Appendix E:
Consultation Record

Study Update to the Sherwood Creek-Burke Brook Fish Passage Restoration Environmental Assessment

Consultation Report

May 27, 2022

Prepared by:
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Contents

Executive Summary

The City of Toronto is updating the Sherwood Creek-Burke Brook Fish Passage Restoration Environmental Assessment study that was completed in 2006. Since then, a number of large storms have caused significant erosion in the stream and put the City's water and sewer infrastructure at risk of damage. As part of this study update the City invited the community to provide their feedback on the preferred solution to reduce erosion at four sites where there is risk of damage.

This report details the consultation activities and feedback received from April 11 to April 25, 2022 on the preferred Alternative Solution #2 to protect the City's water and sewer infrastructure located in Burke Brook. The City is recommending Alternative Solution #2, to restore stream segments, for Sites #4 to #8, which are at risk of damage related to erosion. Eight individuals provided feedback through the consultation process. Most of the comments that were received indicated support for Alternative Solution #2 with a preference for vegetated boulders, instead of armourstone. One respondent indicated support for Alternative #4, to move the water and sewer infrastructure away from the stream.

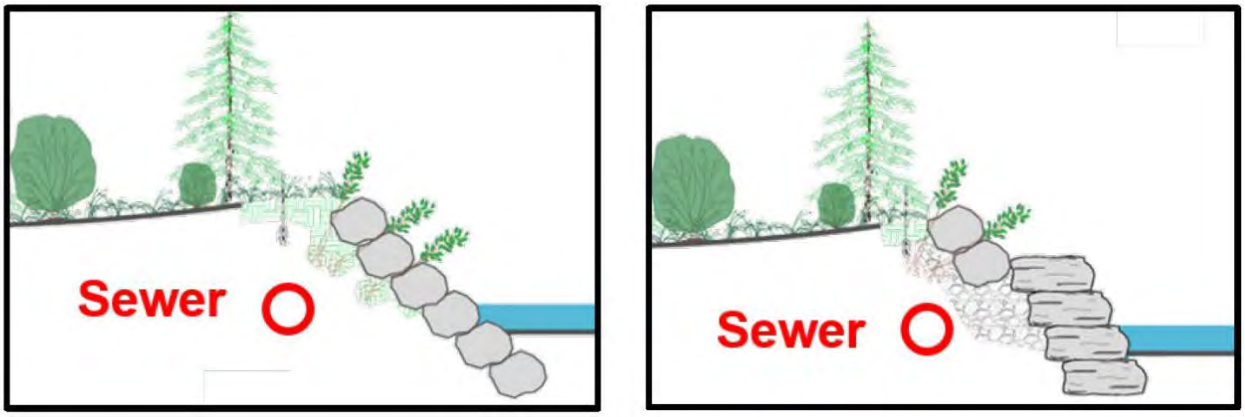

Figure 1 Drawings of the preferred solution, Alternative Solution #2, to restore a stream segment within the "footprint" of the stream with either boulders and vegetation (left) or armourstone (right).

Overview

Project Summary

The City of Toronto is updating the Sherwood Creek Burke Brook Fish Passage Restoration Environmental Assessment study that was completed in 2006. Since then, a number of large storms have caused significant erosion in the stream, increasing the risk of damage to the City's water and sewer infrastructure.

This study assessed the potential hazards due to erosion at twelve study sites and has identified solutions to protect the City's water and sewer infrastructure at Sites #4 to #8 which are at-risk of potential damage. As part of this study update the City invited the community to review four Alternative Solutions and provide their feedback on the preferred Alternative Solution #2 to reduce erosion at Sites #4 to #8. This report summarizes consultation activities that were carried out to inform the community, present the Alternative Solutions and seek feedback on the preferred Alternative Solution #2 from April 11 to April 25, 2022. This community consultation followed the Municipal Class Environmental Assessment requirements for a study update of a completed Schedule B project.

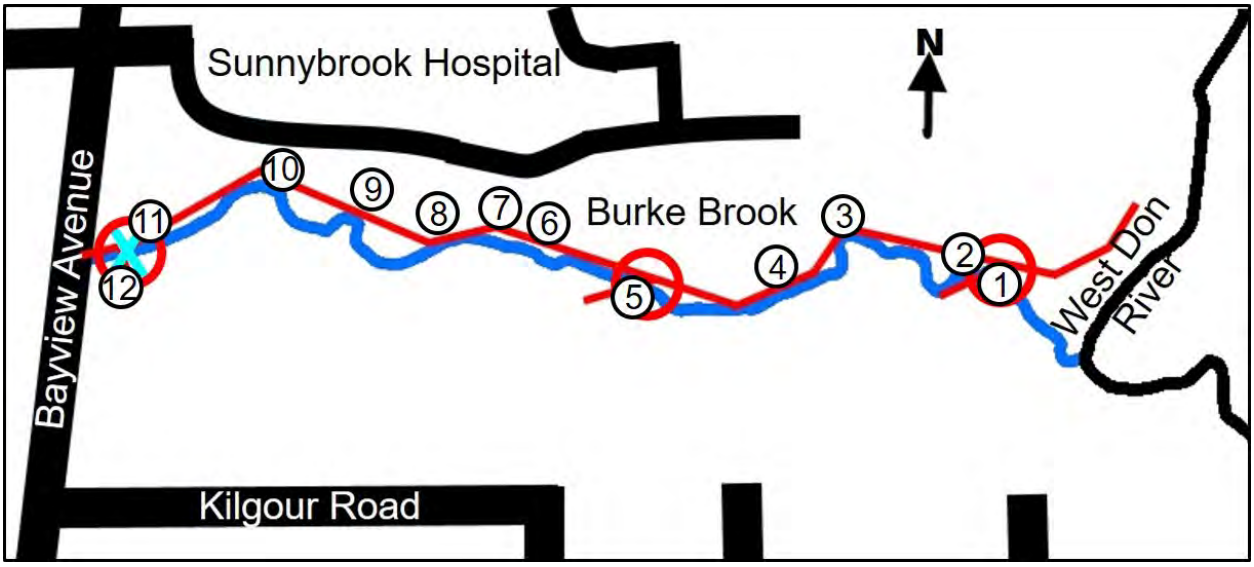

Figure 2 Study Area Map showing the location of City infrastructure in relation to the 12 study sites.

~ Burke Brook
X Storm sewer outfalls
– Sanitary sewer
O Sanitary sewer crossings

Notification and Consultation Activities

Notification

A variety of methods were used to notify stakeholders and members of the public during the week of April 11, 2022, inviting them to participate in the consultation:

- Project website www.toronto.ca/burkebrook
- Printed Notice of Public Consultation sent via Canada Post direct mail to 4500 addresses in the study area
- Email to 46 stakeholders, including resident associations, community groups, organizations, institutions and elected officials

- Notification to Indigenous communities
- Notification to agencies and utilities

Recorded Presentation

A recorded presentation was posted to the webpage on April 11, 2022, to provide an overview of the study, the Alternative Solutions and the preferred Alternative Solution. The recording received about 40 views.

Hard copy materials were made available upon request.

Phone and Email Comments

Stakeholder representatives and members of the public were invited to share comments and ask questions via phone, email, or written letter. A total of eight comment submissions were received between April 11 and April 25, 2022. All comments were documented and reviewed for consideration and response by the project team.

Online Survey

An online survey was open from April 11 to April 25, which received five completed responses. Participation was anonymous.

The survey provided background information on the project and asked the two questions listed below. The questions provided opportunity for open ended comments.

1. Do you have any comments or concerns with the recommendation to restore stream segments (Alternative #2) for sites #4 to #8?
2. Do you have any additional comments or questions about the study?

A print-friendly version of the survey ('Feedback Form') was available upon request.

Feedback Summary

Overall, most of the respondents indicated support for the preferred Alternative Solution #2 to restore a stream segment. Furthermore most respondents indicated a strong preference for vegetated boulders over the armourstone for aesthetic reasons, and because they felt that vegetated boulders are potentially a long-term, less costly solution. One respondent indicated support for Alternative #4, to move the water and sewer infrastructure to a new location.

Phone and Email Comments

Comments received via phone/email from members of the public are summarized below:

- Two respondents indicated support for the preferred Alternative Solution #2 for aesthetic and long-term benefits.
- One respondent indicated support for Alternative Solution #4 to move the sewer away from the stream as man-made structures are not aesthetically suitable with the natural landscape of Burke Brook.

Online Survey

Responses received to each question in the online survey are described in this section.

Question 1) Do you have any comments or concerns with the recommendation to restore stream segments (Alternative #2) for Sites #4 to #8?

- All five survey respondents indicated support for Alternative #2
    - Prefer vegetated boulders, not armourstone

Question 2) Do you have any additional comments or questions about the study?

