



PLAN FOR SUCCESS:

A CITIZEN RESPONSE TO THE
LAKE SIMCOE PROTECTION PLAN



March 2009

Campaign Lake Simcoe

Plan for Success:

A Citizen Response to the Draft Lake Simcoe Protection Plan

Table of Contents

Executive Summary:3

Top Ten Recommendations:.....4

Local Support:5

Background:.....6

How to read this report:6

Chapter by Chapter Analysis:.....7

 Chapter 1: Introduction.....7

 Vision7

 Objectives7

 Principles to guide our efforts8

 Legal Effect of the Plan8

 Transition (aka “Grandfathering”)9

 Chapter 2: Building on Past Actions12

 Chapter 3: Aquatic Life13

 Chapter 4: Water Quality14

 Sewage Treatment14

 Stormwater Management15

 Subsurface sewage treatment16

 Atmospheric Sources of Phosphorus Pollution.....17

 Construction Activity.....17

 Mineral Aggregate Resources18

 Chapter 5: Water Quantity.....18

 Chapter 6: Shorelines and Natural Heritage19

Plan for Success:

A Citizen Response to the Draft Lake Simcoe Protection Plan

Shorelines19

Key Natural Heritage and Key Hydrologic Features21

Settlement Areas23

Recharge Areas24

Existing Uses24

Tree Cutting Bylaws25

Chapter 7: Other Threats25

 Invasive Species25

 Climate Change26

 Recreational Activities28

Chapter 8: Implementation29

 Subwatershed Evaluations.....29

 Stewardship Education and Outreach29

 Agriculture31

 Coordination / Enforcement31

 Financing Strategy.....32

Abbreviations:33

Endnotes:.....34

Executive Summary:

On July 6, 2007, Premier Dalton McGuinty first promised to protect Lake Simcoe by describing a world where natural shorelines are maintained and development is ecologically sound, and where meeting future generations' needs is the imperative of policy makers. The Lake Simcoe Protection Act became the law of Ontario on December 10, 2008. Many of policies and prescriptions that will help to meet Premier McGuinty's stated goal, however, are contained in the draft Lake Simcoe Protection Plan that was released for public comment on January 13, 2009. Comments are due to the government by March 16, 2009.

The Plan is good with respect to targets for natural cover restoration and protection, and excellent at setting limits for phosphorus and managing the Lake as a watershed instead of a planning unit. The adaptive management approach and the precautionary principle, which both guide the implementation of the Plan, should ensure that corrections can be made if our targets fall short of restoring the ecological health of the watershed. Yet, there remain significant deficiencies that must be addressed.

Of greatest concern to those around the Lake is the potential for developers to be exempt from or to ignore the environmental protection provisions of the Lake Simcoe Protection Act and Plan.

Campaign Lake Simcoe's recommendation regarding exemptions for development projects¹ was explicit:

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.

Virtually every public interest deputation before the Act's Legislative Committee² was consistent on these points: Make the Act and Plan effective to December 6, 2007 (the date the interim phosphorus regulation 60/08 was introduced); The Act should apply to cottagers and developers equally – no special favours for developers.

There now rests a huge onus on stakeholders around the Lake and staff at the Ministry of the Environment and Lake Simcoe Region Conservation Authority to safeguard an important principle in our democracy: we do not exempt anyone from complying with environmental law, no matter what Planning Act approvals are in place, or who you know. The Plan, as currently drafted, opens an enormous loophole that would exempt certain projects from complying with the Act and Plan, even in cases where outstanding approvals are pending. This loophole must be closed.

Top Ten Recommendations:

- 1. Make the Act and Plan effective as of December 6, 2007** (the date the interim phosphorus regulation 60/08 was introduced). (Chapter 1)
- 2. The Act must apply to residents, cottagers and developers equally** – no special favours for developers. In this Plan's transition regulations, developments with planning approvals that lack outstanding environmental approvals, such as the Big Bay Point development, must be required to obtain environmental approvals that comply with the Act and Plan. (Chapter 1)
- 3. “Settlement areas” must not be expanded and new settlement areas must not be created in the watershed.** Significant new development should be restricted to existing urban settlement areas. Any “settlement area” expansions must be directed away from the lake, follow the Places to Grow density targets, minimize sprawl, and follow all of the Plan’s environmental regulations. Large-scale new urban settlements should not be permitted to masquerade as “resorts”. (Chapter 6)
- 4. Paved, or impervious, surfaces must not exceed 15% of the watershed.** 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. (Chapter 4 & 6)
- 5. Early on, develop a recreation policy** that goes beyond studying carrying capacity, to involve the public in enjoying the lake, and participating in its rescue, and to stimulate economic activity. (Policy # 7.12) Instead of encouraging best practices for recreational facilities in Policy # 7.15, this policy should aim at developing a regulation within two years that deals comprehensively with the operation of recreational facilities in the Lake Simcoe watershed, including marinas, and deals with enforcement of this regulation. (Chapter 7)
- 6. Provide funds for increased enforcement and enforcement training.** The current enforcement effort and capacity in the watershed is inadequate and needs resourcing. (Chapter 8)
- 7. At least as a start to achieve the 40% natural cover target** Policy # 6.43 must be changed to: “Within two years of the date the Plan comes into effect, the MNR in collaboration with First Nations and Métis communities, will identify and map areas of *high quality* natural cover that are 25 hectares or greater **for the purposes of permanent protection.**” (Chapter 6)
- 8. The dissolved oxygen level target** (7 mg/L) must be reached by September 15th each year, before the winter lake turnover. (Chapter 3)
- 9. No new mineral aggregate operations** should be permitted in protected Natural Heritage Features. (Chapter 6)

Plan for Success:

A Citizen Response to the Draft [Lake Simcoe Protection Plan](#)

10. Funding the creation of new stormwater management facilities and retrofits must be prioritized, and not rely on a 1/3 contribution of cash-strapped municipalities to trigger federal or provincial funding. (Chapter 8)

Local Support:

The following 25 groups support Campaign Lake Simcoe's "Plan for Success: A Citizen Response to the Draft Lake Simcoe Protection Plan"

(We are actively looking for sign-on from other groups now.)

Bayshore Village Association	Ladies of the Lake
Blue Mountain Watershed Trust	Lakewatch Society (Canada)
Bond Head Bradford West Gwillimbury Residents for Responsible Development	Loretto Maryholme
Brereton Field Naturalists' Club	Moon Point Association
Concerned Citizens of King Township	Moosenlanka Lane Association
Earthroots	Oak Ridges Friends of the Environment
Eight Mile Point Cottagers Association	Ontario Nature
Environmental Defence	Orillia Naturalists Club
Federation of Ontario Cottagers Association	Rescue Lake Simcoe Coalition
Georgina Islanders Love Lake Simcoe (GILLS)	South Lake Simcoe Naturalists Club
Innisfil District Association	Tijou Woods Association
Innisfree Limited – DeGrassi Point	West Oro Ratepayers Association
	York Simcoe Naturalists

Background:

The Lake Simcoe Protection Act began life as a citizen's led movement to save our beloved Lake. The Act was first introduced in 2006 as a Private Member's Bill, Bill 106, and later modified to a unanimous Resolution of the Ontario Legislature. In June 2007 the government introduced it as Bill 99. After being passed unanimously in the Legislature, Bill 99 became the law of Ontario on December 10, 2008.

On January 13, 2009, the Government of Ontario released the "Draft Lake Simcoe Protection Plan" and asked Ontarians to respond with their feedback by March 16th, 2009. The Plan contains the details of how and why the province will protect the Lake and directs public agencies to start work to implement the Protection Plan.

This response to the draft Plan from Campaign Lake Simcoe is based, to some extent, on the recommendations made in our respective deputations to the Standing Legislative Committee on November 17 and 19, 2008, our April 2008 EBR Submission "What It Takes to Save Lake Simcoe", which in turn was based on our November 2007 "Critical Elements of the Lake Simcoe Protection Act". We refer as well to subsequent detailed recommendations made to the province through the Stakeholder Advisory Committee. This response was written with input from a number of local groups, experts and individuals. Campaign Lake Simcoe is currently seeking sign-on support for this response from groups all over the watershed.

About Campaign Lake Simcoe: 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. Citizens have been leading the charge for the Lake Simcoe Protection Act and a Lake Simcoe Protection Plan since 2006. (www.CampaignLakeSimcoe.ca)

How to read this report:

Our response follows the chapter format of the Draft Lake Simcoe Protection Plan for ease of use. In some cases issues spanning a few sections of the Plan are dealt with together in one of our sections.

