



MEMORANDUM

PRIVILEGED & CONFIDENTIAL

Date: June 6, 2025

To: Lagoon City Parks and Waterways Commission (Kal Johnson)

From: SV Law, Eric Davis and Giovanni Giuga

Subject: Overview of the Roles and Responsibilities between the Lagoon City Parks and Waterways Commission and Township of Ramara

On November 4, 1986, *An Act respecting the Township of Mara* received royal assent (“**Bill Pr11**” or the “**Mara Act**”).

Subsection 2(1) of *Mara Act* provides The Corporation of the Township of Ramara (the “**Township**”) with the authority to pass by-laws to regulate the canals, waterways, shorewalls, and parks in Lagoon City.

In addition, subsection 3(1) of *Mara Act* permits the Township to pass a by-law delegating its authority to manage and regulate the Lagoon City to the Lagoon City Parks and Waterways Commission (the “**Commission**”).

This memorandum reviews the roles and responsibilities of Township and Commission as they relate to regulating Lagoon City.

Background

The Township passed two (2) by-laws impacting the Commission.

On June 11, 2001, the Township enacted By-law No. 2001.50 (the “**2001 By-law**”) which created the Commission with the same powers and authorities pursuant to subsection 3(1) of the *Mara Act*.

On April 24, 2017, the Township passed By-law No. 2017.25 (the “**2017 By-law**”) which requires that all property owners abutting a waterway must construct and maintain the shorewall to the satisfaction of the Commission (sections 2.1-2.2 of the 2017 By-law).

At this time, the 2017 By-law remains in “full force and effect” (*Betrand v. Township of Ramara*, 2024 ONSC 7291 at para. 208).

Roles and Responsibilities for Township and the Commission

Township’s Roles and Responsibilities

(a) Directly from the Mara Act

Subsection 3(1) of the *Mara Act* permits the Township to pass a by-law to create the Commission and delegate its responsibility to “manage, maintain, regulate, and control lands and easements conveyed”. Further, subsection 7(1) of the *Mara Act* permits the Township to enact a by-law, as follows:

every owner of land abutting a waterway conveyed to the [Township] under this Act to construct and maintain a shorewall, at the owner's expense, to the specifications and within the time limits set out in the by-law.

(b) Through Township By-laws

Section 2 of the 2001 By-law provides the Commission with its same broad powers pursuant to subsection 3(1) of the *Mara Act*, as follows:

That the [Township] does hereby delegate to the Commission all of its powers to manage, maintain, regulate and control any land or easements conveyed to the [Township] used or intended to be used for or in connection with a network of waterways including private parks, foot-bridges, foot-paths or any of them.

In addition, the 2017 By-law was enacted pursuant to subsection 7(1) of the *Mara Act* and states, as follows:

- 2.1 *That all owners of land abutting land conveyed to the Corporation of the Township of Ramara and used, or to be used, for a waterway shall construct at their sole expense a shorewall to the specifications hereinafter set forth, the said shorewalls to be fully constructed, installed and completed within a period of two years from the date upon which title is conveyed to the said owner, whether such conveyance has taken place prior or subsequent to the enactment of this By-law.*
- 2.2 *That all owners of land abutting land conveyed to the Corporation of the Township of Ramara and used, or to be used, for a waterway shall maintain at all times the shorewall which is either presently existing or which is constructed in accordance with the provisions of the preceding clause, in a state of repair satisfactory to the Lagoon City Parks and Waterways Commission, but the requirements of the said Commission shall at no time exceed the specifications set out herein.*
- 2.3 *That all construction or repair work shall conform to the specifications set out in Section 4 herein.*

As a result, the 2017 By-law outlines the specifications and time limit for affected property owners to construct or repair the shorewall.

(c) From the Mara Act after the 2001 By-law and 2017-By-law

After the 2001 By-law and the 2017 By-law came into force, the *Mara Act* triggers a number of responsibilities for the Township. This includes appointing and removing members of the Commission (subsection 4(4) of the *Mara Act*).