- One respondent requested that the City address Site #11 (moderate risk) as soon as it shows any deterioration
- Out of scope questions:
    - Why trees were removed near Site #4 and near the road to the dog park[1]
    - How the increasing number of pedestrians and bicyclists on the south side of the ravine (near Site #1) also will effect erosion and want the study to address this issue as well.[2]

Indigenous Comments

No comments were received on the Alternatives or the preferred Alternative Solution #2 for Sites #4 to #8.

Agency and Utilities Comments

Comments were received from the following agencies:

- Enbridge – provided plans of nearby assets
- Hydro One – no existing assets in the area
- Teraspan – no existing assets in the area
- Telecon – no assets with 2 metres of proposed work
- Zayo – no assets in the area
- Toronto and Region Conservation Authority (TRCA) – request to review draft final report, review request for fees from the City of Toronto, and additional requests for the detail design and permit stage after this Study is completed.
- Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) – correspondence was received regarding the screening of potential heritage resources

Next Steps

The feedback received will be included to inform the Study Update's final report, which will include the preferred Alternative Solution #2 for Sites #4 to #8. The final report will be made available for a 30-day public comment period to complete the Study Update in the Environmental Assessment process. The community will be notified when the final report is posted and how to provide further comments.

[1] Note: The Parks, Forestry and Recreation division removed invasive tree species over the Winter. A tree replanting plan was developed to plant 415 new trees and 710 new shrubs in the Spring. The tree removals and replanting is separate from this study.
[2] Note: Erosion related to pedestrian and bicycle users near the entrance of the park is separate from this study.

Update to the Sherwood Creek-Burke Brook Fish Passage Restoration Study

Municipal Class Environmental Assessment

Burke Brook from Bayview Avenue to the West Don River

Date: April 11, 2022

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Land Acknowledgement

We acknowledge the land we are standing on is the traditional territory of many nations including the Mississaugas of the Credit, the Anishnabeg, the Chippewa, the Haudenosaunee and the Wendat peoples and is now home to many diverse First Nations, Inuit and Métis peoples.

We also acknowledge that Toronto is covered by Treaty 13 with the Mississaugas of the Credit.

About this Study

Study Purpose

In 2006 the City of Toronto completed the Sherwood Creek/Burke Brook Fish Passage Environmental Assessment Study which included recommendations to improve the stream and protect the City's water and sewer infrastructure. Those recommendations were implemented in ~2008. However, since then a number of storm events have eroded the conditions in a section of Burke Brook and exposed the City's water and sewer infrastructure to potential risks of damage and failure.

Study Purposes:

- To develop solutions that protect the City's water and sewer infrastructure from excessive erosion processes within the stream
- Improve stream functions, such as increase stream bank stability, reduce erosion, enhance stormwater conveyance, and improve habitats

The City's sewer and water infrastructure services in/along streams include:

- Watermains to supply drinking water to homes and businesses
- Storm sewers to collect rain/snow-melt from streets, properties and discharge into streams (outfalls)
- Sanitary sewars to collect sewage from homes and businesses for treatment

This study is not focused on trails, trail access, trees, invasive species, or other park features.

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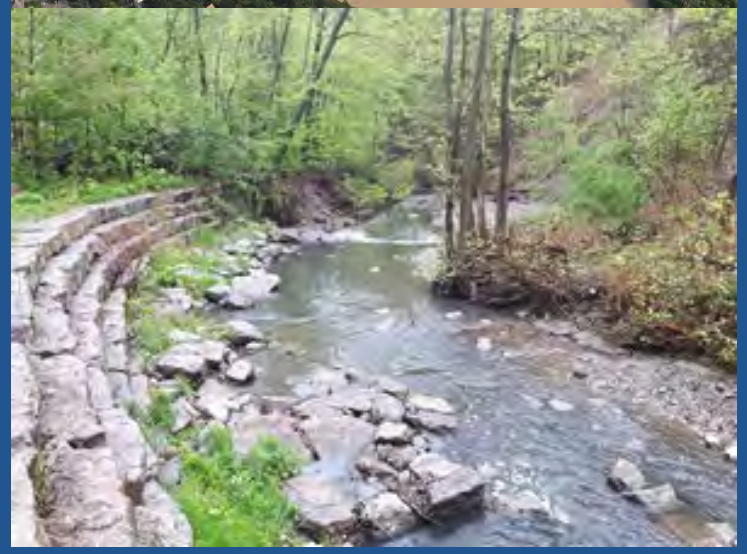
Study Process

- This Study is being completed as an update to the Sherwood Creek/Burke Brook Fish Passage Restoration Municipal Class Environmental Assessment. This study follows Phases 1 and 2 of the Municipal Class Environmental Assessment (MCEA) process.

- After study completion the City will:
  - Prioritize sites and budget for rehabilitation works within the Stream Restoration and Erosion Control Program
  - Coordinate opportunities and initiatives with Parks, Forestry & Recreation and/or Toronto and Region Conservation Authority (TRCA) during the detail design to implement the updated solutions in Burke Brook

Burke Brook, 2020



Understanding Streams

Photo Sources: Top – Humber River after large storm (Toronto and Region Conservation Authority TRCA) Bottom – Burke Brook armourstone wall (City of Toronto)

Understanding Streams

- Streams are **dynamic** and follow natural processes of erosion and laying sediment until a stable form is developed and maintained
- **Stressors** can destabilize the stream over the short or long-term causing changes in its shape, location and overall size. These stressors include:

• **Urbanization** and "hard" impermeable surfaces decrease the infiltration and absorption of rain/snow into the ground

• **Climate change** increases the frequency and intensity of large storm events which increases the flows in streams

• **Historical man-made controls** or adjustments alter a stream's form in ways that counter-act natural processes (ie. dams, culverts, weirs)

Fluvial Geomorphology

Streams are studied by

- **Form:** width, depth, length, slope
- **Function**: movement of water and sediment
- How these characteristics are **interrelated** and how they **change over time**

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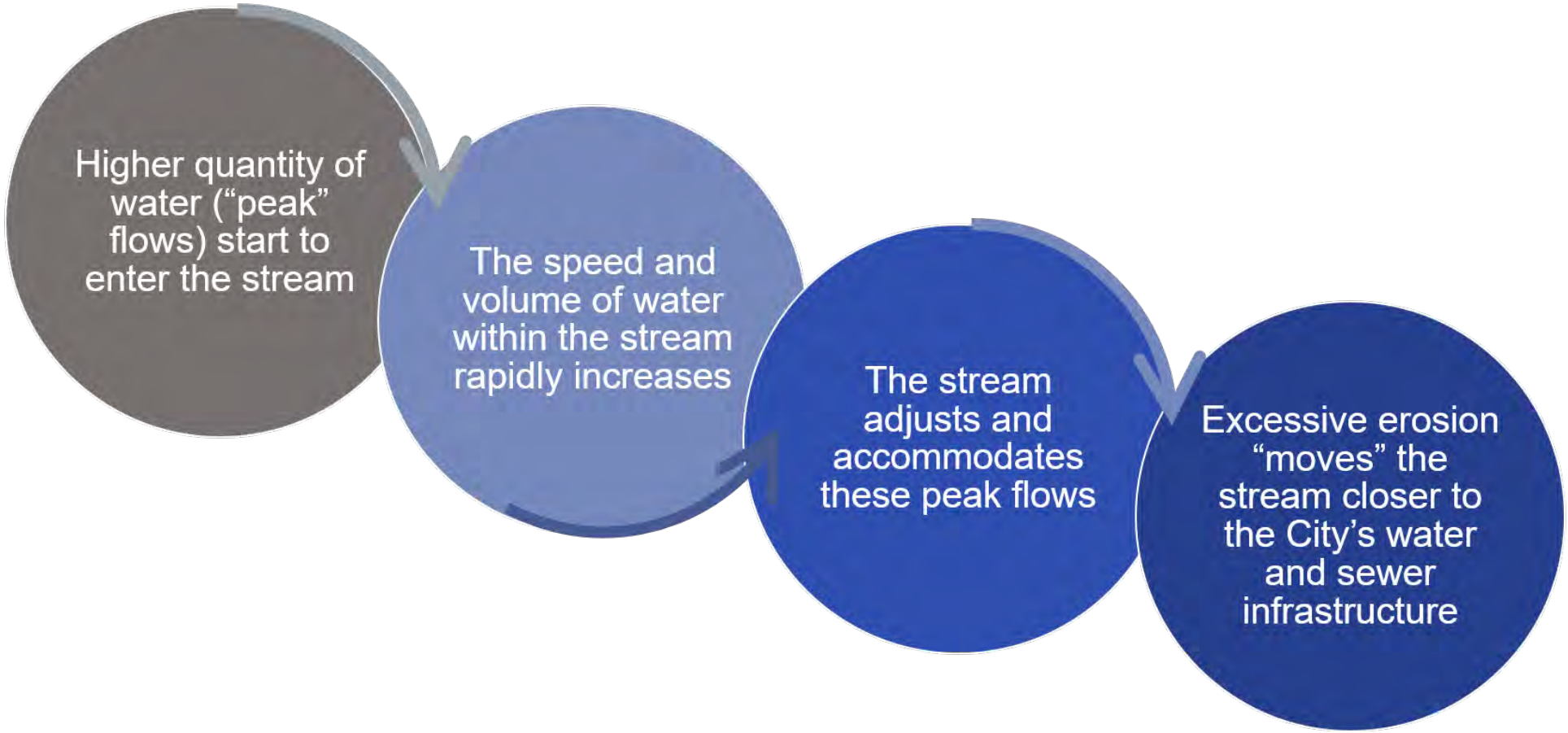
Understanding Streams