- Each section starts with an overview of the policy implications for that chapter or section.
- Recommendations are bulleted at the end of each section.
- A glossary of abbreviations is at the end.
- For a deeper understanding of the policies, our report should be read with the Draft Lake Simcoe Protection Plan in hand. The Plan is posted here:
<http://www.environmentaldefence.ca/campaignlakesimcoe/pub/Final%20Draft%20Lake%20Simcoe%20Protection%20Plan.pdf>

Chapter by Chapter Analysis:

Chapter 1: Introduction

Vision

The Vision articulated in the Lake Simcoe Protection Plan is ideal. It pretty well embraces the best and newest scientific thinking about the relationship of human activity and the natural world. If this Vision is met, Lake Simcoe will indeed become a “golden” place and a world-leading example of sustainable living.

Citizens of the Lake Simcoe watershed can certainly take pride in this Vision and use it to see a better future. It is vitally important that citizens can see benefits for themselves and their children in this Plan to be motivated to get on board the efforts to help Lake Simcoe.

We are concerned, however, that while the Vision is bold this draft Plan does not yet go as far as it needs to if we are to reach the future that the Vision promises. We hope the comments that follow from the citizens of Lake Simcoe will help the Province make the Plan clearer and bolder so it does deliver on the Vision. We strongly suggest that the drafters stand back from their intense, and much appreciated, work of getting this Plan done, and review all chapters carefully from the point of view of how well they deliver on the Vision.

Recommendation:

- Make every chapter of the Plan bolder so as to meet the promise of the Vision.

Objectives

The Plan’s Objectives are ecologically sound, and we applaud the Plan for speaking of Ecology, which has a broader focus, rather than “the Environment”, which has a narrower focus. For the province to be championing ecological sustainability in the Lake Simcoe watershed is truly heartening. The Objective “improving the Lake Simcoe watershed’s ability to adapt to climate change” is particularly important because as conditions change and research on watersheds and on climate change is furthered this Objective can provide the direction for instituting more environmentally protective measures if necessary. But human activity is the main cause of climate change, and as such, this Objective needs to acknowledge our part in enabling the watershed to adapt to climate change.

A further comment under Objectives has to do with recreation. One of the draft Objectives rightly acknowledges that Lake Simcoe needs to provide more and better “conditions” for people to enjoy the lake in ways that do not harm it. We suggest this be expanded as recreation embraces a lot more than just having fun on the Lake! There is a tight relationship between recreation and the economy. And recreation as a payback to people is fundamentally linked to public engagement. If people and

businesses are to buy in to the Plan and step up to become involved, they need to see how all people in the watershed (more than just shoreline residents) will benefit from Lake's renewal.

Our real concern is that while “better recreation” is one of eleven Objectives, the Plan is still very weak in delivering on this Objective. Recreation plans sound like a footnote, rather than speaking to one of the key objectives. We recommend that those drafting the final document take a look at how the Plan can speak more boldly to people about both the need for stopping harmful activities and the need for improving Lake Simcoe’s sustainable recreational potential. We will provide further comment on this in Chapter 7.

Recommendations:

- Climate change Objective should change to "Act to improve the watershed's capacity to adapt to climate change."
- Make it clearer in the Objectives and in Chapter 7 that recreational opportunities that do not harm the lake and watershed are a priority, not an afterthought.

Principles to guide our efforts

Similarly, the principles are laudable, especially in their assurance that, when in doubt, we should exercise precaution to protect the environment when there is uncertainty about environmental risks. We suggest a red flag around the “cost-effectiveness” principle. This could validate a “do-nothing” approach, particularly in tough economic times, which could override the precautionary principle. We applaud also the “Shared Responsibility” principle, however we feel it can be effective only with strong leadership from the province.

Recommendation:

- That “cost-effectiveness” clearly pertains to implementation, and not to setting priorities. This should be re-phrased to read: “Cost-effectiveness should prioritize remediation projects that are relatively inexpensive while delivering significant reductions in phosphorus loading to the lake.”

Legal Effect of the Plan

The Lake Simcoe Protection Plan is subordinate to the Act, in other words everything in the Plan must comply with the terms of the Act. We agree that, as stated on page 8 of the Plan, the Lake Simcoe Protection Act requires that at their 5-year review, municipalities must update their Official Plans (OP’s) to conform to designated policies in the Plan. We point out that Section 7(1)(b) of the Act provides that the Minister can be pro-active in directing municipalities to amend their official plans and we encourage the Minister to do so.

The Act and Plan propose to limit certain types of development in the watershed by requiring planning and environmental approvals to comply with the specific policies of the Plan e.g. shoreline protection.

Plan for Success:

A Citizen Response to the Draft Lake Simcoe Protection Plan

We clearly have no objection to the inclusion of the additional instruments as “prescribed instruments” set out in item (2) on page 8 of the Plan. However, we draw your attention to the second sentence on the top of page 9 of the Plan that reads: “The Act allows the Plan to require that a prescribed instrument be amended by a specified date to conform with the applicable designated policies in the Plan.” The requirement of Section 9(1) is much stronger than this sentence suggests. Section 9 of the Act requires that “a person or body that issued or otherwise created a prescribed instrument before the Lake Simcoe Protection Plan took effect shall amend the instrument to conform with designated policies set out in the Plan.” The Act mandates that existing non-conforming prescribed instruments be amended to conform with designated policies. Significantly, as pointed out below, Section 9(1) precludes the grandfathering of existing prescribed instruments that do not conform with the Plan.

This provision is very much appreciated as it requires municipalities and Conservation Authorities to amend existing approval regimes e.g. by-laws, shoreline protection regulations, etc. to be brought up to date with Act.

Recommendations:

- Campaign Lake Simcoe and numerous deputants to the province³ insisted either that the Act and Plan come into effect on December 6, 2007, the date that the interim regulation on phosphorus loads from Sewage Treatment Plants came into effect, or that all projects lacking final approvals must be subject to the Act and Plan.
- While municipal OP’s are brought into conformity, municipalities will make every effort to apply environmental policies conforming with the Plan to approvals and permits under their jurisdiction.
- The Lake Simcoe Coordinating Committee should oversee the speed of municipal adoption of prescribed instruments, and if it determines that this lag is causing undue harm or a rush on development applications for example, they should recommend a more aggressive timeline.

Transition (aka “Grandfathering”)

Campaign Lake Simcoe deems the proposed Transition and grandfathering provisions of the Plan to be a major shortcoming and contradicts a principle that we have been very vocal about in the past. Our concerns about the Big Bay Point marina and resort are also well documented: it is too large a development for Lake Simcoe, it is too dramatic in its proposed alterations of our natural heritage, and it puts more 1,000 more boats on an already crowded Lake without any reference to their impact.

We are on record as saying we are also concerned that this development and possibly a few other very large projects will be allowed to do things to the environment that cottagers and other shoreline residents will be prohibited from doing, and that is unfair. Our experience tells we still cannot turn our backs on this precedent-setting project. We appreciate that to some this makes us sound like a one issue

Plan for Success:

A Citizen Response to the Draft Lake Simcoe Protection Plan

group. This, of course, is not the case as this thorough review of the draft Plan shows and as many of the fine suggestions from many groups who work with Campaign Lake Simcoe in it attest.

We would like to give the province the benefit of the doubt, but we are truly concerned that the Big Bay Point project will be grandfathered and thus allowed to do things years into the future that cottagers and residents will not be allowed to do because they are harmful to the Lake. This could make a mockery of the rest of the Plan. And we strongly urge the province to be very careful of the precedent it sets if the Plan indeed exempts large developments. Several very large shoreline developments are in various stages of planning approval and are seeking to be exempt or “grandfathered” from having to conform to the Plan – even the environmental protection provisions. As well, there are at least three other marinas on Lake Simcoe planning or hoping to develop residential, resort, and/ or golf courses alongside their marinas. Big Bay Point is not a unique idea.

Current urban development applications in Simcoe County are reported to exceed the targeted population of 667,000 by 2031. Provincial staff said they want to know what the true numbers of development proposals are before deciding on transition regulations, so that they know the political, economic and environmental risks of various courses of action. It would have been helpful if this information were provided to the public before embarking on the consultations. It is important that provincial staff duly consider the near unanimous public input on the whole issue of transition. The Lake Simcoe Science Advisory Committee did not have important information about planned development proposals in the Lake Simcoe watershed. Once this information is available, the matter of grandfathering should be sent back to the Science Advisory Committee for review. The Committee’s judgment about whether the targets in the Plan are achievable were made in a vacuum as they were unable to evaluate the total land use in the watershed. Through no fault of their own, they were asked to comment on this issue without adequate information. The credibility of the whole Plan is very much tied to the principled and transparent resolution of this issue.

