

What it Takes to Save Lake Simcoe

A Citizen Response to *Protecting Lake Simcoe: Creating Ontario's Strategy For Action* Discussion Paper



April 2008

Campaign Lake Simcoe

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What it Takes to Save Lake Simcoe:

A Citizen Response to Protecting Lake Simcoe: Creating Ontario's Strategy for Action Discussion Paper

On March 27th, 2008, the Government of Ontario released the discussion paper "Protecting Lake Simcoe: Creating Ontario's Strategy for Action" and asked Ontarians to respond with their concerns for the Lake and ideas on how to create the best possible Lake Simcoe Protection Act.

This response from Campaign Lake Simcoe is based on "Critical Elements of the Lake Simcoe Protection Act" a citizen vision to save Lake Simcoe endorsed by 38 organizations in December 2007 [See Appendix attached]. Campaign Lake Simcoe is a partnership of Environmental Defence, the Rescue Lake Simcoe Coalition and Ontario Nature and welcomes participation from all citizen groups who care about Lake Simcoe.

SUMMARY OF RECOMMENDATIONS

The Discussion Paper's emphasis on an ecosystem approach and public involvement is forward-looking and exemplary. The Discussion Paper is also a useful start to setting a new limit for phosphorus, a major source of water quality impairment. We support the Ministry of the Environment's long term commitment to an adaptive management approach to ecosystem health, and the openness to a new Lake governance model that involves the public in a meaningful way. Similarly, the involvement of various Ministries in the development of the Strategy reflects the Province's multidisciplinary approach to this issue. We applaud the Province's commitment to research, evidenced by the many studies undertaken to date, which provide essential background for the Lake Simcoe Protection Strategy.

We are concerned, however, that the Discussion Paper is overly focused on phosphorus; phosphorus is a symptom of what is negatively impacting the health of the ecosystem, not the only cause. The Discussion Paper does not focus adequately on the essential need to protect key natural heritage and agricultural areas, curtail ill-planned urban growth in the Lake Simcoe area, and envision a more sustainable watershed community. Our forests, wetlands, farms and soil filter and protect our water. One of the most recent and successful ways government has safeguarded these natural features is through creating protected and linked areas in the Greenbelt and on the Oak Ridges Moraine. The Lake Simcoe Protection Act needs to protect these features in a similar way.

We also point out the risk in over-reliance on scientific indicators. Recent evidence of declining phosphorus levels in the lake does not reflect the complete picture of the ecosystem's health. Key indicators have not been studied, and data collection methods have varied over the study period.

The discussion paper's weaknesses in the following specific areas must be rectified in the final Act:

(1) The Act and the Plan must recognize phosphorus as the symptom, and not the only cause of the Lake's problems. Human activities are the problem. An approach too focused on phosphorus is unlikely to resolve underlying causal factors. The Lake Simcoe Protection Act must safeguard the lake from the

multiple pollutants and stressors that threaten it in order to prepare for the inevitable, and undoubtedly negative, impacts of climate change.

(2) The Act must be the vehicle to deliver a protected natural heritage and agricultural system as promised by the Growth Plan for the Greater Golden Horseshoe. Linkages between these areas should also be identified and protected to enhance the corridor function of natural areas.

The Places to Grow policy states that: "4.2.1.1. Through sub-area assessment, the Minister of Public Infrastructure Renewal and other Ministers of the Crown, in consultation with municipalities and other stakeholders will identify natural systems for the Greater Golden Horseshoe, and where appropriate develop additional policies for their protection." Exactly the same wording is used in 4.2.2.1 regarding the identification and protection of prime agricultural areas. The Lake Simcoe Protection Act is the appropriate vehicle to effect this protection for the Lake Simcoe area as outlined in the Places to Grow policy.

(3) The Plan needs a stronger emphasis on improving land-use planning, both within the watershed and in adjacent areas on the west side of the Lake where development pressures are greatest and the watershed is the narrowest. It is critical that the Act apply to the full South Georgian Bay-Lake Simcoe Source Protection Region as established in the Clean Water Act.

(4) The establishment of a Lake Simcoe Protection Act and Plan must be accompanied by adequate provincial government funding to advance the goals of this initiative.