How streams respond to stressors



Understanding Streams

Example of High Peak Flows

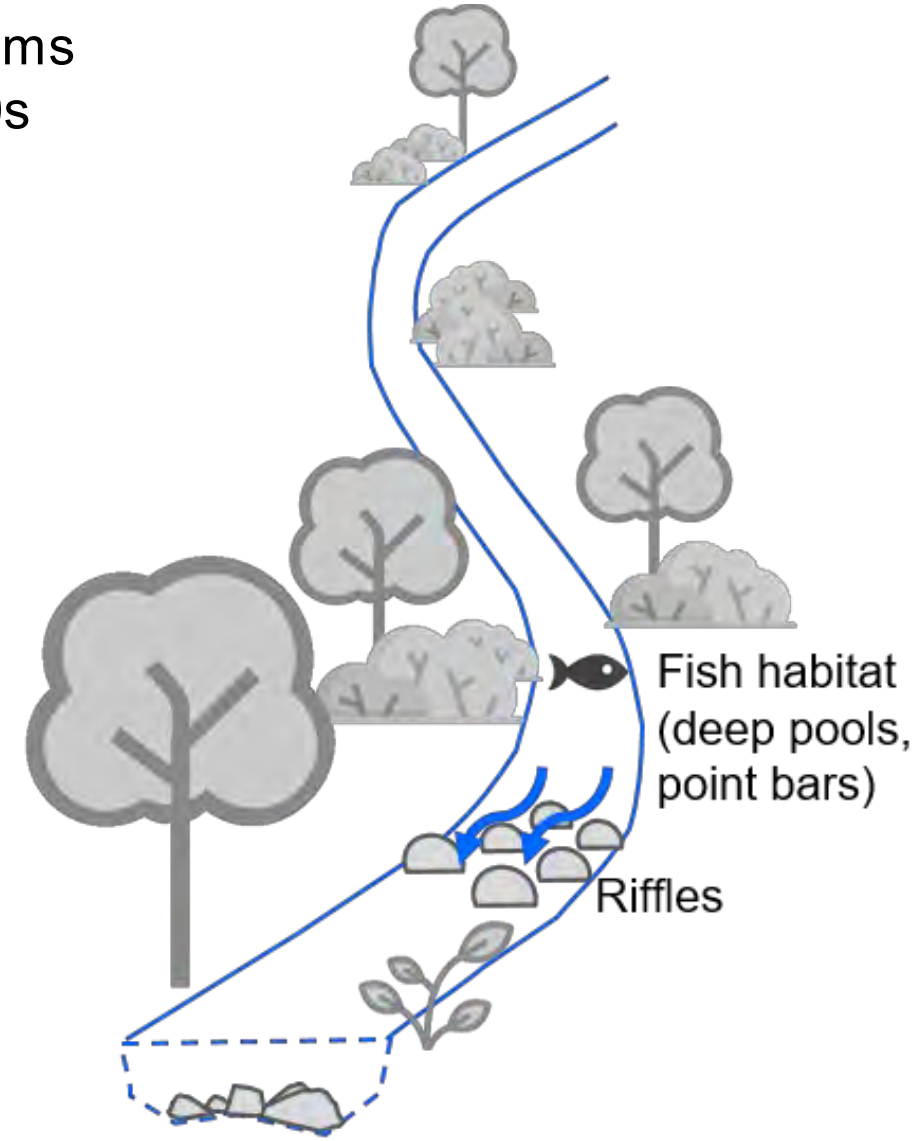
The photo on the left shows dry weather conditions in Yellow Creek near Yonge Street and St Clair Avenue. The video below is in the same location with high flows on November 27, 2020 a few hours after a major storm.

Photo source: Rod Anderton
Video Source: John Bossons

Understanding Streams

Pre-Urbanization - Common characteristics of streams prior to the City's significant growth in the 1970-1990s include:

- Stream meanders and curves
- Stream has varying depths
- Diverse stream features and habitats
  - Boulders, shallow riffles, fish spawning zones, deep pools and point bars
- Trees and vegetation provide
  - Stream bank stability
  - Aquatic habitat
  - Cover for fish from predators
  - Shade to cool/reduce over-heating of the stream's water temperature



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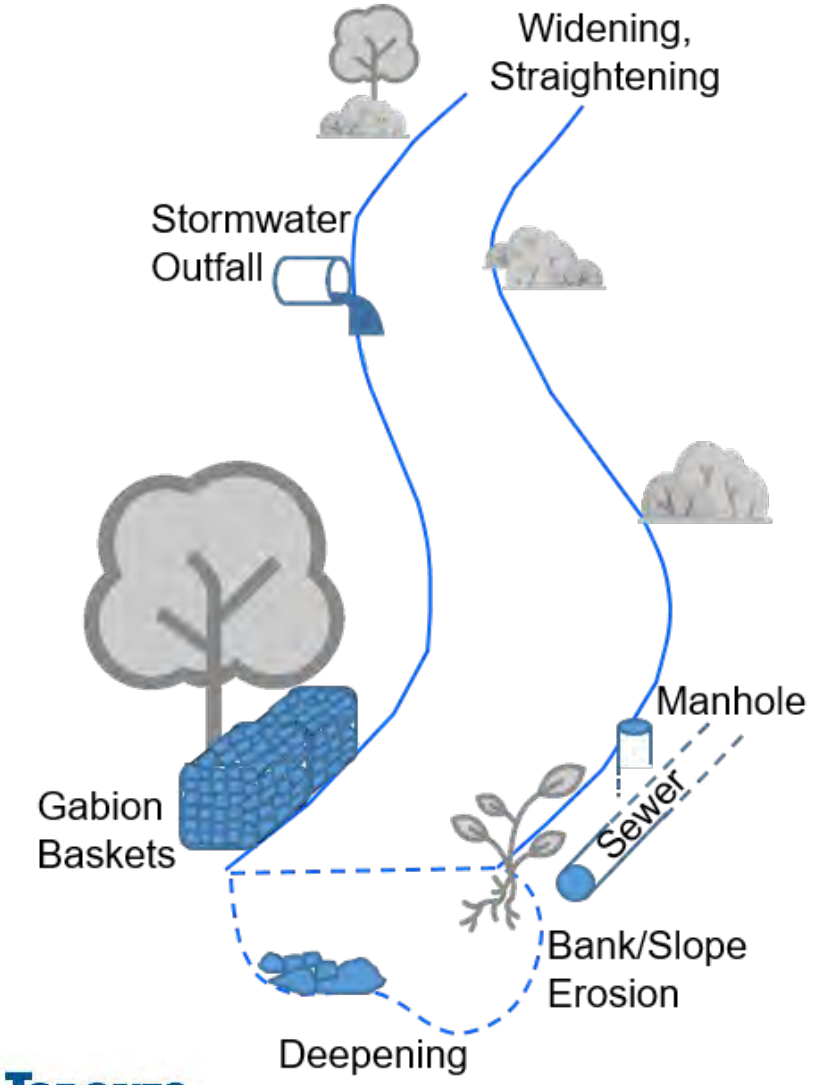
Understanding Streams



Post-Urbanization – Common characteristics of streams today include:

- Stream widens and deepens due to erosion
- Impeded or increased flows from City infrastructure – outfalls, bridges, culverts
- Man-made erosion controls – gabion baskets, stream straightening
- Fallen trees/less vegetation to stabilize stream slope/bank (undercutting)
- Reduced and degraded stream features and habitats (riffles, deep pools, point bars)
- Excessive flows, sediments and debris in the stream degrades aquatic habitats and shrinks deep pools

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Understanding Streams

How we develop a plan to work with a stream's geomorphology

1 Identify

Identify historical context and existing stream conditions

- To determine how they influence the stream's current and future conditions
- Identify other ecological aspects such as habitats within stream and along the banks as these can be indicators of stability or instability

2 Evaluate

Evaluate the changes of the stream's form and function as a response to stressors

- How and at what rate a stream's form and function changes
- Evaluate how this is impacting water and sewer infrastructure

3 Develop

Develop and design an improved stream form that will:

- Protect water and sewer infrastructure
- Improve stream function, i.e. increase stream bank stability, reduce erosion, enhance stormwater flows, and improve aquatic habitats

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Understanding Streams

Our streams are **dynamic**:

- Respond and change to accommodate stressors
- Try to balance the erosion and sediment transport processes

We want to:

- ➢ Protect water and sewer infrastructure from further excessive erosion
- ➢ Enhance stream functions and habitats in the long term