Detailed legal comments:

The transition regulation provided for in Section 27 of the Lake Simcoe Protection Act is the most controversial and disappointing aspect of the implementation of the Plan because getting transition right is critical to the success of the Plan. The Plan states the general intent of the transition regulations as follows: “For certain applications, matters or proceedings that were commenced before the Plan comes into effect, the regulation may require that some or all of the applicable designated policies be applied to the proposal. The regulation would select such matters based on a number of criteria, including the location, scope, scale, type of development or the timing the proposal commenced.”⁴

The “Backgrounder” released by the Ministry of the Environment on January 13, 2009 advised further that, “Plan policies would not be applied to development proposals that have already obtained their significant development approvals, for example, decisions made by the Ontario Municipal Board.”

Plan for Success:

A Citizen Response to the Draft Lake Simcoe Protection Plan

This statement proposes a straight grandfathering rule. While grandfathering may be appropriate in some instances affecting minor land use changes, grandfathering is not appropriate for environmental protection legislation. Governments adopt environmental rules to protect the environment that are effective the day they are announced. After the Walkerton tragedy in Ontario, no government should grant exemptions from the strictest environmental standards merely because someone has an existing or pending i.e. approval subject to conditions, land-use designation change approval.

When a government determines that protection of the environment requires the adoption of new more stringent rules, those rules should apply to all circumstances and should not provide for exemption based on extraneous criteria such as the timing of planning approval applications. Many types of industries or developments are affected by environmental legislation, even where facilities have been approved, built and operating for years. Cottagers that must remove septic systems have had zoning permission for the land use for years or decades, but must still comply with new environmental regulation. The Lake Simcoe Protection Plan should not create a double-standard for environmental protection as is currently proposed.

That the Lake Simcoe Protection Act is environmental legislation is clear from the objectives of the Plan set out in Section 4 of the Act, which include, among other things, protecting, improving and restoring elements contributing to the ecological health of Lake Simcoe.

Based solely on the transition criteria set out on page 9 of the draft Plan, the Big Bay Point project, which aims to add 2,000 units on an expanded 1,000 slip mega-marina requiring the excavation of 30 acres of shoreline, could be grandfathered, based solely on an OMB approval that the Board itself described as in effect, “conditional”:

OPA 17, the proposed zoning By-law and the [Big Bay Point resort and marina] Draft Plan include significant conditions that are intended to ensure that all required approvals beyond those necessary under the *Planning Act* are secured. If Kimvar is deficient in any area, the development simply cannot proceed. In that sense, approval from the Board is, in effect, conditional on other permits being secured.].⁵

We believe that the Province would be setting a dangerous precedent as regards the efficacy of environmental legislation if through the transition regulation it attempted to grandfather a massive project such as Big Bay Point. Standards should be applied to all outstanding permits required in respect of ANY development, regardless of whether it is individuals making minor changes to their properties or large developments.

While the grandfathering principle set out in the transition statement on page 9 of the draft Plan can be applied to some provisions of the Lake Simcoe Protection Act, it cannot be applied to “prescribed instruments” such as an approval under Section 5 of the *Environmental Assessment Act* or an approval of a shoreline alteration by the Conservation Authority. The provisions of the Act respecting “prescribed

Plan for Success:

A Citizen Response to the Draft Lake Simcoe Protection Plan

instruments” are unequivocally based on the principle that environmental rules must apply to all circumstances and not on the basis of the timing of approval applications. The effect of Sections 6(9) and 9(1) of the Act is to require that a “prescribed instrument” must conform with designated policies or be made to conform with designated policies regardless of when the prescribed instrument was issued. Any attempt to alter this statutory scheme by purporting to grandfather a non-conforming “prescribed instrument” such as an environmental approval because it was applied for before the Plan became effective would be beyond the legal power of the Act. The transition regulation cannot undo what was clearly intended in the Act, namely that *existing* prescribed instruments be amended to conform with designated policies in the Plan.

Recommendations:

- All outstanding permits required by any development must comply with the Act and Plan.
- Any developments with planning approvals and outstanding environmental approvals, must obtain environmental or other approvals that comply with the Act and Plan.
- Send information regarding proposed “grandfathered” projects to the Lake Simcoe Science Advisory Committee for a transparent, independent review.

Chapter 2: Building on Past Actions

We are extremely surprised that this chapter highlighting past “actions taken by various public bodies and stakeholders” makes no mention of citizens and groups whose hard work has been instrumental, according to Premier McGuinty and Minister Gerretsen, in bringing about the Lake Simcoe Act and Plan. There should be at least some acknowledgement of the importance of engaged citizens – because without their increasing support in the future, the chances of helping the Lake are greatly reduced. The Act started as a citizen’s based initiative and will rely on groups and individuals around the Lake to succeed.

There is a groundswell of feeling out there that without the increase of citizen interest in Lake Simcoe, and collaboration to get things moving, everything to do with Lake Simcoe would still be continuing along on in its old “low key” way and watershed lands would continue to be paved over. It is imperative, therefore, that the Plan speaks more strongly to the stated principle of Shared Responsibility by allowing people to see their place in this new effort to protect the Lake.

We do not, however, feel the Plan needs to devote a lot of space to looking backwards. It is a new time now, and it is a time to be looking forward energetically. In that regard we suggest that to help citizens see how things work on the Lake –who does what – there be a brief reference to roles and responsibilities. There is, for example, huge public confusion about what the Lake Simcoe Region Conservation Authority does and does not do and its relationship to the Conservation Foundation. There is also a public perception that the LSRCA has conflict of interest at its core, because municipalities are

Plan for Success:

A Citizen Response to the Draft Lake Simcoe Protection Plan

its only Board members and thus there is the potential for its Board, even inadvertently, to put their jurisdictions' shorter term financial objectives ahead of the Lake's well-being. There are also issues about why the LSRCA approves some projects and not others, and why some enforcement seems stricter than others. Due to the prominent role of the CA in Lake Simcoe, it would be a service both to this agency and to the public to clearly state its roles and parameters.

Recommendations:

- Note the role of citizens and NGOs in the review of the past.
- Synopsis of the roles and responsibilities of the Lake Simcoe Region Conservation Authority vis-a-vis the other players in the protection of Lake Simcoe.

Chapter 3: Aquatic Life

This chapter presents a collaborative research plan outline, with due dates at the end of 2010. Research and plans cover the following topics: invasive species, fish stocking practices, an evaluation of the monetary and ecological value and impact of aquatic resources, mapping of aquatic habitat, and filling knowledge gaps.

Cold water fish, in particular, need a certain amount of oxygen in deep water in order to breathe through their gills. The proposed dissolved oxygen level target is appropriate for our ailing Lake trout and white fish. The current level of dissolved oxygen is just over 5mg/L, up from less than 2mg/L in the 1980's.

Recommendations:

- The dissolved oxygen level target (7 mg/L) is reached by September 15th each year, before the winter Lake turnover.⁶
- In the short term, more money should be directed at addressing problems we know exist in the short term, such as controlling the spread of invasive species, restoration of shorelines, protection of natural cover, stormwater management, and addressing knowledge gaps, with less money being directed at long term research projects.
- We are generally supportive of the targets and direction in this chapter.

Chapter 4: Water Quality

Indicators other than phosphorus are suggested to evaluate the health of the water, and that is an improvement from our decades-long myopic obsession with phosphorus. New indicators include heavy metal levels, and beach closures resulting from high levels of bacteria. That said, phosphorus is a key indicator, and the proposed long term phosphorus loading goal is a good one, consistent with SciAc's recommendations. A recurring comment, "good but vague" must be used here as we are unclear how we will reach the target of 44 tonnes of phosphorus per year, with phosphorus loading levels currently reported at 67 tonnes per year. In the spirit of adaptive management, this target will be "validated as we move forward". We hope that means that if reaching this goal does not achieve the Objective of the Act and Plan, "to protect and restore the ecological health of the Lake Simcoe watershed", then the goal will be re-evaluated. We may need to aim for a lower phosphorus load.

Recommendations:

- We agree with SciAc's recommendation (#1) that the Phosphorus loading targets be developed for three lake basins and the subwatersheds.⁷
- The phosphorus reduction strategy should say explicitly that no one sector's contribution may be allowed to increase beyond their current yearly load.
- The total (aggregate) load from sewage treatment plants must not exceed the current load.
- Policy # 4.25 c) should also include an assessment of household sources of phosphorus.
- That the Plan reference pre-settlement phosphorus loads to Lake Simcoe (as reference in LSESM Implementation Technical Report No. IMP.B.17, 1995).⁸
- That growth only proceed if environmental targets for Lake Simcoe and its watershed are being achieved and maintained.⁹
- That the MoE remediate known contaminated sites in the watershed such as Ed Beach's tire piles in headwaters of the Pefferlaw River, and the old dump in Orillia, now considered the site for the new Multi Use Recreational Facility.