The Township is also responsible for approving the Commission's budget as well as the calculation and the collection of levies from property owners for the Commission through by-law (subsections 6(6), 7(11), and 8 of the *Mara Act*).

In addition, the Township must also provide insurance and audit services at the Commission's expense (subsections 5(2) and 6(3) of the *Mara Act*).

Further, the Township is required to create a "court of revision" for property owners to appeal a decision made by the Commission or their proportion of levies (subsection 7(4) and 8(6) of the *Mara Act*).

Commission's Role and Responsibilities

(a) Directly From the Mara Act

The Township must pass a by-law before the Commission may have any role or responsibilities under the *Mara Act*. However, Justice Healey has stated, as follows:

While the language in s. 3 regarding council's authority to pass a by-law to establish the Commission is permissive, a reading of the Mara Act in its entirety leads to the conclusion that the Commission was intended to be integral to the governance of Lagoon City (Bertrand, supra at para. 173).

(b) Through Township By-laws

As noted above, the Commission has delegated authority to regulate the waterways within the Township (section 2 of the 2001 By-law). Specifically, the Commission is responsible for the ongoing construction and/or maintenance of the shorewall and compliance with the specifications as described in section 4 of the 2017 By-law (sections 2.2 and 2.3 of the 2017 By-law).

The Commission may compel a property owner to construct or repair a shorewall to its satisfaction or perform the necessary work itself at the property owner's expense in accordance with the *Mara Act* (section 7.1 of the 2017 By-law).

(c) From the Mara Act after the 2001 By-law and 2017-By-law

After the 2001 By-law and 2017 By-law were enacted, the *Mara Act* imposes that the Commission is a local board (subsection 3(2) of the *Mara Act*).

As such, they must select a chair (or interim meeting chair) and a requirement to meet at least twice a year (subsections 4(9)-(10) of the *Mara Act*).

In addition, subsections 6(1)-(2) of the *Mara Act* requires that the Commission submit annual budget estimates and a report to Township Council, as follows:

- (1) The Commission shall submit to the council its estimates for the current year at the time and in the form prescribed by council.*
- (2) On or before the 1st day of March in each year, the Commission shall submit to council its annual report for the preceding year including a complete audited and certified financial statement of its affairs, with balance sheet and revenue and expenditure statement.*

The Commission's operating budget is limited to the amount approved by Township Council because "no expenditure other than those set out in the approved estimates shall be made without

the prior approval of council” (subsection 6(6) of the *Mara Act*). Further, the Commission may only borrow money with Council approval and has discretion to establish a reserve fund for the purposes of “dredging the bed of a waterway” or for other purposes as directed by Township Council (subsection 6(5), (7) of the *Mara Act*).

Section 7(3)(a) of the *Mara Act* outlines the following procedures that the Commission must take before it constructs or maintains the shorewall, at the owner’s expense, as follows:

- (a) *the Commission gives at least thirty days notice to the owner, by registered mail at the address shown on the assessment rolls, outlining the nature of the work proposed and an estimate of the cost; and*
- (b) *the Commission,*
 - (i) *gives the owner the opportunity to make oral or written representation to the Commission as to the necessity of repair or cost of construction or repair of the proposed work if such request is made within fifteen days of the mailing of the notice,*

The Commission must make its decision after considering the property owner’s representations (subsection 7(3)(b)(ii) of the *Mara Act*).

After the Commission makes a decision, the property owner may appeal to the Township’s court of revision and subsequently to the Ontario Land Tribunal (“**OLT**”) (subsections 7(4) and 8 of the *Mara Act*). The Commission may defend its decision at the court of revision and/or appeal to the OLT (subsection 7(8) of the *Mara Act*). While under appeal, the Commission cannot undertake the works subject to appeal (subsection 7(5) of the *Mara Act*).