(5) The Plan must also ensure that the new governance structure is inclusive, representative, and independent with direct line reporting to the Ontario Government. It should enshrine a governance structure as recommended by the Lake Simcoe Environmental Management Strategy (LSEMS) Working Group and, in large part, by the LSEMS Steering Committee.

(6) The comprehensive strategy should aim to put in place stimuli to make the Lake Simcoe watershed a leading sustainable community. Remediation projects alone will not green the economy.

(7) Large scale developments and marina resorts such as Big Bay Point must be consistent with the Act, and we must not allow grandfathering of projects lacking final permits or regulatory approvals. Existing marinas must be better regulated and restrictions placed on the development of new marinas and boat launches. New significant shoreline alterations must be prohibited.

RESPONSE TO DISCUSSION PAPER QUESTIONS

In our responses below, we have provided specific answers to the questions posed by the Discussion Paper.

1. *What are the key issues that you believe this strategy should address?*

Natural Heritage System

What happens on the land determines what happens to the water. To save Lake Simcoe, the Plan's principal focus needs to be how we can act now to protect and restore natural areas within the watershed as part of an integrated natural heritage system.

We should aim for permanent protection of natural areas, including meeting habitat guidelines developed by Environment Canada¹. These recommend protecting at least 30% forest cover in the watershed, at least 15% of which should be interior forest. Other recommendations pertaining to the proximity of forest patches and forest type representation should also be followed. Additional criteria and thresholds in *Suggested Conservation Guidelines for the Identification of Significant Woodlands in Southern Ontario*² pertaining to minimum patch size, hydrologic linkages and slopes should also be addressed. Environment Canada's guidelines for wetland and riparian habitats should also be met as part of an extensive and ecologically functional natural heritage system. Finally, the Natural Heritage System should ensure permanent protection of viable corridors to connect these key habitats.

Sustainable planning and development

An overarching issue that must be addressed is the need to create a legislative framework that requires best practices for land-use planning within the Lake Simcoe watershed and in the larger catchment area (i.e. the South Georgian Bay-Lake Simcoe Source Protection Region) in order to protect the long-term health of the lake.

Fundamentally, the plan must address how we can change the pattern of urban development within the watershed and surrounding areas to make it more sustainable. For example, creating a more robust local economy to reduce the "commuter bedroom" nature of the region could actually have a significant positive impact on the health of the lake by reducing the need for expanded highways and the pressure for more low-density development.

The greatest threat to the health of the lake is continuing development and urbanization. Increased phosphorus pollution is simply one symptom of this problem. Places to Grow dictates that the population living within the watershed will nearly double by 2031. The Strategy must lay out a plan for how we can assess whether this level of growth is appropriate, how to accommodate future growth while putting the needs of the lake and its surrounding ecosystems first, and how to ensure that

¹ Environment Canada. 2004. *How Much Habitat is Enough? A Framework for Guiding Habitat Rehabilitation in Great Lakes Areas of Concern*. Second Edition. Environment Canada, Canadian Wildlife Service. 80 pp.

² Ontario Nature. 2004. *Suggested Conservation Guidelines for the Identification of Significant Woodlands in Southern Ontario*. 195 pp.

infrastructure critical to protecting the lake, such as water and sewage treatment, keeps pace with growth in the most ecologically sound way possible.

The area affected by the Act

Given that the boundaries of the Lake Simcoe watershed come to within 500 metres of the lake itself at some points, we simply cannot restore the health of the lake by stopping actions or policies at the watershed boundary. In fact, for phosphorus, the airshed boundary may be just as important as the watershed boundary given the large contribution of atmospheric sources (34%). This is why we recommend that the plan apply to the entire South Georgian Bay-Lake Simcoe Source Protection Region. This broader reach is particularly important where the watershed provides only a narrow buffer along the lake and in the larger area to the west of the lake, where the watershed is interlinked in many ways with the adjacent Nottawasaga watershed, and development pressures are most acute. Key water policies will be decided for the purposes of the Clean Water Act for the entire South Georgian Bay-Lake Simcoe Source Protection Region. It is absurd to contemplate the water policies of the eventual Lake Simcoe Protection Act applying to only a subset of this area.

We cannot afford to repeat the mistake of extending Greenbelt protection only as far as current growth pressures dictate, leading to another round of leap-frog development applications such as those that are currently plaguing south Simcoe County.