Sewage Treatment

The phosphorus discharge levels from 14 Sewage Treatment Plants (STP's) and stormwater facilities were capped in December, 2007, for a couple of reasons:

1. To control one of the few point sources of pollution on the lake; and

Plan for Success:

A Citizen Response to the Draft Lake Simcoe Protection Plan

2. To get municipalities to use the best sewage treatment technology available when they connect more homes to their municipal water systems.

This interim regulation has been extended for another year while the province and municipalities assess what urban growth is planned in the watershed, now and in the future. We assert that rapid urban growth has not been good for the watershed's health, nor is it welcomed by the vast majority of residents. Policy #4.4 makes it clear that more homes can be built and hooked up to STP's as long as that STP uses improved treatment technologies and stays under an imposed phosphorus load cap. We are concerned that in this case the phosphorus limit overshadows an equally important but missing factor, impervious (paved) surface limits and other ecological indicators.

Other improvements in this Plan include a new requirement that an environmental assessment be completed or approved PRIOR to granting an approval for a proposed settlement area expansion, establishment of a new settlement area or a development outside of the settlement area that requires the expansion of an existing sewage treatment plant or the establishment of a new sewage treatment plant. (Policy # 4.1)

Recommendations:

- Follow the advice of the Scientific Advisory Committee about setting impervious (paved) surface limits of 10% - 15% in each subwatershed (SciAc recommendation #13).¹⁰
- That Policy # 4.1 regarding sewage treatment plants should reference the current state of sewage treatment plant expansions.¹¹

Stormwater Management

Our major concerns in this section are the tacit acknowledgement that new development will harm the lake, and how to fund the retrofits required to address stormwater management, a significant source of phosphorus pollution (14% of total yearly load).

The proposed allocation of funds to stormwater management in the order of \$120 million is a very positive signal that the province intends to deal with this very manageable, yet substantial, source of pollution. Yet, none of this money has in fact been committed, so fixing the ponds may still be a pipe dream.

We are pleased that this is a designated policy, or has legal effect: "Municipalities shall incorporate into their official plans policies related to reducing stormwater runoff volume and pollutant loadings from major development and existing settlement areas." (Policy # 4.7)

The following section acknowledges that new development will in fact harm the lake. This is contrary to the Premier's own promise that "no new development will be allowed to harm the lake" at the Lake Simcoe Summit on July 6, 2007:

Plan for Success:

A Citizen Response to the Draft Lake Simcoe Protection Plan

“An application for a major new development [4 lots or more] must be accompanied by a stormwater management plan that demonstrates: e) How the loadings from the proposed development shall be minimized.” (Policy # 4.8 e.)

Recommendations:

- Funding the creation of new stormwater management facilities and retrofits must be prioritized, and not rely on a 1/3 contribution of cash-strapped municipalities to trigger federal or provincial funding.
- Improvement in development standards to incorporate alternative community design and stormwater management techniques should be mandated across the watershed. (Policy # 4.7 c.)
- That new technical guidelines by MoE for Stormwater management Planning and Design be created based on water sensitive urban design principles for more sustainable development.¹²
- That where infill development or redevelopment cannot comply with stormwater controls outlined in policy 4.9 a), best efforts be initiated to maximize water quality control from the site.¹³

Subsurface sewage treatment

There are some pieces of good news in this section:

- On-site sewage (septic system) inspections may become mandatory. (Policy # 4.14)
- A new development of more than three dwellings cannot be built on septic systems within 100 metres of the shoreline or streams. This would prevent a repeat of the Moon Point development in Oro-Medonte (17 estate lots on the shoreline, on septic systems), one of the catalysts for Campaign Lake Simcoe. Sadly, we believe there are few, if any, natural shorelines left for this policy to be tested. (Policy #4.16)

However, there are still some holes in these policies. First of all, we all acknowledge that there is little or no undeveloped land on shorelines where it is feasible to build new homes. And there are certainly few if any places to build more than three new dwellings at one go within 120 metres of the shoreline. So the most restrictive policy (#4.16) applies almost nowhere.

Recommendations:

- When septic systems are replaced, they should be moved away from shoreline, and may increase in size to accommodate all existing water uses in the dwelling, regardless of the capacity of the previous septic system. (Policy #4.16 b.)

Plan for Success:

A Citizen Response to the Draft Lake Simcoe Protection Plan

- Improvements in development standards to incorporate alternative sewage treatment technologies should be coordinated across the watershed, be as innovative as possible, include greywater technology, and be on an accelerated timeline. (Policy # 4.15)
- To accommodate renovations where a significantly larger dwelling is proposed, a minimum pervious surface target of 40%, including 40% natural cover, not just necessarily woodlands and wetlands, should be set for each property.
- The Lake Simcoe Coordinating Committee must establish enforcement and penalty guidelines for the implementation of Policy # 4.14, septic inspections. For example, if homeowners have not replaced a failing septic system within a year of receiving inspection results, occupancy is prohibited and fines are set at \$15,000 for noncompliance.

Atmospheric Sources of Phosphorus Pollution

Construction Activity

Atmospheric sources, such as construction and agricultural dust, contribute an estimated 40% of the yearly phosphorus load to Lake Simcoe. The province is aiming to complete a study to identify atmospheric sources of phosphorus pollution within three years. (Policy # 4.17) SciAc is very clear about the impacts of development on phosphorus levels:

If management improvements related to new development (e.g., enhanced storm-water management, better control of wind erosion on development sites, prudent planning to site development to avoid shoreline areas and the loss of natural vegetation important in retaining nutrients) do not occur, an increase in development will lead to an increase in P loading.¹⁴

Measures for the construction industry to reduce sources of phosphorus are detailed in the Plan (Policy # 4.21), and a review of mineral aggregate resources is planned, province-wide. We suggest that in the meantime, proactive measures can be taken; the precautionary approach is a principle to guide this plan – let's use it. Construction activity infractions really concern residents, but often when people see an infraction occurring on a construction site, they report it and nothing happens.

Recommendations:

- Remediation activities, standards and enforcement measures to reduce dust on construction sites need to be well-defined and implemented immediately, as recommended by Campaign Lake Simcoe previously and by the LSRCA. (Policy # 4.21)
- The MoE in consultation with stakeholders should quickly develop a model by-law for municipalities to adopt for site plan agreements and conditions of subdivision approvals. Suggestions for enforcement should accompany this policy. (Policy # 4.21)

Plan for Success:

A Citizen Response to the Draft Lake Simcoe Protection Plan

- The timeline for the proposed study to identify atmospheric sources of phosphorus pollution (Policy # 4.17) must be sped up, and must address air pollution rules and regulations in order to curb the use of polluting watercraft such as two stroke engine boats, and industrial activities that affect water quality.
- Delay the approval of the provincial natural gas peaker plant in Holland Marsh until the environmental impact of particulates on soils and water has been determined to be negligible.

Mineral Aggregate Resources

(Additional mineral aggregate policies in Chapter 6 are covered in this section as well)

Aggregate producers get the same free pass they did under Greenbelt legislation and are, “encouraged to adopt best management practices to reduce water quality impairment.” Wetlands that are not “provincially significant” get no protection in existing settlement areas or in mineral aggregate operations. Mineral Aggregate operations are one of few new permitted activities in key natural heritage and hydrologic features, as long as the operators “replace any habitat that would be lost” and maintain the links between it and other natural heritage features. This flies in the face of the Scientific Advisory Committee’s recommendation that there be “zero tolerance” for future removal of wetlands and natural areas.¹⁵

Recommendations:

- Require a new approach with Ontario’s aggregate industry, following the Environment Commissioner of Ontario’s recommendations and proposed Green Gravel Standard.¹⁶
- No new mineral aggregate operations in Natural Heritage Features. (Policy # 6.37 – 6.38)
- No new mineral aggregate operations permitted until the study to identify atmospheric sources of phosphorus is complete. (Policy # 4.17)
- Enforce “zero tolerance” for the removal of any wetlands.

Chapter 5: Water Quantity

We are pleased to see the creation of water conservation programs and new instream flow targets, especially if the “allocation to support natural functions” is significant enough to account for potential hydrological changes brought on by climate change. In general, these policies are a major improvement. However, the Stakeholder Advisory Committee often heard warnings about particular uses that are very intensive, and to this point, there is little indication that particular uses will be required to change their water consumption practices.

Plan for Success:

A Citizen Response to the Draft Lake Simcoe Protection Plan

Additionally, we appreciate that new or expanding major recreational use facilities need to prepare water use plans. This would apply to golf courses and ski hills. The plan criteria look good. However, we wonder whose responsibility it is to see that these activities occur?