Subsections 7(9)-(10) of the *Mara Act* states that the Commission has a right of entry, as follows:

- (9) *An agent or employee of the Commission may enter upon private property for the purpose of,*
 - (a) *inspecting the construction or state of repair of a shorewall to ensure that it complies with the specifications set out in the by-law; or*
 - (b) *constructing or repairing a shorewall in accordance with this section.*
- (10) *An entry upon private property shall be limited to the duration and extent necessary to perform an inspection, repair or construction of a shorewall, as the case may be, and the Commission shall not be liable for any action for trespass or damages unless negligence can be shown.*

Conclusion

The *Mara Act* provides the Township with the discretion to create the Commission and delegate its authority over certain matters pursuant to subsection 3(1) of the *Mara Act*. The Township passed the 2001 By-law and 2017 By-law which also triggered additional responsibilities for both the Township and Commission as described in the *Mara Act*.

Schedule “A”

Summary of the Roles and Responsibilities for the Lagoon City Parks and Waterways Commission & Township of Ramara

	Township of Ramara	Lagoon City Parks and Waterways Commission
From the Mara Act	<ul style="list-style-type: none"> Permits the Township to enact a by-law to create the Commission “to manage, maintain, regulate, and control lands and easements conveyed” (s. 3(1) of the MA) Permits the Township to enact a by-law to require all property owners construct and maintain the shorewall (s. 7(1) of the MA) 	<ul style="list-style-type: none"> None. Township must create the Commission and delegate authority before it has any role or responsibilities.
From Township By-laws	<ul style="list-style-type: none"> Delegates authority to manage, maintain, and regulate waterways within the Township to the Commission (s. 2 of the 2001 By-law) Delegated maintenance and enforcement powers of the shorewall to Commission (s. 2.2 of 2017 By-law) Creates specifications for the construction and repair of the shorewall (s. 2.3 of 2017 By-law) 	<ul style="list-style-type: none"> Manage, maintain and regulate and control any lands/easements for Township waterways (s. 2 of the 2001 By-law) Ensure property owners comply with 2017 By-law specifications (s. 2.2 of the 2017 By-law) Provide compel property owners to construct or repair the shorewall or perform the works itself (s. 7.1 of the 2017 By-law)
From the Mara Act after 2001 & 2017 By-laws	<ul style="list-style-type: none"> Appoint and remove members of the Commission (s. 4(4) of the MA) Provide insurance and audit services to Commission (at Commission’s expense) (ss. 5(2) and 6(3) of the MA) Approve Commission’s budget (s. 6(6) of the MA) Create a court of revision for an appeal of the Commission’s decision (s. 7(4) of the MA) Approve the levy formula and collect levies from property owners for the Commission (s. 7(11) & 8 of the MA) Create a court of revision for an appeal of the Commission’s decision (s. 7(4) or 8(6) of the MA) 	<ul style="list-style-type: none"> Appoint a Chair of the Commission and/or designate a meeting chair (s. 4(9) of MA) Have at least 2 meetings a year (s. 4(10) of the MA) Provide budget estimates to Township Council for approval (s. 6(1) of the MA) Prepare an annual report to Council (s. 6(2) of the MA) May create a reserve fund for “dredging the bed of the waterway” or as directed by Council (s. 6(5) of the MA) Rights of entry onto private property for inspection and remediate shorewall (s. 7(9)-(10) of the MA) The Commission may either construct and/or repair a shorewall, at the owner’s expense after making its decision which must consider any of the owner’s representations (s. 7(3) of the MA) Defend and/or appeal its decision at the court of revision or Ontario Land Tribunal (s. 7(4)-(8) of the MA)

Legend

“MA” refers to the Township of Mara Act, 1986 S.O. 1986 c. Pr21.

“2001 By-law” refers to the Corporation of the Township of Ramara By-law No. 2001.50

“2017 By-law” refers to the Corporation of the Township of Ramara By-law No. 2017.25