We hope this primer has shown how we learn where and how a stream is changing, so we can develop solutions that:

- ✓ **Address issues** such as excessive erosion, unprotected water and sewer infrastructure
- ✓ **Work with the changes** in the stream



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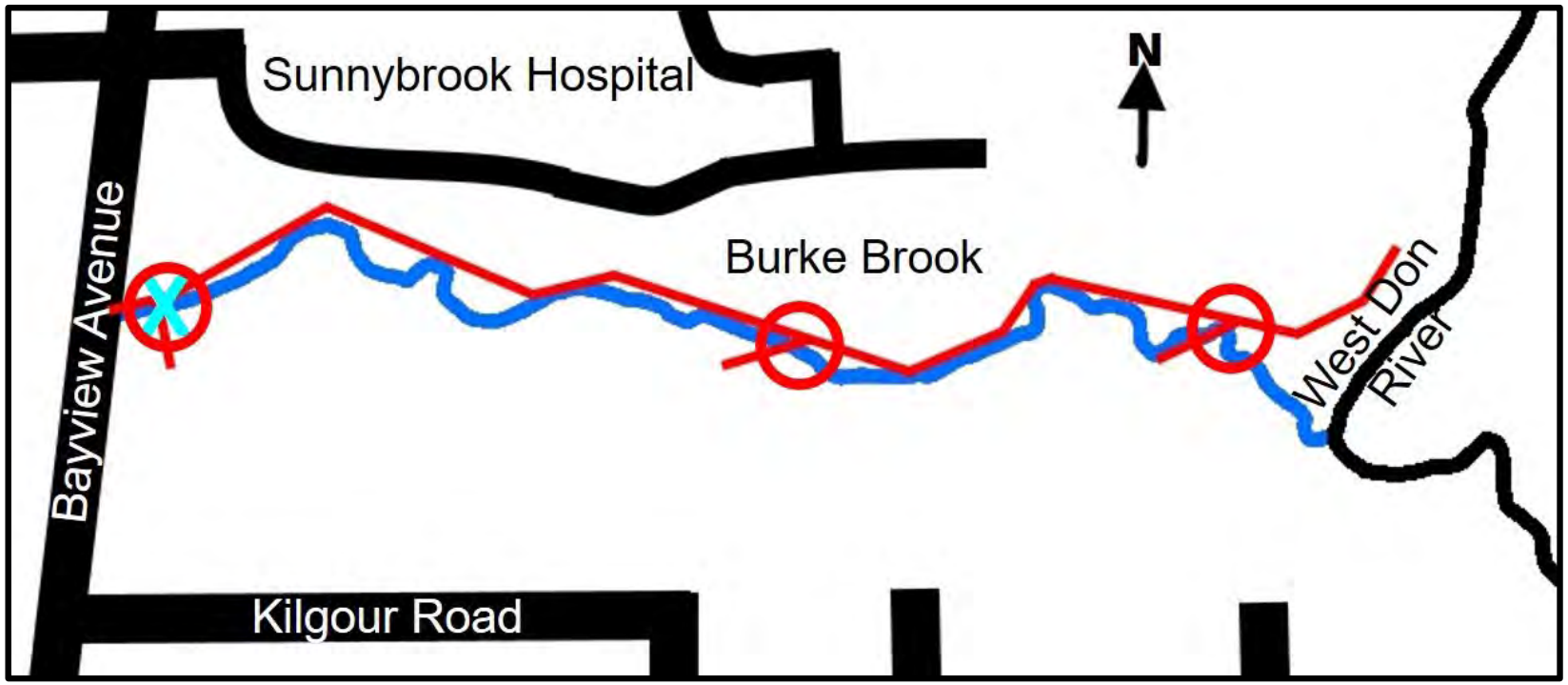
Photo Sources: Rod Anderton (Duncan Creek, Yellow Creek, Berry Creek)

Burke Brook

Study Area

City water and sewer infrastructure included in this study:

Icon	Map
~	Burke Brook
X	Storm sewer infrastructure
▬	Sanitary sewer near/parallel to stream (10 sections)
○	Sanitary sewer crossings under the stream (4 crossings)
~	West Don River



Burke Brook Study Area: Bayview Avenue to the confluence of West Don River

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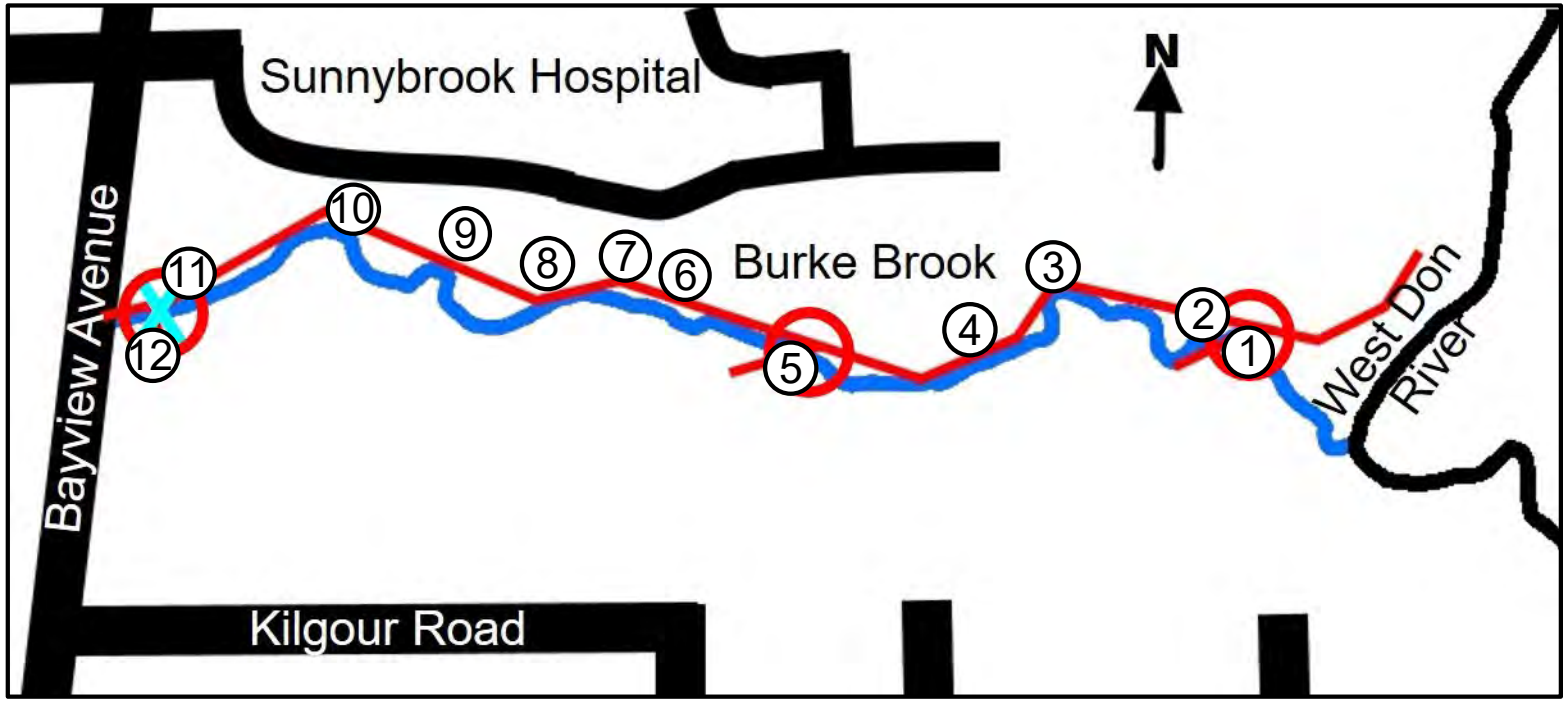
Note: Two privately owned outfalls and their impacts to the stream are not included in this study

Map of Study Sites

The next several slides will describe the existing conditions of the stream and general locations of the City's water and sewer infrastructure at 12 locations within the stream.

These locations were selected based on the close proximity of the infrastructure to the stream and its risk of damage due to erosion in the stream. One or more infrastructure may be included in each site.