Additionally, we believe the strategy should:

- Target the restoration of water quality and quantity to levels compatible with cold water fish reproduction and control of algae and weeds.
- Protect the ecological and hydrological integrity of the Lake Simcoe watershed, with proper enforcement.
- Require direct consultations with First Nations and the identification and protection of First Nations heritage sites. Recognize that we share the Lake with First Nations and that their future on the Lake must be protected.
- Enshrine a governance structure as recommended by the Lake Simcoe Environmental Management Strategy (LSEMS) Working Group and, in large part, by the LSEMS Steering Committee.
- Create recreational access that helps people treasure the lake and does not harm it as part of an economic strategy for the watershed.
- Increase financial and legislative commitment to the restoration and rehabilitation of the Lake.

2. Would you recommend any changes to the goal statement and, if so, what are they?

The goal statement should read "To improve and protect the ecological health of Lake Simcoe". This statement would appropriately focus the plan on the key objective of protecting lands and waters within the watershed by addressing impacts both inside and outside the watershed.

Other objectives can flow from this goal, including helping municipalities and citizenry engage with the goal, and improving recreational opportunities, because a healthy watershed will be better able to support recreational and other properly planned and managed activities. We believe such a goal would

be supported by a broad range of stakeholders and is well suited to ongoing evaluation of the effectiveness of the legislation.

3. *What objectives would you recommend to assist in further defining a healthy Lake Simcoe watershed?*

In that human activities are the main cause of Lake Simcoe's health problems, objectives should be framed in the context of changing land-use approaches to make them more sustainable. No new development should be allowed to have a deleterious effect on the Lake or the watershed and this "bottom line" should be clearly set out in the Act. The Act should also embrace the goal of substantially improving ecosystem and community responsibilities for the Lake throughout the watershed.

We must also recognize that reaching these objectives may require reaching outside the Lake Simcoe watershed, such as to control airborne phosphorus sources or to protect wildlife linkages or other adjoining natural areas. The Nottawasaga watershed, for example, may have important groundwater linkages with the Lake Simcoe watershed. As the Intergovernmental Action Plan noted in 2006, the Nottawasaga watershed is facing many of the same problems as the Lake Simcoe watershed: "The [Assimilative Capacity] study was initiated in response to the growth pressures that are being placed on the municipalities within these two watersheds, *and the already evident decline in water quality and ecosystem health.*" (Source: Assimilative Capacity Study Executive Summary, July 2006 – emphasis added). From a municipal management perspective, both watersheds (Simcoe and Nottawasaga) are in Simcoe County, and the municipalities of Innisfil, Bradford West Gwillimbury, Oro Medonte, Barrie, and New Tecumseth include both watersheds.

Particular objectives should include:

- Re-establishment of self-sustaining cold water fisheries.
- More natural levels of aquatic vegetation and a more natural species mix.
- Enhanced protection against invasive species / reduced invasive species populations.
- Phosphorus loading levels close to historical norms (e.g., 30-35 tonnes).
- Limits should be placed on the creation of new impervious surfaces outside existing or planned urban settlement and growth areas.
- Strong forest cover targets, referenced earlier.
- No inter-basin water transfers.
- Clear limits on water takings.
- Publicly accessible land and waterway trails and increased public access to shoreline areas and open space.
- Make significant shoreline and natural area restoration a key condition of approval of any new construction around the Lake's edge.
- Ensuring that urban development throughout the watershed meets Ontario Provincial Policy Statement density targets before development of greenfields is allowed.

4. *Do you have comments on the proposed contents of a Protection Plan?*

There is insufficient emphasis on the importance of establishing an ecologically functional natural heritage system. This government is rightly proud of its award-winning Greenbelt, yet only approximately 40% of the Lake's shoreline is governed by Greenbelt development restrictions leaving the rest of the watershed unprotected. The Act must end the paradox of 'One Lake, Two Policies'. This should be an objective of the plan as it will be a key to improving water quality and watershed health.