These policies are not “designated” or mandatory; if these policies are determined to be inadequate at a later stage, we trust the province would require a level of enforcement to guarantee results. The only policy in Chapter 5 which is enforceable as a “designated policy” is 5.6.

Recommendations:

- When creating water budgets, certain uses, such as sod farming or water intensive agricultural practices, should be required to modify their practices to reduce water consumption. (Policy # 5.1)
- Existing recreational facilities, such as golf clubs, should be required to implement water-saving technologies. (Policy # 5.6 and 7.15)
- Establish water quantity targets that accommodate the possible impacts of climate change.
- Interbasin water transfers should not be permitted.

Chapter 6: Shorelines and Natural Heritage

The targets for protecting natural features are excellent in this section, but once again, there is insufficient detail in this Plan to guarantee success. Many detailed plans will not be completed for a number of years. The adaptive management approach allows for changes later on if research warrants. For example, key indicator species showing further stress suggest a need for tougher targets or policies. One of the province’s major challenges is avoiding a rush on development, or a frenzy of tree cutting, in advance of policies being finalized.

It is very difficult to evaluate the extent of the plan’s natural heritage protection without access to mapping that shows the areas classified as settlement areas, the areas considered for settlement boundary expansion through the March 2009 Growth Plan exercise, and the areas identified as shoreline built-up areas. Campaign Lake Simcoe has consistently suggested that mapping is an essential communications tool for public consultation.

Shorelines

To paraphrase one of Premier McGuinty’s first observations on natural heritage features, ‘They aren’t making shorelines anymore.’ The new shoreline protection policy is generally good. New shoreline development such as hardening the shoreline or excavating it for new development, marinas, etc. is

Plan for Success:

A Citizen Response to the Draft Lake Simcoe Protection Plan

generally prohibited with the exception of projects granted transitional or “grandfathered” status (see comments on Chapter 1: Introduction). There are strong restrictions on building (development and site alteration) in the minimum shoreline vegetation protection zone with a few exceptions for low-intensity recreational uses, for example (Policy # 6.1).

Contrary to popular belief, this is not a substantial change to existing policy as cottagers around the lake already know it is virtually impossible to excavate the shoreline, install a concrete dock, build a new pool near the Lake or dump a load of sand to make a beach. Whatever loopholes existed previously for proposed shoreline alterations, it is now a fact that if the excavation of a 30-acre Lake to facilitate the proposed new 1,000 slip marina at Big Bay Point was proposed today, it would be strictly prohibited by the Plan (unless the McGuinty government chooses to exempt it).

There are three classifications of shorelines, and all three have different vegetation protection zones. The maximum protection is for the *natural shoreline areas* where a 100 metre buffer applies, followed by the predominant *shoreline built up areas*, where 30 metres is the minimum and 120 metres the maximum buffer. *Settlement areas* are designated for 30 metre buffers, only applied where feasible. Provincial staff and the LSRCA acknowledge that there are only “a few” natural shoreline areas in the Lake Simcoe watershed. One must look at the impact of this Plan in light of the fact that most of the Lake Simcoe shoreline is likely to be designated as *shoreline built-up areas*.

The development of an additional policy is proposed to address private property issues in greater depth. We support the direction to restrict fertilizer use for non-agricultural lands and prohibit peat extraction in all wetlands.

Despite several limitations, we applaud unreservedly the Plan’s commitment to stop, once and for all, significant shoreline alteration of Lake Simcoe – it’s high time!

Recommendations:

- Exposing cottagers and residents to restrictions while massive exceptions are made for developers is not fair. Apply policies equally across the board.
- It is unclear if “settlement areas” are permitted to expand into “natural shoreline areas”. They must not be permitted to do so.
- Establish interim regulations to prevent major losses of forested areas and shoreline vegetation while mapping is completed.
- To accommodate renovations where a significantly larger dwelling is proposed, a minimum pervious surface target of 40%, including 40% natural cover, not just necessarily woodlands and wetlands, should be set for each property. (Policy # 6.15)
- The Lake Simcoe Science Committee must keep a careful eye on the Natural Heritage evaluations required to build beyond the minimum vegetation protection zone to see if the

Plan for Success:

A Citizen Response to the Draft Lake Simcoe Protection Plan

standards are applied fairly, or if rules need to be strengthened to achieve the objective of the shoreline policies. (Policy # 6.23)

- Assessments of development applications in nearshore areas, within 250 metres of the lake, must be undertaken with an eye to maintaining continuous natural heritage corridors.
- “Public agencies are encouraged to actively re-naturalize public areas adjacent to shorelines and streams to a minimum of 30 metres where practical and feasible.” (Policy # 6.13) This policy has changed for the worse with “where practical and feasible”. This needs to be stronger. Public areas must be re-naturalized along shorelines. Our public places need to be exemplary.
- A regulation restricting fertilizer use for non agricultural lands should be implemented immediately. (Policy # 6.17)
- Ephemeral watercourses should be protected with the minimum 30 metre vegetation protection zone.
- That the Shoreline Management Plan be completed within one year of the date the Plan comes into effect and include collaborations with the federal government.¹⁷
- We are highly supportive of the proposed shoreline policies and landowners being encouraged to re-naturalize their shorelines, with the addition of the above suggestions. (Policy # 6.17)

Key Natural Heritage and Key Hydrologic Features

The targets in this section are excellent, allow for adapting to climate change, and reflect Campaign Lake Simcoe’s recommendation to include the precautionary approach. In particular, we applaud the 40% high quality natural cover (primarily forests and wetlands) target. However, the path to achieving these targets and the enforcement mechanisms are unclear.

The Plan only prioritizes the identification of 25 hectare patches. (Policy # 6.43) *Suggested Conservation Guidelines for the Identification of Significant Woodlands in Southern Ontario* says 25 hectares is the minimum patch size for a planning area where 31 – 50% of the “planning area” is under forest cover. But as the province acknowledges in its key facts, on page 41, the distribution of natural cover varies enormously throughout the watershed. The best guess is that the watershed’s current natural cover is 35%. Note that natural cover and forest cover are different. Total forest cover in the watershed is lower. The guidelines in *Suggested Conservation Guidelines for the Identification of Significant Woodlands in Southern Ontario*¹⁸ should be used on a subwatershed scale, and minimum patch sizes should be linked to the local existing forest cover. “It is recommended that, within each planning authority, percent woodland cover be assessed within delineated areas of relatively homogeneous woodland cover distribution (i.e. land cover, not forest type) so as to avoid ‘averaging’ percent cover values across the planning authority.”¹⁹

Plan for Success:

A Citizen Response to the Draft Lake Simcoe Protection Plan

We do not understand why the mapping needs to take so long; the LSRCAs have completed extensive mapping, and Simcoe County has identified "Greenlands" and large patches. Surely Simcoe County's map can serve at least as an interim map while the province identifies large "high quality" patches.

Wetlands that are not "provincially significant" get no protection in existing settlement areas or in mineral aggregate operations. This contradicts the Plan's target "achieve protection of wetlands" (p. 42) and contradicts SciAc's recommendation (# 37), to "protect all wetlands within the watershed."²⁰ Since there is a chance to develop this policy, let us make sure all wetlands are protected, no matter where they are found. (Policy # 6.17 d.)

Recommendations:

- All wetlands must be protected. (Policy # 6.17 d.)
- The Lake Simcoe Science Committee must keep a careful eye on the Natural Heritage evaluations required to build beyond the minimum vegetation protection zone to see if the standards are applied fairly, or if rules need to be strengthened to achieve the objective of the natural heritage policies. (Policy # 6.22 – 6.23)
- 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*²¹ pertaining to minimum patch size should be adopted.
- "Within two years of the date the Plan comes into effect, the MNR in collaboration with First Nations and Métis communities, will identify and map areas of *high quality* natural cover that are 25 hectares or greater" (Policy # 6.43) should include the direction, **for the purposes of permanent protection.**
- A 30 metre vegetation protection zone is placed around key Natural Heritage Features. We support SciAc's much stronger recommendation that a minimum 300 metre buffer around natural areas is necessary to "minimize edge effects on sensitive interior forest species." (Recommendation # 36)²² (Policy # 6. 21)
- While the identification of priority areas is delineated for restoration and protection (Policy # 6.42), an interim regulation needs to protect natural cover and linkages and shoreline vegetation.
- A minimum 40% high quality natural cover target (p. 42) must be reached in each subwatershed.
- *Key Natural Heritage System* and *Key Hydrologic Features* should be defined in the glossary.
- The definitions of Key Natural Heritage and Key Hydrologic Features (p. 45) are close but not the same as the definitions used in the Greenbelt Plan; they should be the same.