Sites #1 & #2

Site Location	Site #1 – Sanitary sewer crossing beneath stream	Site #2 - Sanitary sewer parallel to stream
Description	• 1.1 metres of stream bed covers sewer • Stone-based treatment installed	• Sewer within 2.5 metres of the stream bank • Stream bank is vegetated and stable • Location inside stream bend means less prone to erosion risk
Overall	✓ Good condition	✓ Good condition

Sites #3 & #4

Site Location	Site #3 – Sanitary sewer crossing beneath stream	Site #4 - Manhole for sanitary sewer exposed in stream channel
Description	• one metre of stream bed material covers sewer • Stone-based treatment previously installed in 2008	• Manhole is exposed due to stream bank erosion • Risk of failure/potential for damage
Overall	✓ Good condition	➢ Poor condition

Sites #5 & #6

Site Location	Site #5 – Sanitary sewer crossing beneath stream & Sanitary Sewer parallel to stream	Site #6 - Sanitary sewer parallel to stream
Description	• 0.4 metres of stream bed material covers sewer • The stream banks are eroding and unstable • Parallel sewer is within 3 metres of bank, potential for damage due to erosion	• Sewer within 0.3 metres of the stream bank • Stream bank is eroding and unstable
Overall	➢ Poor condition	➢ Poor condition

Site #7

Site Location	Site #7 – Sanitary sewer crossing beneath private storm outfall
Description	• Sewer is exposed/visible and has no stream bed cover • Sewer is not protected nor encased with concrete • Crossing point is eroding and unstable
Overall	➢ Poor condition

Top Right Photo: Exposed sanitary sewer (blue arrow) Bottom Right Photo: Storm outfall and Fallen trees
Credit: Rod Anderton

Site #8

Site Location	Site #8 - Sanitary sewer parallel to stream
Description	• Sewer within 0.1 metres of the stream bank • Stream bank is eroding and unstable • Stream bank is at-risk of undercutting which weakens the support for the sewer pipe
Overall	➢ Poor condition

Photo: Example of stream bank erosion showing undercutting (blue arrow) of vegetation, City of Toronto

Sites #9 & #10

Site Location	Site #9 – Sanitary sewer parallel to stream	Site #10 - Sanitary sewer parallel to stream
Description	• Sewer is within 3.0 metres of the stream bank • Stream bank erosion exposed the sanitary sewer in 2013 and the bank was rebuilt with armourstone to protect sewer	• Sewer within 1.0 metre of the stream bank • Erosion previously exposed the sanitary sewer and the stream bank was reinforced with stone in 2012 • Vegetation adds further stabilization
Overall	✓ Good condition	✓ Good condition

Sites #11 to #12

Site Location	Site #11 – Sanitary sewer parallel to stream	Site #12 - Sanitary sewer crosses beneath stream at Bayview culvert
Description	• Sewer is within 4.7 metres of the stream bank • Stream bank is partially reinforced with stone and also eroding in sections, placing the sewer at moderate risk	• Sewer buried in concrete at culvert outlet • Culvert prevents fish migration upstream because it is too long and elevated above the stream water level
Overall	✓ Adequate condition, moderate and no immediate risk	✓ Good condition

Alternative Solutions

Alternative solutions were developed to address each of the 12 sites in Burke Brook, including:

1) **Do Nothing** – No planned interventions in the stream

2) **Restore a stream segment** – Install stream restoration and erosion control treatments within the existing alignment or "footprint" of the stream

3) **Realign & construct a stream segment(s)** – Realign relatively large segment(s) of the stream further away from existing infrastructure

4) **Move the City's water & sewer infrastructure** – Replace existing infrastructure with new infrastructure set further away from the stream (ie. maintain current stream alignment)

*Protective sewer encasing or wrap can be included in each alternative solution

Alternative Solution #2: Restore a Stream Segment(s)

Infrastructure protection and stream restoration work is constructed within the existing stream "footprint" at various stream segments and for differing lengths.

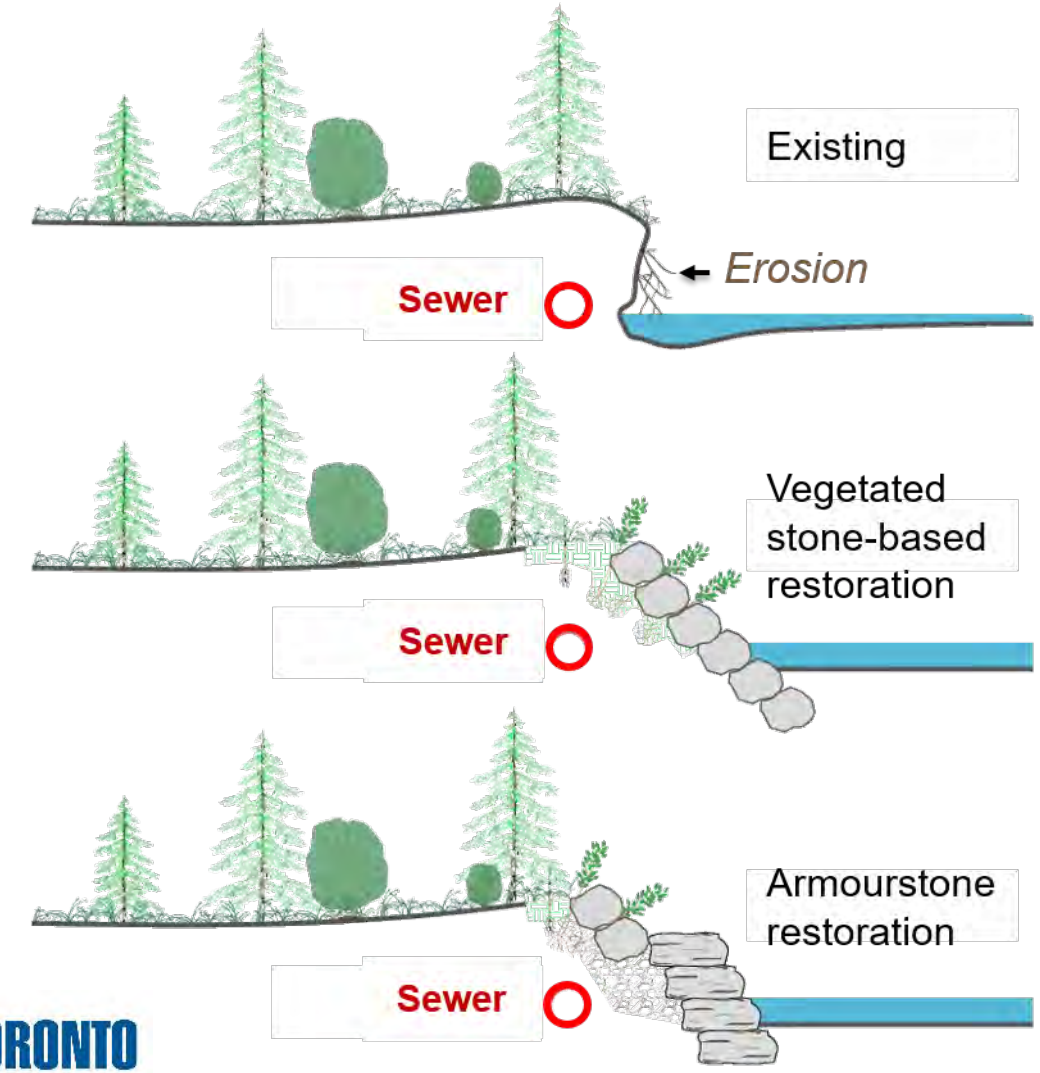


Photo of armourstone bank and vegetated stone treatment at the water's edge along the north stream bank of Burke Brook constructed within the existing stream channel to protect a sanitary sewer (yellow line) that was exposed and failed after being undercut during a July 2013 storm (Site #9).