In addition there is insufficient emphasis on overall development conditions, such as: a requirement that all new developments be located in existing settlement areas (i.e. adhere fully to Places to Grow policies), exceed Provincial Water Quality Objectives, and for drinking water areas, Drinking Water Quality Standards; that they not lead to any increase in phosphorus loading; that they are considered in accordance with sub-watershed assessments of water quantity and phosphorus loading; and that they result in no harm to fish and shoreline habitat. There also needs to be recognition that all new development must be assessed in terms of both ecosystem and infrastructure carrying capacity.

The Plan should also include elements for managing the impact of recreational development, including marinas, and restricting the impact of such development on fish habitat.

5. *Are there tools not mentioned in the discussion paper that you think should be considered? Tell us about them.*

The most important missing tool is better planning directions for municipalities that will reduce the impact of development on lake and watershed health. A set of planning tools similar to those in effect for the Greenbelt should be instituted as part of the Act.

Other important tools include:

- Funds and incentives for public land purchase for increasing public access to the lakeshore, managing public areas, and regenerating the shoreline.
- Funds to improve water quality monitoring and reporting, equipment and procedures.
- Greenfield developers should be required to provide 30% of lands for urban public green space, and for restoration, free of charge, or provide funds in lieu for parkland acquisition elsewhere. Parkland must be purchased prior to development being completed.
- Water balance studies for Lake Simcoe's watershed must be used as baseline data. Clear limits on impervious surface cover in the watershed and water-taking permit limits must be set in accordance with water availability now and under climate change modeling.
- Specific Lake Simcoe education programs for youth and others, developed in partnership with the private sector.
- A requirement that all new riparian, riverine, or shoreline activities result in protection of, and improvement to, fish habitat.

6. *Are there circumstances in which certain tools should not be used? Please explain.*

All tools that rely on increased development to generate revenue for water quality or habitat improvement/ securement should be used with great caution and should be subject to ecosystem carrying capacity constraints.

7. *How should these tools be integrated with existing approval processes, programs, and tools?*

In accordance with the Places to Grow policy, the Lake Simcoe Plan must ensure that future growth in the watershed can be supported by sustainable water and wastewater services; that there is a process to identify natural systems and prime agricultural areas to enhance the conservation of these valuable resources; and that activities in the watershed support the protection and conservation of water, energy, air and cultural heritage, as well as integrated approaches to waste management.

As well, we believe the plan should:

- Ensure that all development meets or exceeds Provincial Water Quality Objectives and for drinking water areas, Drinking Water Quality Standards.
- Ensure that cities and towns meet Ontario Provincial Policy Statement density targets first before allowing development of greenfields.
- Ensure that resort developments are considered as urban settlements under the Places to Grow Act.
- Improve sewage treatment system standards and water management infrastructure, with the goal of removing sewage treatment plants from the Lake.

8. *Which existing programs might be a "fit" with Lake Simcoe protection activities and act as a source of funding? Where are the programming and funding gaps and how can they be addressed?*

Existing Programs:

- Build on funds to support farmland and rural landowner restoration and remediation programs and to pay for ecological goods and services as a way to improve water quality and quantity and increase natural habitat. Recognize that such a strategy will represent a long-term cost saving over conventional water/sewage treatment approaches and fund it accordingly.

Possible ways to address funding gaps:

- Create financial incentives for shoreline restoration.
- Consider a water service surcharge to pay for ecological restoration and phosphorus reduction projects.
- Raise development cost charges to contribute to phosphorus-reduction remediation projects.

9. *Are you aware of other innovative funding approaches that may be helpful?*

There are examples of funding watershed restoration throughout the world. It is incumbent on the Province to look for models that would be best applied in Ontario.

10. *Does the idea of an innovative funding tool such as a nutrient offsetting or trading program make sense for the Lake Simcoe Watershed? What are its advantages? Its disadvantages?*

We are extremely skeptical of the utility of phosphorus trading as a solution for Lake Simcoe. Such a program would be extremely difficult to put in place. It would necessitate the creation of a bureaucracy to administer it years into the future. We are not aware of similar examples where such a tool has been successfully applied and led to the sort of world-leading outcomes that Minister Gerretsen and the Premier have indicated they are interested in achieving.

11. *What type of body should be given ongoing responsibility for a Lake Simcoe Protection Plan? How should the proposed governance body work with the other bodies in the watershed, such as the conservation authority, municipalities, and the source protection committee that was established recently?*

We recommend enshrining a governance structure as recommended by the Lake Simcoe Environmental Management Strategy Working Group and, in large part, by the LSEMS Steering Committee. The agency should be an independent body reporting directly to the province.