Plan for Success:

A Citizen Response to the Draft Lake Simcoe Protection Plan

- Significant habitat of species of special concern needs to be included in the definition of key natural heritage features. (Policy # 6.18)
- The wording should be consistent or the definition of *high quality* should be more precise regarding natural vegetative cover. Suggest: “...that influence the functional ability of a feature such as structural diversity, species diversity and is habitat for species of concern.” (Page 42)
- Make *natural vegetative cover* and *natural cover* definitions consistent and include in glossary. (Page 42)
- That the legislation which is applicable to the Lake Simcoe Watershed be listed in a table with a description of the level of regulatory approval and a description of approval required under various pieces of legislation.
- Land securement should be included as a protection strategy in Natural Heritage Protection Improvement and Enhancement. (Policy # 6.42)

Settlement Areas

(Additional policies in Chapter 4 are covered in this section as well)

The definition of settlement areas used in the Plan is the same as what is used in the province's Places to Grow “Growth Plan”, 2006. This is a request made by Campaign Lake Simcoe, and we are pleased that the draft Plan clarifies this definition.

The impact of the date of effect of the Plan will be felt most regarding *existing settlement areas*. If settlement areas developed through Places to Grow, expected to be in Simcoe County's municipal Official Plans by March 2009, are included in the definition of *existing settlement areas*, as we expect they will be, then the impervious surface area will undoubtedly be increased markedly on the west side of the Lake. Based on SciAc's recommendation # 13²³, we do not believe the Lake can withstand impervious surfaces that cover more than 15% of the watershed, a level the watershed has already reached. In fact, SciAc says explicitly that "Future growth should be directed to existing settlement areas; this will reduce future storm-water flows if there is no increase in impervious area associated with infill development."²⁴

The new restrictions on development are simply that new development is prohibited within Lake Simcoe and within a vegetation protection zone, 30 – 120 metres from the shoreline or streams or *Natural Heritage Systems*, and nothing in this Plan addresses impervious surfaces. That said, we are pleased that this Plan is tougher in this regard than the Provincial Policy Statement and that new development will be restricted in shoreline areas.

Plan for Success:

A Citizen Response to the Draft Lake Simcoe Protection Plan

Recommendations:

- Limits should be placed on the creation of new impervious surfaces outside existing or planned urban settlement and growth areas.
- It is imperative that settlement area expansions follow the Places to Grow density targets, minimize sprawl, and increase the use of pervious materials in construction.
- Total development in the watershed must not exceed the 15% threshold for impervious surfaces.
- Wetlands should be protected in settlement areas. (Policy # 6.29 & 6.5)

Recharge Areas

The following is a major improvement for protecting our drinking water resources: “Municipalities shall incorporate significant groundwater recharge areas within their official plans.” (Policy # 6.32) We have concerns about reliance on environmental impact studies to prove an activity has no effect on groundwater, following the dispute over dump site 41 in Tiny Township where a new dump is being built on an aquifer.

Existing Uses

Existing uses do not have the same restrictions placed on them for site alteration and development in the vegetation protection zone. “Existing uses” means uses legally established prior to the date that the Lake Simcoe Protection Plan came into force. Existing agricultural accessory buildings and structures including farm dwellings can expand on the same lot subject to the provisions of the municipal zoning by-law. This suggests that if the “use” has been legally permitted at the time that the Plan came into effect, the exception applies. However, the relevant part of Policy # 6.40 reads:

“all *existing uses* lawfully used for such purposes on the day before the Lake Simcoe Protection Plan comes into force are permitted.” [emphasis added]

The words “lawfully used” clearly indicate that the permitted use must actually have started “on the day before the Lake Simcoe Protection Plan comes into force” and not merely have been given legal sanction on that date. We consider that this is an appropriate transition rule respecting existing uses for the Policies in Chapter Six.

Recommendations:

- Policy # 6.40 change to “all *existing uses* lawfully used for such purposes on the day before the Lake Simcoe Protection **Act** comes into force are permitted,” so that there is not a rush on getting “lawful” status just before the Plan comes into effect.

- Re. site alteration or development in relation to existing uses, there is too much ambiguity around the exception “unless there is no alternative”. This exception should be eliminated. (Policy 6.40 c.)²

Tree Cutting Bylaws

It is a great idea to restrict excessive removal of trees and vegetation on the shorelines if it is enforceable. The MoE is going to prepare a model bylaw that municipalities can voluntarily adopt in their own Official Plans.

Recommendations:

- The tree cutting bylaw template ultimately developed should be set out in a regulation that requires municipalities to apply it. (Policy # 6.41)

Chapter 7: Other Threats

Our major comment on this chapter is that its title is misleading and trivial sounding. How can the serious topics in this chapter be treated seriously if they are grouped under such a “catch all” heading as **Other Threats and Activities?** The title for this chapter needs to reflect that these are Emerging Issues - and perhaps that should *be* the title! What all these topics have in common is we have gone too far for too long not thinking about them and so they have gotten away from us. And still we do not yet know as much as we need to about their importance in the scheme of things or how to deal with them.

Recommendation:

- The name of this chapter should be changed to Emerging Issues or something that reflects this idea and gives the chapter more prominence.

Invasive Species

Not enough immediate action is proposed in this section; the only activity that begins immediately is education and research. The only target is preventing the addition of new invasive species; there is no target for trying to reduce or restrict the spread of existing invasive species. Within 5 years, various governments will develop a response plan for invasive species. One positive and specific idea that we applaud is the intention to create a regulation to restrict origin of live baitfish and leeches, to watershed sources only (Policy # 7.3) because this will help prevent the spread of disease and invasive species.

We recommend that the province consider whether it is necessary that this regulation be enacted under the federal *Fisheries Act* or whether the province has the constitutional authority to protect the

Plan for Success:

A Citizen Response to the Draft Lake Simcoe Protection Plan

environment from invasive species through enacting its own regulation without having to secure the concurrence of federal authorities.

As a general comment, we point out that Section 26 of the Lake Simcoe Protection Act confers extensive powers on the Government to enact regulations to protect the ecological health of the Lake. For example, Section 26(1)(a) authorizes making regulations: "regulating or prohibiting activities that may adversely affect the ecological health of the Lake Simcoe watershed. We would like to see as a strategic action (SA) in the Plan a plan to develop a comprehensive regulation dealing with invasive species, including the prohibition of activities that result in invasive species being introduced into the Lake Simcoe watershed.

Recommendations:

- The mobile boat wash should be part of immediate education programs, as Campaign Lake Simcoe suggested in Stakeholders Advisory Committee (SAC) (Policy # 7.8).
- The eradication of invasive species should not rely on voluntary stewardship and education. The Ministry of Natural Resources (MNR) needs to tie invasive species control to summer work programs, college internship opportunities, and similarly accountable audiences.

Climate Change

This section says that a climate change adaptation strategy will be developed within two years by a number of ministries and stakeholders. It refers to policies outlined in other areas of the Plan designed to protect the natural resilience of the ecosystem and adapt to climate change. But if environmental targets, regulations and policies in the Plan have been developed without climate impacts in mind then they will be too weak right from the start. Natural resilience can only be protected if said policies or measures take climate change into consideration, or if they allow for an approach that builds in an adaptation to the policy as climate evidence grows.

The Climate Change "Context" section on page 57 of the Plan says, "Risk assessment and adaptation planning are critical actions for enhancing the watershed's capacity to naturally adapt to future changes in climate." This is, of course, only true if Risk Assessments take climate into consideration. Trusting that the watershed can "naturally adapt" is rather optimistic considering the extent of human disturbance of the watershed so far.

The Lake Simcoe Science Advisory Committee's report falls short of making specific recommendations to address climate change impacts, in their October 27, 2008 report to the Minister of the Environment.²⁵ In the report, climate change is identified as an "emerging concern" and as one of eight "stressors". The report does make it clear, however, that climate change impacts are likely to exacerbate problems such as atmospheric phosphorus loads and change phosphorus cycling. Additionally it says:

Predictions from climate change models indicate that significant changes from the historic patterns of climate and weather in Ontario will occur in the future.

Plan for Success:

A Citizen Response to the Draft Lake Simcoe Protection Plan

Changes include more extreme weather events, resulting in both droughts and flooding, and more frequent occasions of high wind velocities. Overall, mean annual air and surface water temperatures are expected to increase for both lakes and streams.²⁶

Ecological interactions may result in "unpredictable effects on nutrient and energy flow through the lake,"²⁷ so we are well advised to set aggressive targets for ecological indicators such as nutrient loads and natural cover. "Appropriate management targets (e.g., critical loads) supported by new initiatives are needed to meet these targets and to restore and sustain the lake's ecological health."²⁸

In conversation with MoE scientists, we are assured that climate change is a lens through which all research is now being viewed. This approach needs to come through in the next draft of the Plan. Otherwise it appears that the Lake Simcoe Protection Plan lags behind the provincial government as a whole, which may be moving more rapidly in the direction of climate adaptation.