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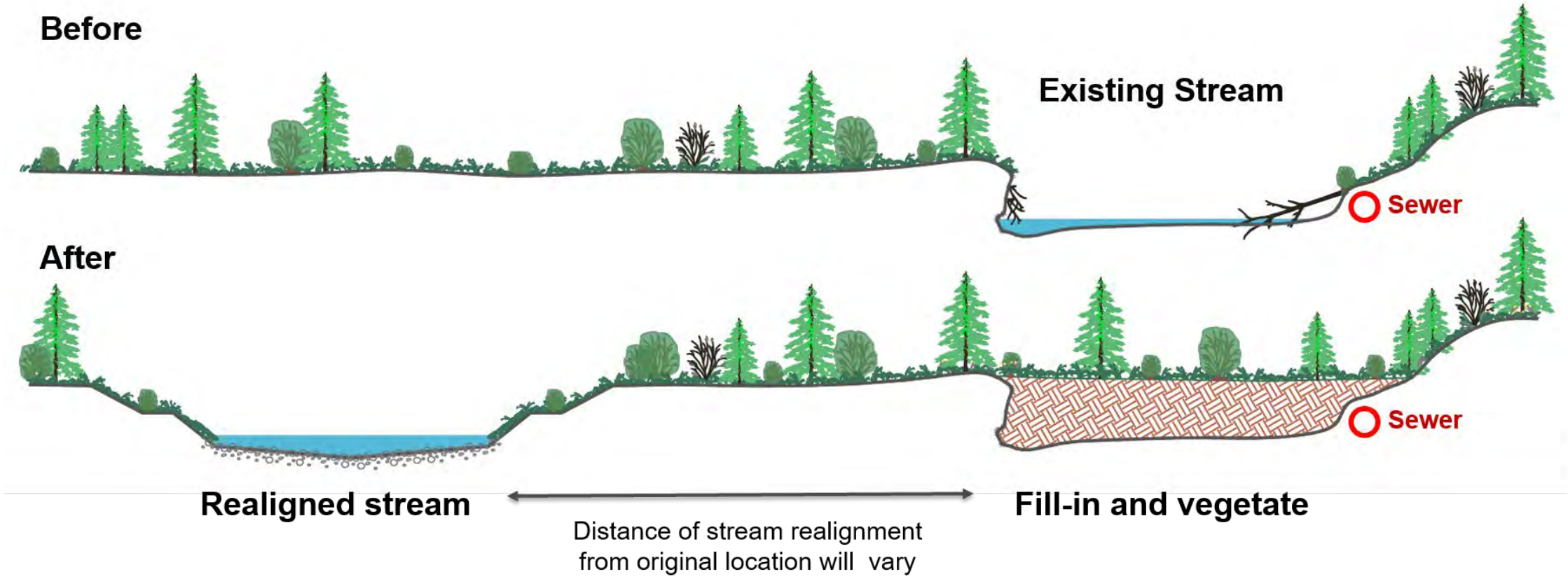
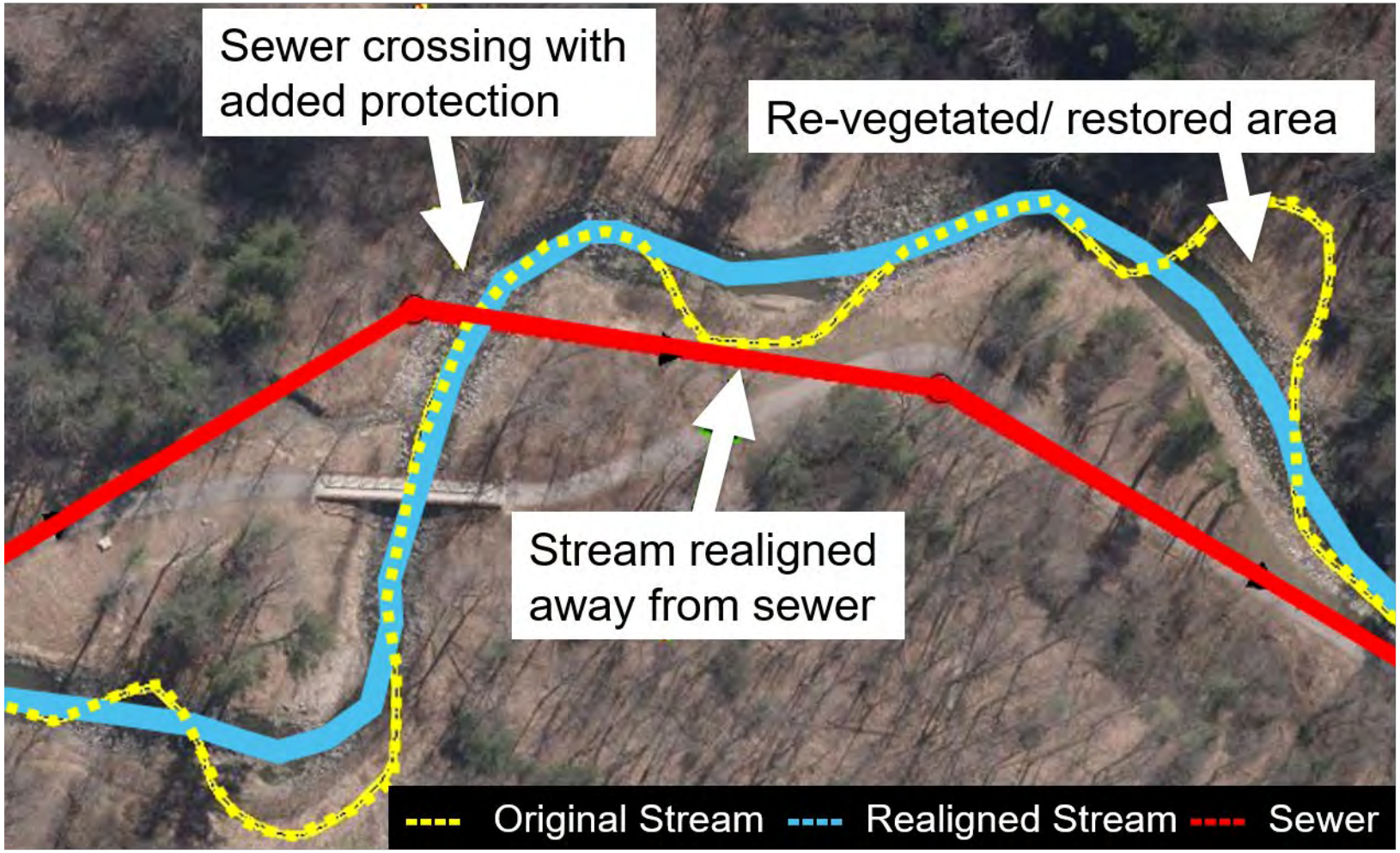
Alternative Solution #3: Realign & Construct a Stream Segment(s)

Realignment of the stream away from water and sewer infrastructure.



Alternative Solution #3: Realign & Construct a Stream Segment(s)

Example map showing Wilket Creek work that shows where the original stream (yellow) segments were realigned (blue) away from the sewer.



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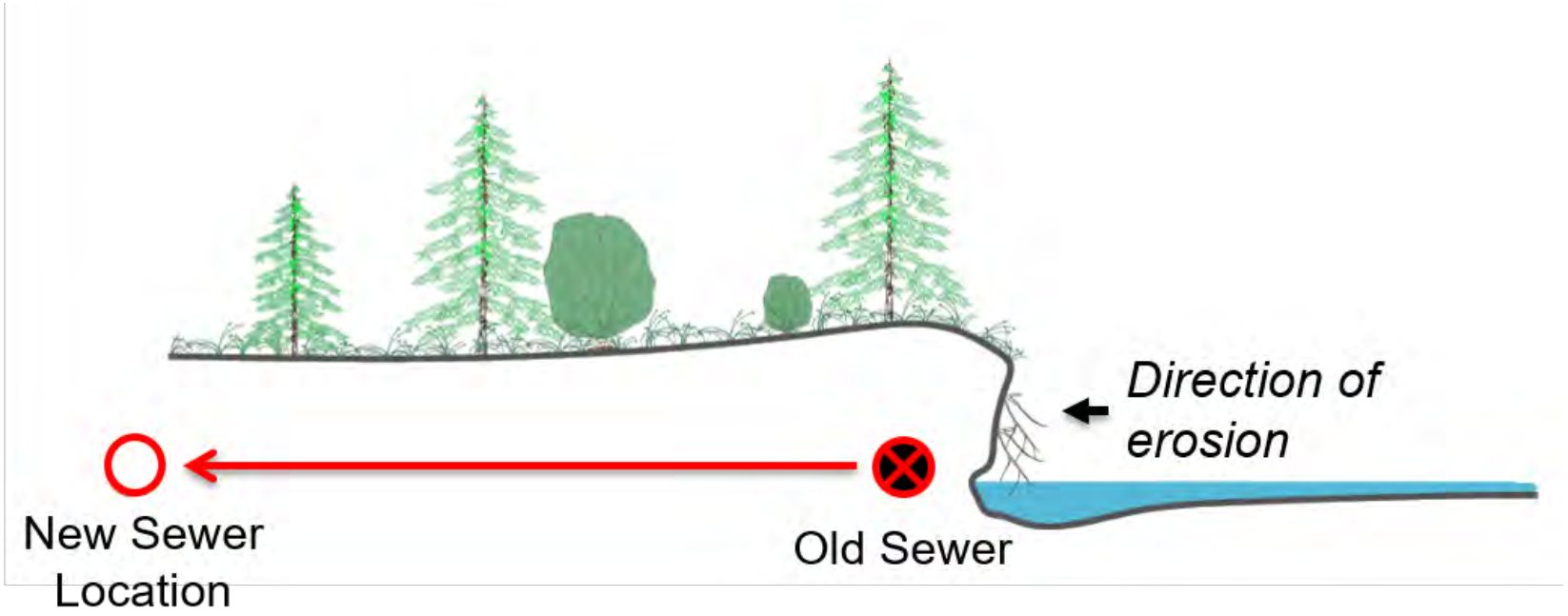
Alternative Solution #4: Move Water & Sewer Infrastructure

New water or sewer infrastructure is constructed in a new location further from the stream but within the ravine/valley. The original infrastructure is removed or abandoned in place, which is typically less disruptive and less costly.



Examples of Restoration and Realignment

Both alternatives #2 (restoration) and #3 (realignment and construction) will require reconstruction of the stream bed and banks similar to what's shown in these photos. These erosion controls measures are currently used and better integrate Natural Channel Design guidelines and principles.

Mud Creek: Stream bank constructed with a vegetated stone buttress

Berry Creek: Stream realigned and bends to move away from previously exposed sanitary sewer crossing

West Highland Creek: Rock weirs allow for grade control that reduces flow speed, provides pool and riffles, and stabilizes stream bed material.