The creation of an organization that includes and engages a wide range of stakeholders would have the most significant sustainable influence of any single initiative on the future of the Lake. The restoration and protection of the Lake and the realization of its possibilities as the defining natural feature of Central Ontario demands such an organization. Although some of the responsibilities now reside in the Lake Simcoe Environmental Management Strategy (LSEMS), the positive leadership role remains unfulfilled as LSEMS has no dedicated management, staff or budget and is detached from many stakeholders.

This new governance structure should have core dedicated staff and operating resources that coordinates and integrates the efforts of the public, industry and government, and has equal representation from each stakeholder sphere. The new body must be supported by high level political appointments and high level representatives from industry and the public.

12. *What do you think should be the responsibilities of the governance body?*

We would like to see an accessible, independent, Lake-centered organization that is focused on optimizing the many benefits of the Lake. It would be responsive to the full range of governmental organizations that contribute to the care of the Lake and to the people who live and work around the Lake. Reporting directly to a provincial Minister would help ensure the independence and inclusiveness of the body.

Subcommittees, representing all stakeholders, should focus on science and monitoring; policy and planning; restoration and retrofitting; fund coordination and communication, education and outreach.

Mandatory annual progress reports should clearly define goals, what action has been taken, results, and what remains to be completed.

13. How should management actions be coordinated across the Lake Simcoe Watershed?

An adequate response requires extensive stakeholder consultation, and mapping of possible scenarios.

14. Does the proposed approach to developing proposed legislation to protect Lake Simcoe seem comprehensive and inclusive of the major components necessary to make it work? Is there anything that we've missed?

The major missing component is recognition of the importance of a stronger land-use planning structure to address lake impacts, health of natural areas and protection of agricultural lands. Some sections of the watershed being in the Greenbelt while others are outside, has left the watershed with an unbalanced and dysfunctional planning framework that is unworkable for ensuring the long-term health of the Lake. In addition all the municipalities in the watershed are operating on their own agendas rather than to an overriding watershed-wide, ecosystem-based agenda that puts "The Lake first." And with 43 species already at risk in the watershed, the need to fully integrate a natural heritage system that reaches beyond the watershed boundaries is clear.

There is also little mention of the incredible pressure boat traffic is putting on the Lake, through noise, shoreline erosion, fishing pressure, etc. At the Big Bay Point OMB hearing, estimates of the number of boats using the Lake varied widely, but seemed to be in the range of 7,000 – 10,000. Surely we cannot go on adding more and more boats to the Lake without establishing a sustainable limit.

We also believe there should be a program to formally identify and permanently protect First Nations' land-based and submerged cultural and heritage sites. This program should be developed in partnership with all three founding First Nations: Anishnabe, Huron-Wendat, and Haudenoshonee.



APPENDIX 1

Critical Elements of the Lake Simcoe Protection Act



Prepared by Environmental Defence, the Rescue Lake Simcoe Coalition, and Ontario Nature

In the Lake Simcoe and Nottawasaga River Natural Heritage System and Watershed Protection Area that includes Lake Simcoe and the County of Simcoe,

1. Restore water quality and quantity to levels compatible with cold water fish reproduction and control of algae and weeds;
 2. Recognize the development pressures that the Oak Ridges Moraine, Greenbelt, and Places to Grow Acts have placed on the Lake Simcoe watershed by creating a natural heritage and agricultural system to protect green space and restrict new development to existing and approved settlement areas;
 3. Consult with First Nations to identify and protect First Nations heritage sites;
 4. Enshrine a governance structure as recommended by the Lake Simcoe Environmental Management Strategy (LSEMS) Working Group and, in large part, by the LSEMS Steering Committee;
 5. Ensure that large-scale resort developments such as Big Bay Point are consistent with the Lake Simcoe Protection Act;
 6. Create recreational access that helps people treasure the lake and does not harm it;
 7. Increase commitment to the restoration and rehabilitation of the Lake.
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Full text:

- 1. Restore water quality and quantity to levels compatible with cold water fish reproduction and the control of algae and weeds.**
 - a. Protect the ecological and hydrological integrity of the Lake Simcoe watershed, and enforce that protection.
 - b. Only land and resource uses that maintain, improve or restore the ecological and hydrological functions of the watershed area are permitted.
 - c. The burden of proof is placed on the developer or project proponent to demonstrate compliance with the Act.
 - d. All new riparian, riverine, or shoreline activities must result in protection of, and improvement to, fish habitat.
 - e. Improve sewage treatment system standards and water management infrastructure, with the goal of removing sewage treatment plants from the Lake.

