmetic fertilizer use
- Planting windbreaks around agricultural fields
- Pass legislation to eliminate phosphorus from dishwashing detergent
- Targets for protection from abuse by recreational users

## ***Other Concerns:***

### **Water Quality Trading:**

In the lead up to the Act, Campaign Lake Simcoe was not supportive of water quality trading, and we remain opposed to it. The complexity of the system required to trade Phosphorus credits is very high, and the certainty of the outcome is low. We are concerned about the permanence of any Phosphorus trading credit projects, and the difficulty of monitoring them to avoid misleading accounting or reporting—something which is a major issue with carbon trading right now. We need to see direct investments and regulations requiring stormwater management pond retrofits immediately, rather than wait for this system to be established while our water quality deteriorates.

Water quality trading would only be needed if excessive level of development proposed for the Lake Simcoe watershed come to pass. The Province's draft *Simcoe Area: A Strategic Vision for Growth* is a major impediment to the Lake Simcoe Protection Plan. The Greater Toronto Area and Hamilton have 85,000 hectares of land approved for urbanization, making it absurd to commit to a population increase of 35% of the current level by 2031. Yet astonishingly, the *Vision* does just that—and in the sensitive Lake Simcoe watershed. We urge the Ministry to advocate for reduced growth under the *Vision*, or failing that for a shift the majority of the projected growth to outside of the Lake Simcoe watershed.

## **Measuring Phosphorus loads from development.**

On Figure 1, p. 7, it is clear that Phosphorus loads will increase as development increases in the watershed. Yet developers are still making the case that development reduces Phosphorus loads from the baseline load of a parcel of land. The province needs to get its science straight, and communicate it clearly, to end this self-interested developer argument. There is no denying that development negatively affects multiple environmental indicators. On page 22 the Strategy says new growth estimated at 17,000 hectares will add 15.3 Tonne/year, or 9.2 Tonne/year with “enhanced stormwater management controls,” (PRS p.22). This appears to be contradicted on p. 25 where a Phosphorus reduction is “projected to come from the conversion of agricultural lands to urban uses.”

# Campaign Lake Simcoe Comments on the Lake Simcoe Protection Plan Updates

Released February 17, 2010  
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**Post your comments together with the Phosphorus Reduction Strategy at [www.ebr.gov.on.ca](http://www.ebr.gov.on.ca), EBR Registry Number: 010-8986**

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## ***Policy 4.13 S.A.***

The province has changed the on-site sewage (septic) re-inspection policy, to designate lands within 100 m of the shoreline for required inspections only in “*specified stressed sub-watersheds*”. In 2016 MMAH and the MOE “will consider” doing the same in other stressed sub-watersheds.

This isn't great, but we don't think it needs to be at the top of a list of priorities.

## ***Policy 4.24 SA***

It seems that there are still many questions unanswered in the Strategy. Campaign Lake Simcoe is concerned that this section says there will only be a progress report every 5 years after the Strategy is “finalized” this spring. There's something missing here, because it's an adaptive management Strategy, and therefore the directions will change over time.

This section should probably be clearer and explain what happens with the Strategy between progress reports. Or it should refer to where this explanation is found.

## ***Policy 6.19 SA***

The timing of the application of O. Reg 179/06 (Conservation Authority's authority) to areas outside its current jurisdiction changes here from one year to three years from the date the Plan came into effect.

We do not understand why any of the mapping exercises are taking so long when the area has been mapped. Wherever possible, the province must not ask for mapping work to be re-done.

# Campaign Lake Simcoe Comments on the Proposed Shoreline Protection Regulation Discussion Paper

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Post your comments at [www.ebr.gov.on.ca](http://www.ebr.gov.on.ca)  
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## ***Introduction***

We know that many stakeholders will advise against the introduction of another regulation. Under those circumstances we thought it would be helpful for the MoE to know what we consider to be the most important protections that can be made on shorelines. Whether these changes are regulated through the existing Plan or a new regulation is less important to us than the outcomes.

The following is a list, ranked by level of importance to us, of the activities that could be affected by a shoreline regulation.