Recommendations:

- That "indicators" include change in species composition.
- In order to buffer the impacts of climate change, all of the recommendations of the Scientific Advisory Committee should be followed, in particular those that relate to the protection of forests and wetlands.
- Climate change should not be a separate "planning activity" in the Plan; all provisions of the Plan should take climate change into consideration. For example, shoreline regulations, the phosphorus target, natural cover target, and water quantity targets must be precautionary and aggressive in light of the increased stresses placed on the ecosystem as a result of climate change impacts.
- It is unclear if the intention of Policy # 7.11 is to develop a climate change adaptation work plan, or to write a paper that outlines what the general strategy might be. This policy should be clarified to state that the goal is to create an implementable work plan that will cover items 7.11 a) to f).
- The research outlined in 7.11 a) "assess and evaluate the risk and expected frequency of climate change impacts" should be *completed* within two years.
- The Plan must include direction to *do* the work, such as a climate change monitoring program.
- That the body that oversees this process be given the power to proceed with action on climate adaptation plans for the watershed and for municipalities without necessarily amending the Plan.
- That coherence is required amongst municipal plans. (Policy 7.11 d)

Recreational Activities

We applaud the recommendation that public enjoyment of the Lake and its water systems should be backed by a carrying capacity assessment. A recreational strategy, however, must be a lot more than counting boats, although counting boats and types of boats and determining the lake's capacity for this sort of recreation is an important first step. There are also safety issues, issues about fuel storage and fuelling boats, issues with pumping out waste, stagnant waters in marinas, the impact of ice fishing and many more things, which must be addressed in a recreation strategy. We cannot get to where we want to be unless we know exactly where we are now. However, for reasons stated in this paper's Objectives section, the recreation strategy is a major component for economic wellbeing of the watershed, and it is *the way* to pay back residents for their commitment to help the Lake.

The next steps should be to explore what other lakes are doing; to seek out people's ideas and encourage their entrepreneurship. As has been said by people in Lake Champlain, a lake with similar challenges to Lake Simcoe, not everyone involved has to be ON or IN the Lake. Waterfront or view restaurants, ice sculpture carnivals, skating, trails, passenger "ferry" boats to name a few things, can all be part of a Lake Recreation Strategy that will demonstrate to people the upside of saving and protecting this Lake.

We cannot emphasize enough what an important subject area of the Plan this is. Because of this, we suggest that people need to see this bit of good news for them right away when they open this chapter. We suggest therefore that Recreation be the first item in the newly titled "Emerging Issues" chapter, or a chapter unto itself.

Recommendations:

- Open this chapter with Recreation as a means to encourage greater public participation in protecting the Lake.
- We support the LSRCA's recommendation that the recreation carrying capacity study rest with the province of Ontario through the MTOUR and not the LSRCA. (Policy # 7.12). The interpretation of results and recommendations should be done in collaboration with the Stewardship and Coordination Committees and in consultation with other watershed leaders outside Lake Simcoe.
- Instead of encouraging best practices for recreational facilities in Policy # 7.15, this policy should aim at developing a regulation within two years that deals comprehensively with the operation of recreational facilities in the Lake Simcoe watershed, including marinas, and deals with enforcement of this regulation.

Chapter 8: Implementation

This chapter deals with a variety of difficult implementation strategies for the following areas: subwatershed evaluations, meaning areas that drain into smaller water systems that flow in to the Lake, such as the Maskinonge or the Pefferlaw River; education and outreach; agricultural stewardship; and financing.

The public is frustrated with bureaucracies that pass the buck, whose innumerable ministries are responsible for a myriad of seemingly related processes. We need to make it easy for people to learn and to do in this watershed. The Lake Simcoe Coordinating Committee needs to provide "one stop shopping" for the public, and be responsible for making sense of a bewildering array of areas of responsibility, ranging from waste disposal, to permit applications, to fisheries enforcement. If the public's ability to take responsibility is not improved through this legislation, it cannot be considered an outright success.

Subwatershed Evaluations

Recommendations:

- That the province use the sublake areas and subwatershed areas that have been defined by the LSRCA, with the approval of the Lake Simcoe Science Committee, in order to prevent duplication of work completed already. (Policy # 8.1)
- We recommend that the indicators which the LSRCA is now tracking on a subwatershed basis continue to be tracked on a subwatershed basis. They should include at least the following: (Policy # 8.1)
 1. Forest cover
 2. Forest interior
 3. Streamside vegetation
 4. Phosphorus concentration
 5. Hardened surfaces
 6. Stormwater

Stewardship Education and Outreach

Previously Campaign Lake Simcoe recommended: "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."

Plan for Success:

A Citizen Response to the Draft Lake Simcoe Protection Plan

This has not been addressed *whatsoever* in the draft Plan, and this is disappointing. “Sustainability” has been used many times in the draft Plan. So we remind the drafters that sustainable means integrating social, cultural, environmental and economic objectives. Right now our Towns and Municipalities, for example, are being given the opportunity to create sustainability plans (Integrated Community Sustainability Plans stemming from the Gas Tax Agreement between Canada and the Association of Municipalities of Ontario). This Lake Simcoe Protection Plan needs to be more forward-looking about sustainability and link to sustainability activities. The Plan should acknowledge the need to look at where economic, social and cultural components of life in the watershed intersect with the environment. The Vision of this Plan gets us there. But the Plan itself still sounds old-fashioned because it sidesteps this issue and falls short of its Vision. The Vision may be possible to achieve if sustainable thinking in the Plan progresses and the Coordinating Committee identifies strengths and weaknesses of the implementation plan. But we would suggest not leaving the Plan itself entirely silent on this matter.

A stronger role and mandate for First Nations to include meaningful dialogue regarding the environment, traditional knowledge, land uses, archaeological protection, etc. would be better served being put into the Plan *before* irrevocable decisions over the Plan and Lake are made.

The other major gap in this section has to do with youth. Recent research (Whales in Lake Simcoe?: *Ladies of the Lake*)²⁹ indicates that environmental education for youth in the Lake Simcoe watershed is not only inadequate, there are almost no opportunities for young people to learn about the Lake and their watershed in either Formal, Informal or Non Formal arenas. It would be pretty easy for the plan to recommend making Lake Simcoe a model that employs the latest thinking about place-based education in school as part of the curriculum and out of school. The options for youth learning range from enhanced curriculum to, for example, the idea of a Learning Centre –a Water Centre like the one on Lake Champlain (the Echo Centre). That centre links research, business opportunities and learning and recreation. It is possible with ideas like this to bring economic benefit to the watershed while creating engagement and stewardship opportunities. The Plan should not avoid or shortchange big ideas like this.

The Lake Simcoe Stewardship Network / Alliance is a good start, and hopefully will ramp up communities' ability to take on remediation activities. The Alliance should be focused on providing technical and staff support to encourage and enable local groups to get work done where it needs to. Success can be achieved if we find ways to implement existing successful programs in new places.

Recommendations:

- Review the objectives of the plan and add in some components that address the need to put in place stimuli to make the Lake Simcoe watershed a leading sustainable community.
- Deliver field-tested educational programs to reduce household use of toxins, pesticides and fertilizers, such as the Toronto Region Conservation Authority's programs in the Rouge River valley.
- Reverse the almost complete lack of opportunity for youth to learn about the Lake by adding in an action item to bring about opportunities for young people to learn about their lake through Formal, Informal and Non Formal venues and activities.

Agriculture

(Additional policies in Chapter 5 are covered in this section as well)

Overall this section is good. Farmers need to be compensated for the work they do as land stewards, and this Plan recognizes that need. The streamlining of stewardship activities and mimicking of the Rural Landowner program for non-agricultural landowners seems wise and economical. Water conservation is encouraged through best practices.

The one area of concern is the absence of detail in Policy # 8.10. The researcher who presented his finding to SAC on September 8th, 2008, made it clear that the preliminary studies on atmospheric phosphorus suggested that 80% of the sources of atmospheric phosphorus were agricultural in origin, and that much could be done NOW to address this significant source of pollution (atmospheric is 23% - 34% of the yearly phosphorus load depending on the source of information). Yet this whole section is identified under "Strategic Actions" and thus appears to have no legal effect.

Campaign Lake Simcoe has advocated for expanding the area affected by the Act, particularly if it is demonstrated that there are significant airborne sources of phosphorus pollution originating outside the watershed that affect the lake. A regulation under the Act will provide a description of the boundaries of the watershed.³⁰ The Act also allows policies in relation to research and monitoring to apply to areas outside of the watershed for the purpose of determining whether activities in those areas directly or would directly affect the ecological health of the Lake Simcoe watershed. Future amendments to the Plan could apply certain policies to areas outside of the watershed.