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Evaluation Criteria

The following criteria were used to evaluate the alternative solutions.

Natural Environment

Benefits form and function, stability of stream and valley walls, aquatic and terrestrial habitat, water quality, flood conveyance, at-risk species, response to Climate Change, tree impacts

Protect City Sewers

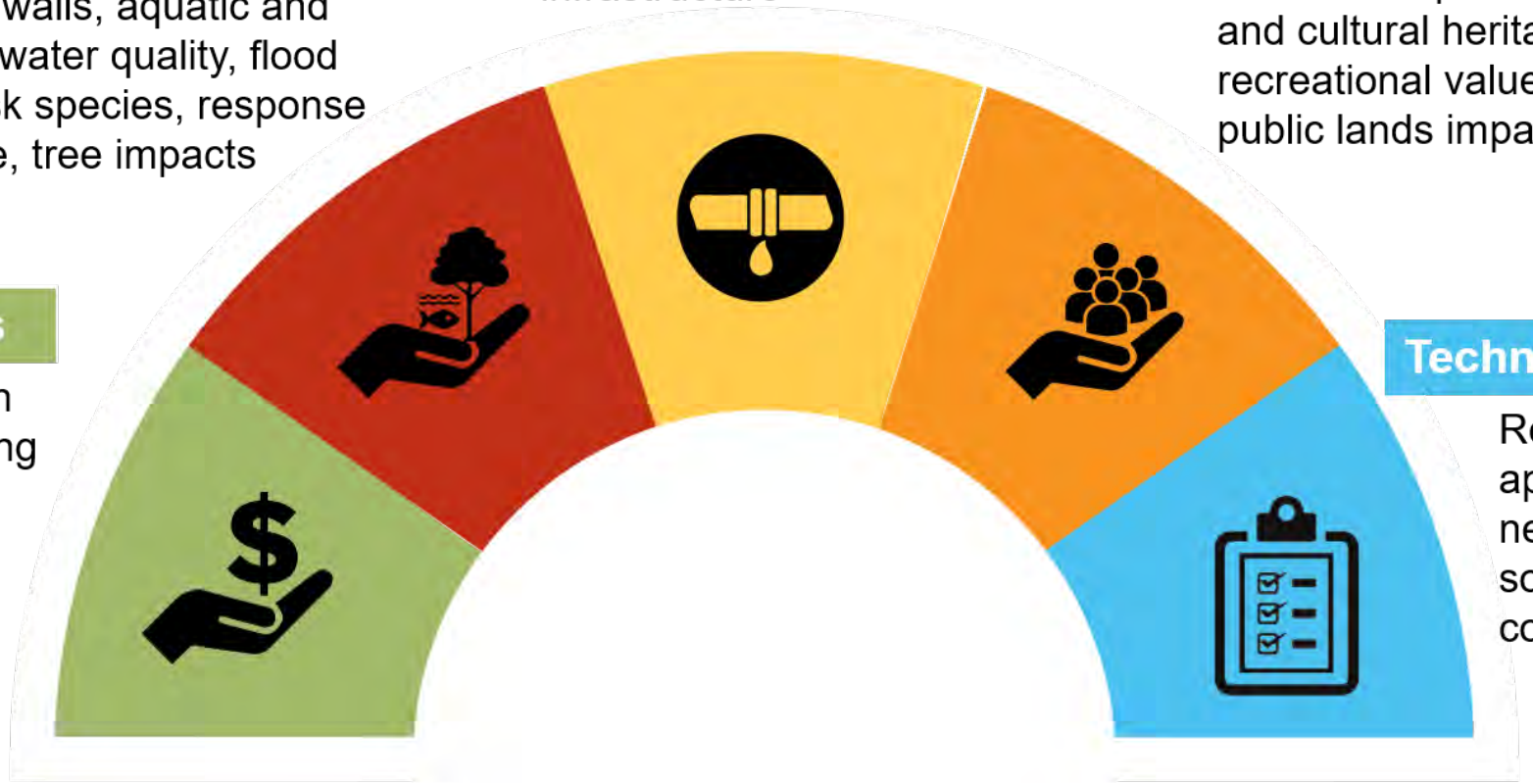
Effectiveness at mitigating risk to City's sewer infrastructure

Social/Cultural Environment

Minimize impacts to community and cultural heritage, aesthetic and recreational values, landowner and public lands impacts

Cost Effectiveness

Cost of implementation and level of benefit, long term operations and maintenance needs



Technical & Engineering

Regulatory agency approvals, impact to other nearby infrastructure, solution lifespan and constructability

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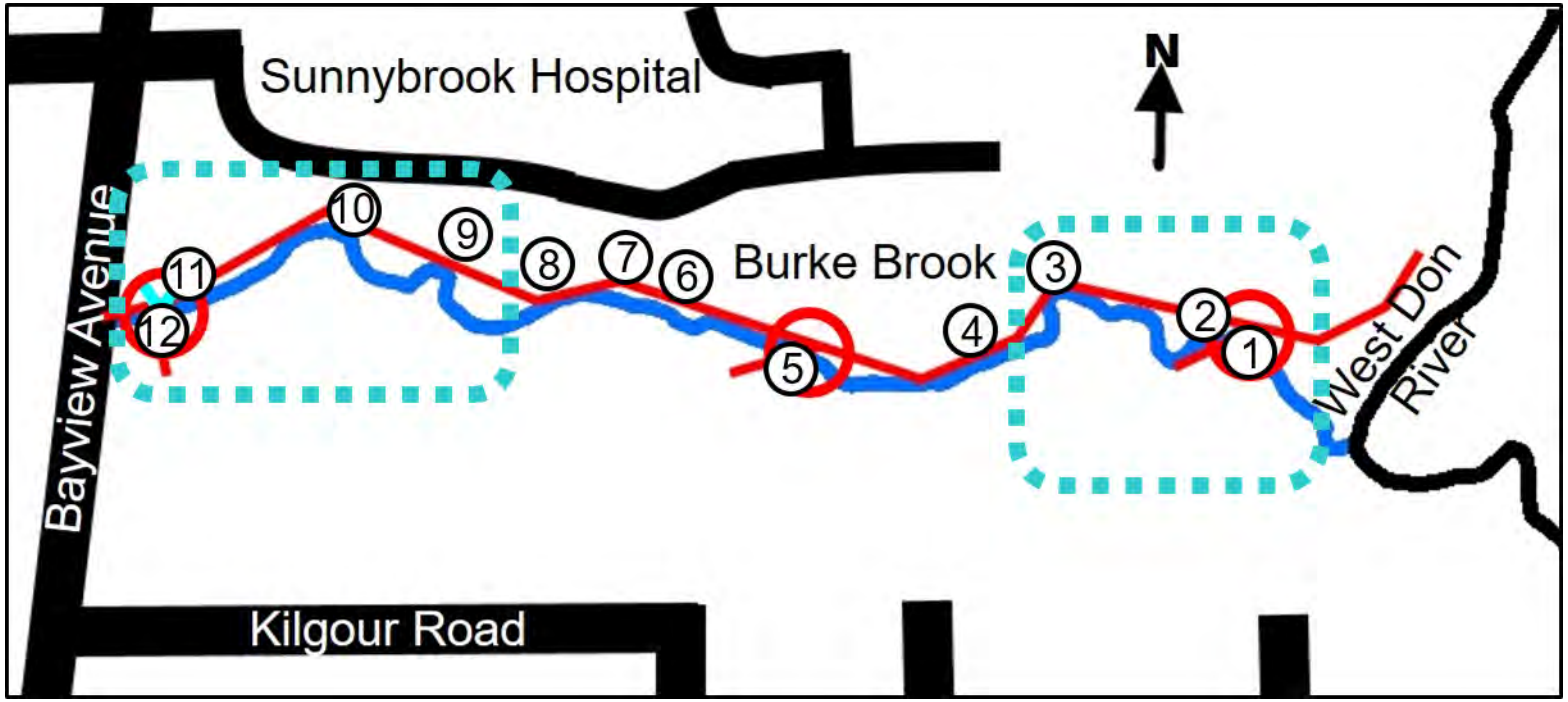
Assessment of Sites 1 - 3 and 9 - 12

Low Risk Sites: The stream conditions at sites 1, 2, 3, 9, 10 and 12 do not present a high risk of failure or damage to nearby water and sewer infrastructure.

Moderate Risk Site: Site 11 is at moderate risk with no immediate (0-5 years) concerns of erosion related impacts.

Therefore, the Do Nothing is recommended at Sites 1 to 3 and 9 to 12. Site 11 will also receive ongoing monitoring.



Evaluation of Alternative Solutions: Sites 4 to 8

Based on the assessment, Sites 4, 5, 6, 7 and 8 are at high-risk and need improvements to protect the water and sewer infrastructure. This table summarizes the evaluation for each alternative solution and recommends Alternative #2 as the preferred solution for Sites 4 to 8.