1. Wetland alteration, including vegetation removal
2. Shoreline alteration
3. Removal of vegetation
4. Septic systems
5. Fertilizer use

## ***Campaign Lake Simcoe supports, in particular, the following directions in the Proposed Shoreline Protection Regulation Discussion Paper:***

1. The geographic area to which the regulation would apply. (p. 8)
2. That a regulation, or amendments to the Plan, address:

- Removal of existing natural vegetation, and requirements for establishing naturally vegetated buffers;
  - Clarification of significant alteration of a shoreline (could be addressed through Lake Simcoe Protection Plan amendment);
  - Application of fertilizer near shorelines; and
  - Installation a septic system within 100m of a shoreline when only a building permit is required. (p. 11)
3. That existing naturally vegetated areas be maintained, or allowed to persist generally undisturbed. (p. 12)
  4. That protection of vegetation include ground cover, trees, shrubs etc. (p. 13). However, we think that restricting pruning may be going too far, and probably will not work.
  5. No net loss of naturally vegetated areas due to construction. (p. 13)
  6. The establishment of a vegetated riparian area while other work is being completed on a shoreline. (p. 13)
  7. Clarifying the definition of significant shoreline alteration, and the proposed definition. (p. 14)
  8. The fertilizer use restrictions outlined on p. 15. However, as monitoring and enforcement are likely to be weak, and definitions of fertilizer vary, this is a low priority for enforceable regulations.
  9. That the Lake Simcoe Protection Plan’s policy 4.15 be “applicable law” for the issuance of a building permit for septic systems—restricting new systems to areas beyond 100 m from the lake, excepting the replacement of existing systems. (p.15 - 16)
  10. That wetland interference would be prohibited, including:
    - Activities that would result in a change to a wetland boundary or a change to the hydrology of a wetland, including draining of a wetland;
    - Adding/filling, removing or moving soil, including peat extraction, in a wetland.
    - Removal of vegetation may be prohibited from a wetland, as well as removal of natural vegetation from areas adjacent to wetlands (30m).
    - Clarification should be made in the Lake Simcoe Protection Plan that wetland drainage is included as a form of site alteration.
    - Wetlands may be defined similarly to those in the Lake Simcoe Protection Plan, with the exception that vegetation removal would not result in an area no longer being considered a wetland. (p. 18)

***Campaign Lake Simcoe disagrees with the following directions in the Proposed Shoreline Protection Regulation Discussion Paper:***

1. The suggestion to restrict a vegetation removal policy to apply within 15 meters of the shoreline, when the Science Advisory Committee recommended 30 meters. This suggestion has it backwards. We cannot change the adaptive capacity and needs of the lake, but we can change our habits. The only exception that seems worth making is for existing roads and driveways.
2. That significant shoreline alteration be grandfathered consistent with O. Reg 219/09 (transition regulations). (p. 14)
3. Regarding development in wetlands, while we understand the consistency argument made here, its impacts will very visibly run counter to the intent of the Act and Plan. We oppose making exceptions for development in wetlands for aggregate extraction, forestry practices, and permitted development and site alteration. (p. 18)

### ***Questions from the MoE:***

#### **1. Is a regulation the preferred tool to address the activities discussed in this paper?**

We believe that the first three items here must be regulated, enforced, and supported by fines that are high enough to ensure compliance:

- Protection of wetlands including vegetation removal
- Shoreline alteration
- Septic systems

The following two items would be harder to regulate, and may be a better fit with education and stewardship programs:

- Fertilizer use
- Removal of vegetation

#### **2. Should the proposed shoreline protection regulation address other activities that have not been discussed in this paper?**

As long as it affects dredging of marinas, we will be satisfied.

#### **3. Is it appropriate for site alteration and drainage to be clarified?**

Yes, absolutely, please do.

#### **4. What other programs and/or information are necessary to support a regulation addressing these types of activities (education, outreach, mapping)?**

Because the Conservation Authority is the point of contact for obtaining permits in the shoreline area, they need to create both an online tool and a paper checklist for various building activities on shorelines so that homeowners or builders know

exactly what they need to get, who to talk to, and in what order they need which approvals. The process is currently frustrating and very hard to follow. We do not want to confuse the importance of environmental protection with poor customer service. This tool should be promoted to contractors.

The province can partner with local government, and/or the LSRCA to create an outreach program for summer students, aimed at educating landowners about new regulations, and giving them the resources they need to do the job. It would empower youth in the watershed to learn about our progressive environmental laws, monitor activity on shorelines, and provide a link to authorized enforcement officers.

Partnering with Georgian College's Environmental Techniques and Technology program makes perfect sense, and would create the long-term partnership necessary to reach our goals for 2045.

Educating decision makers in the watershed is a must. If councillors do not understand the basics of residential density (some don't!) we can't expect them to make decisions based on the principles of ecological resilience or carrying capacity. Local governments need education about the benefits of low impact development, and about general principles of ecological sustainability, rooted in the Lake Simcoe context.

## **5. Are the proposed compliance tools reasonable?**

Particularly because there is opposition to more regulations, we agree that using mechanisms of permitting and enforcement makes perfect sense. We stress how essential it is for the province to model site alteration and tree cutting bylaws, and that these form bylaws which municipalities are *required* to put in place.

## **6. Who should be responsible for ensuring compliance?**

That is for government to work out, but certainly, provincial support or oversight on this front is important.