Recommendations:

- Establish interim plans for reducing air borne phosphorus pollution originating from agricultural sources while further studies on air borne phosphorus pollution are completed. The use of shelter belts, cover crops, and other wind erosion practices can be used more widely now.
- Wind erosion techniques should be required, not just for atmospheric phosphorus deposition but for run off prevention.
- Target highly polluting activities such as sod farming immediately.
- In addition to LEED design in new buildings, site-level storm water controls such as rain barrels, permeable pavements, and other innovative designs be encouraged.³¹

Coordination / Enforcement

This coordination section looks good, but does not build much on what has been outlined in the Act. It could be clearer whether the public or the Lake Simcoe Coordinating Committee is monitoring progress of the Plan. Although the stakeholder groups to be represented are outlined, the composition of the Committees remains mysterious in terms of the weighting of sectors.

Plan for Success:

A Citizen Response to the Draft Lake Simcoe Protection Plan

History has proven that without a rigorous, consistent enforcement regime, new laws and plans are practically meaningless. Alarming, the word “enforcement” does not appear in the Plan. While funding has been created for agricultural remediation projects, no resources have been set aside for compliance. The public is understandably concerned with the lack of enforcement today in the watershed. For example, for years the County of Simcoe (a jurisdiction the size of PEI) and Lake Simcoe Region Conservation Authority had one by-law enforcement officer each for the whole County and watershed. Few if any environmental charges are laid and/or prosecuted each year. Concerns remain that the Conservation Authority is compromised by the close connection between developers, municipal election financing and CA Board members.

Contrast this experience with the New York City Department of Environmental Protection Police (“DEP”). The DEP has 156 officers investigating and prosecuting offences and has taken a larger role in patrolling for and detecting violations of watershed protection regulations and have expanded police numbers. DEP officers, in addition to 520 hours of mandatory state police training, now get 320 hours of training in environmental law and sciences and 170 hours practical field training in environmental and infrastructure protection. Leaving enforcement of the Act, its Regulations and the Plan to the existing grossly under-resourced compliance regime is irresponsible.

Recommendations:

- Create and fund an enforcement training, monitoring, inspection and investigation program for the watershed for enforcement officers.
- Authorize the Lake Simcoe Coordinating Committee and Environmental Commissioner of Ontario to review and report on enforcement activities to the Minister.
- We continue to recommend that the Coordinating Committee have “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.”³²

Financing Strategy

The Plan estimates the implementation of the Plan is approximately \$360 million over 10 years or longer. Only 5.5% of the estimated cost of implementation is provided by the province.

We are extremely skeptical of the utility of phosphorus trading as a solution for Lake Simcoe. We are unaware 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. Such a program would also be difficult to put in place. It would necessitate the creation of a bureaucracy to administer it years into the future.

Recommendations:

- The province should take the lead on coordinating funding because many of the cost-recovery and user-pays plans would be better implemented at the municipal level all at one time if possible.

Plan for Success:

A Citizen Response to the Draft Lake Simcoe Protection Plan

- All tools that rely on increased development to generate revenue for water quality or habitat improvement/ securement should be addressed with great caution and should be subject to ecosystem carrying capacity constraints.
 - That the province supports the vision of this Plan with adequate funding, and play a strong role in monitoring the efforts made to fund the Plan.
-

Abbreviations:

LSRCA or CA: Lake Simcoe Region Conservation Authority

MoE: Ministry of the Environment

OP: Official Plan

SciAc: Lake Simcoe Science Advisory Committee

SAC: Lake Simcoe Stakeholder Advisory Committee

STP: Sewage Treatment Plants

Prepared by:

Campaign Lake Simcoe



ENVIRONMENTAL | DEFENCE



Endnotes:

¹ "What it Takes to Save Lake Simcoe: A Citizen Response to 'Protecting Lake Simcoe: Creating Ontario's Strategy for Action' Discussion Paper," Campaign Lake Simcoe, 2008, p.3.

² Standing Committee on General Government, Hansard, see:
http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&BillID=2043&detailPage=bills_detail_debates

³ Ibid.

⁴ "Draft Lake Simcoe Protection Plan," Ontario Ministry of the Environment, January 2009, p. 9.

⁵ Ontario Municipal Board decision, OMB PLO50290, December 14, 2007, p. 25.

⁶ "Lake Simcoe and its Watershed: Report to the Minister of the Environment," Lake Simcoe Science Advisory Committee, October 27, 2008, p. 48.

⁷ Ibid, p. 79.

⁸ "Draft Lake Simcoe Protection Plan: Comments on Behalf of the Lake Simcoe Region Conservation Authority," LSRCA, February 12, 2009, p. 12.

⁹ Ibid, p.17

¹⁰ "Lake Simcoe and its Watershed: Report to the Minister of the Environment," Lake Simcoe Science Advisory Committee, October 27, 2008, p. 67.

¹¹ "Draft Lake Simcoe Protection Plan: Comments on Behalf of the Lake Simcoe Region Conservation Authority," LSRCA, February 12, 2009, p. 13.

¹² Ibid, p.14.

¹³ Ibid, p.15.

¹⁴ "Lake Simcoe and its Watershed: Report to the Minister of the Environment," Lake Simcoe Science Advisory Committee, October 27, 2008, p. 18.

¹⁵ "Lake Simcoe and its Watershed: Report to the Minister of the Environment," Lake Simcoe Science Advisory Committee, July 7, 2008, p.72.

¹⁶ "Green Gravel: Priorities for Aggregate Reform in Ontario," Greenbelt Alliance. See:
<http://www.environmentaldefence.ca/reports/Green%20Gravel%20Priorities%20FINAL.pdf>

Plan for Success:

A Citizen Response to the Draft Lake Simcoe Protection Plan

And "Doing Less with Less: Oversight of Sand and Gravel Extraction. A Special Report to the Legislative Assembly of Ontario, April 24, 2007," Environment Commissioner of Ontario. See:

<http://www.eco.on.ca/eng/index.php/pubs/eco-publications/doing-less-with-less/mnr-s-oversight-of-sand-and-gravel-extraction.php>

¹⁷ "Draft Lake Simcoe Protection Plan: Comments on Behalf of the Lake Simcoe Region Conservation Authority," LSRCA, February 12, 2009, p.27.

¹⁸ "Suggested Conservation Guidelines for the Identification of Significant Woodlands in Southern Ontario," Ontario Nature, 2004, p.7.

¹⁹ Ibid, p.9

²⁰ "Lake Simcoe and its Watershed: Report to the Minister of the Environment," Lake Simcoe Science Advisory Committee, October 27, 2008, p.77.

²¹ "Suggested Conservation Guidelines for the Identification of Significant Woodlands in Southern Ontario," Ontario Nature, 2004, p.7.

²² "Lake Simcoe and its Watershed: Report to the Minister of the Environment," Lake Simcoe Science Advisory Committee, October 27, 2008, p.76.

²³ Ibid, p. 67.

²⁴ Ibid, p.67.

²⁵ "Lake Simcoe and its Watershed: Report to the Minister of the Environment," Lake Simcoe Science Advisory Committee, October 27, 2008.

²⁶ Ibid, p.29.

²⁷ Ibid, p.9.

²⁸ Ibid.

²⁹ "Whales in Lake Simcoe? Going Behind Youth Education About Lake Simcoe and the Lake Simcoe Watershed," Ladies of the Lake, 2007. See: http://www.lakeladies.ca/our_reports_about_the_lake

³⁰ Lake Simcoe Protection Act, P. 29, Section 29. Refers to Section 27 (1) (d.1)

³¹ "Draft Lake Simcoe Protection Plan: Comments on Behalf of the Lake Simcoe Region Conservation Authority," LSRCA, February 12, 2009, p.39.

³² "What it Takes to Save Lake Simcoe: A Citizen Response to 'Protecting Lake Simcoe: Creating Ontario's Strategy for Action' Discussion Paper," Campaign Lake Simcoe, 2008, p.9.

Additional Sources:

Campaign Lake Simcoe. 2007. *Critical Elements of the Lake Simcoe Protection Act*.

"The Naked Truth: Behind the Science of Lake Simcoe," Windfall Ecology Centre and Ladies of the Lake, 2006. See: http://www.lakeladies.ca/our_reports_about_the_lake

"The Naked Truth: The Citizens Action Plan to Save Lake Simcoe," 2006. Windfall Ecology Centre and Ladies of the Lake, 2006. See: http://www.lakeladies.ca/our_reports_about_the_lake