- f. In the interim, all development must meet or exceed Provincial Water Quality Objectives and for drinking water areas, Drinking Water Quality Standards.
- g. No inter-basin transfer of water will be allowed.
- h. Water balance studies for Lake Simcoe's watershed must be used as baseline data. Clear limits on impervious surface cover in the watershed and water-taking permit limits must be set in accordance with water availability now and under climate change modeling.
- i. Provide funds to improve water quality monitoring and reporting, equipment and procedures.

2. Recognize the development pressures that the Oak Ridges Moraine, Greenbelt, and Places to Grow Acts have placed on the Lake Simcoe watershed, by creating a natural heritage and agricultural system to protect green space and restrict new development to existing and approved settlement areas.

- a. Cities and towns must meet Ontario Provincial Policy Statement density targets first before allowing development of greenfields.
- b. Use peer reviewed science on annual phosphorus loading and water availability to determine, on a sub-watershed basis, an area's ability to accommodate new developments.
- c. Assumptions that remediation projects will be undertaken, or the anticipation of their positive ecological impacts, must not be used as arguments for approving new growth.
- d. Wetlands, forest cover, and agricultural land are to be protected from incompatible development as a natural heritage system in the area defined by the Act.

3. Consult with First Nations to identify and protect First Nations heritage sites.

- a. Consult with First Nations regarding cultural and heritage sites before making any decisions regarding land use designations.
- b. Partner with all three Founding First Nations: Anishnabe, Huron-Wendat, and Haudenoshonee in the identification process.
- c. Formally identify and permanently protect First Nations' land-based and submerged cultural and heritage sites.

4. Enshrine a governance structure as recommended by the Lake Simcoe Environmental Management Strategy Working Group and in large part by the LSEMS Steering Committee.

- a. Create a new lake governance entity for Lake Simcoe, with core dedicated staff and operating resources that coordinates and integrates the efforts of the public, industry and government, and has equal representation from each stakeholder sphere.
- b. The new body must be supported by high level political appointments and high level representatives from industry and the public.
- c. Subcommittees, representing all stakeholders, must focus on science and monitoring; policy and planning; restoration and retrofitting; fund coordination and communication, education and outreach.
- d. Annual progress reports should clearly define goals, what action is taken, results, and what remains to be completed.

5. Ensure that large-scale resort developments such as Big Bay Point are consistent with the Lake Simcoe Protection Act.

- a. Resort developments should be considered as urban settlements under the Places to Grow Act.
- b. Resort developments should be considered as part of the overall growth management strategy for the watershed.

6. Create recreational access that helps people treasure the lake and does not harm it.

- a. Provide funds and incentives for public land purchase for increasing public access to the lakeshore, managing public areas, and regenerating the shoreline.
- b. Provide land and waterway trails through the watershed area for access by all.
- c. Restrict new motor boat launches and new marinas, and restrict motor boat use during peak spawning seasons as part of MNR fishing regulation process.
- d. Develop new standards for the regulation of marinas on Lake Simcoe.
- e. Focus efforts on beach quality monitoring and public access through the Blue Flag program.
- f. Developers provide 10% of lands for urban public green space, and for restoration, free of charge, or provide funds in lieu for parkland acquisition elsewhere. Parkland must be purchased prior to development being completed.

7. Increase commitment to the restoration and rehabilitation of the Lake.

- a. Raise development cost charges to contribute to phosphorus-reduction remediation projects.
- b. Commit funds to support a farmland and rural landowner restoration and remediation program to pay for ecological goods and services to improve water quality and quantity and natural habitat.
- c. Create financial incentives for shoreline restoration.
- d. Develop specific Lake Simcoe education programs for youth and others in partnership with the private sector.

Final

Nov 26, 2007