	Do Nothing (Alternative #1)	Restore a Stream Segment(s) (Alternative #2)	Realign & Construct Stream Segments (Alternative #3)	Move Infrastructure (Alternative #4)
Advantages	✓ No construction cost	✓ Enhance protection to infrastructure ✓ Enhance geomorphology and ecological conditions ✓ Less costly than Alternatives 3 and 4	✓ Enhanced protection to infrastructure ✓ Enhance ecological conditions	✓ Enhanced protection
Dis-advantages	• Does not address risks to infrastructure • Cost to respond to emergency infrastructure failures • Existing geomorphic and ecological conditions remain unaltered	• Minimal but frequently utilizes excessive stone within the stream to protect at-risk infrastructure	• Costlier than Alternative 2 • Limited space in stream valley to realign the stream	• Costlier than Alternatives 2 and 3 • Limited space in stream valley to move infrastructure • No geomorphic or ecological benefits
Evaluation	Not Preferred	**Preferred**	Less Preferred	Not Preferred

Your Feedback

Send us your comments by Monday, April 25, 2022

Your feedback is an important part of this consultation.

Online feedback form at
toronto.ca/burkebrook

Send comments by email
or phone
burkebrook@toronto.ca
416-392-1932

Print and mail a paper-copy
*request by phone or email

A summary of feedback received will be posted on the project webpage.

Email us to be added to the project contact list and receive updates

TORONTO

Ministry of the Environment, Conservation and Parks

Environmental Assessment Branch

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Toronto ON M4V 1P5
Tel.: 416 314-8001
Fax.: 416 314-8452

Ministère de l'Environnement, de la Protection de la nature et des Parcs

Direction des évaluations environnementales

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March 19, 2021 File No.: EA 01-06-05

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Re: **Sherwood Creek-Burke Brook Fish Passage Restoration Addendum**
City of Toronto
Municipal Class EA
Response to Notice of Study

Dear Ms. Kusiak,

This letter is in response to the Notice of Commencement for the above noted project. The Ministry of the Environment, Conservation and Parks (MECP) acknowledges that the City of Toronto (proponent) has indicated that the study is following the approved environmental planning process for a Schedule B revision project under the Municipal Class Environmental Assessment (Class EA).

The **updated (February 2021)** attached "Areas of Interest" document provides guidance regarding the ministry's interests with respect to the Class EA process. Please address all areas of interest in the EA documentation at an appropriate level for the EA study. Proponents who address all the applicable areas of interest can minimize potential delays to the project schedule. **Further information is provided at the end of the Areas of Interest document relating to recent changes to the Environmental Assessment Act through Bill 197, Covid-19 Economic Recovery Act 2020.**

The Crown has a legal duty to consult Aboriginal communities when it has knowledge, real or constructive, of the existence or potential existence of an Aboriginal or treaty right and contemplates conduct that may adversely impact that right. Before authorizing this project, the Crown must ensure that its duty to consult has been fulfilled, where such a duty is triggered. Although the duty to consult with Aboriginal peoples is a duty of the Crown, the Crown may delegate procedural aspects of this duty to project proponents while retaining oversight of the consultation process.

The proposed project may have the potential to affect Aboriginal or treaty rights protected under Section 35 of Canada's *Constitution Act* 1982. Where the Crown's duty to consult is triggered in relation to the proposed project**, the MECP is delegating the procedural aspects of rights-based consultation to the proponent through this letter.** The Crown intends to rely on the delegated consultation process in discharging its duty to consult and maintains the right to participate in the consultation process as it sees fit.

Based on information provided to date and the Crown`s preliminary assessment the proponent is required to consult with the following communities who have been identified as potentially affected by the proposed project:

-Mississaugas of the Credit First Nation
-Six Nations of the Grand River (both the Six Nations Elected Council and the Haudenosaunee Confederacy Chiefs Council)
-Huron-Wendat Nation (only if there are potential archeological impacts)

Steps that the proponent may need to take in relation to Aboriginal consultation for the proposed project are outlined in the "Code of Practice for Consultation in Ontario's Environmental Assessment Process". Additional information related to Ontario's Environmental Assessment Act is available online at: www.ontario.ca/environmentalassessments.

Please also refer to the attached document "A Proponent's Introduction to the Delegation of Procedural Aspects of consultation with Aboriginal Communities" for further information, including the MECP's expectations for EA report documentation related to consultation with communities.

The proponent must contact the Director of Environmental Assessment Branch (EABDirector@ontario.ca) under the following circumstances subsequent to initial discussions with the communities identified by MECP:

- Aboriginal or treaty rights impacts are identified to you by the communities
- You have reason to believe that your proposed project may adversely affect an Aboriginal or treaty right
- Consultation with Indigenous communities or other stakeholders has reached an impasse
- A Part II Order request is expected on the basis of impacts to Aboriginal or treaty rights

The MECP will then assess the extent of any Crown duty to consult for the circumstances and will consider whether additional steps should be taken, including what role you will be asked to play should additional steps and activities be required.

Should you or any members of your project team have any questions regarding the material above, please contact me at chunmei.liu@ontario.ca.

Yours truly,

Chunmei Liu
Regional Environmental Assessment Coordinator – Central Region

cc Katy Potter, Supervisor, Environmental Assessment Services, MECP
Jimena Caicedo, Manager, Toronto District Office, MECP
Demetra Koros, Water Compliance Supervisor, Toronto District Office, MECP

Attach: Areas of Interest
A Proponent's Introduction to the Delegation of Procedural Aspects of Consultation with Aboriginal Communities

AREAS OF INTEREST (v. February 2021)

It is suggested that you check off each section after you have considered / addressed it.

☐ **Planning and Policy**

- Projects located in MECP Central Region are subject to **A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020).** Parts of the study area may also be subject to the Oak Ridges Moraine Conservation Plan (2017), Niagara Escarpment Plan (2017), Greenbelt Plan (2017) or Lake Simcoe Protection Plan (2014). Applicable plans and the applicable policies should be identified in the report, and the proponent should describe how the proposed project adheres to the relevant policies in these plans.

- Additionally, if the project is located within the boundaries of the Lake Simcoe Protection Plan, we also strongly recommend that the project team review the information and resources available on the province's website related to protecting Lake Simcoe found here: https://www.ontario.ca/page/protecting-lake-simcoe, including the Lake Simcoe phosphorus reduction strategy.

- The **Provincial Policy Statement (2020)** contains policies that protect Ontario's natural heritage and water resources. Applicable policies should be referenced in the report, and the proponent should describe how the proposed project is consistent with these policies.

- In addition to the provincial planning and policy level, the report should also discuss the planning context at the municipal and federal levels, as appropriate.

☐ **Source Water Protection**

The *Clean Water Act*, 2006 (CWA) aims to protect existing and future sources of drinking water. To achieve this, several types of vulnerable areas have been delineated around surface water intakes and wellheads for every municipal residential drinking water system that is located in a source protection area. These vulnerable areas are known as a Wellhead Protection Areas (WHPAs) and surface water Intake Protection Zones (IPZs). Other vulnerable areas that have been delineated under the CWA include Highly Vulnerable Aquifers (HVAs), Significant Groundwater Recharge Areas (SGRAs), Event-based modelling areas (EBAs), and Issues Contributing Areas (ICAs). Source protection plans have been developed that include policies to address existing and future risks to sources of municipal drinking water within these vulnerable areas.

Projects that are subject to the Environmental Assessment Act that fall under a Class EA, or one of the Regulations, have the potential to impact sources of drinking water if they occur in designated vulnerable areas or in the vicinity of other at-risk drinking water systems (i.e. systems that are not municipal residential systems). MEA Class EA projects may include activities that, if located in a vulnerable area, could be a threat to sources of drinking water (i.e. have the potential to adversely affect the quality or quantity of drinking water sources) and the activity could therefore be subject to policies in a source protection plan. Where an activity poses a risk to drinking water, policies in the local source protection plan may impact how or where that activity is undertaken. Policies may prohibit certain activities, or they may require risk management measures for these activities. Municipal Official Plans, planning decisions, Class EA projects (where the project includes an activity that is a threat to drinking water) and prescribed instruments must conform with policies that address

significant risks to drinking water and must have regard for policies that address moderate or low risks.

- In October 2015, the MEA Parent Class EA document was amended to include reference to the Clean Water Act (Section A.2.10.6) and indicates that proponents undertaking a Municipal Class EA project must identify early in their process whether a project is or could potentially be occurring with a vulnerable area. **Given this requirement, please include a section in the report on source water protection.**

    - The proponent should identify the source protection area and should clearly document how the proximity of the project to sources of drinking water (municipal or other) and any delineated vulnerable areas was considered and assessed. Specifically, the report should discuss whether or not the project is located in a vulnerable area and provide applicable details about the area.

    - If located in a vulnerable area, proponents should document whether any project activities are prescribed drinking water threats and thus pose a risk to drinking water (this should be consulted on with the appropriate Source Protection Authority). Where an activity poses a risk to drinking water, the proponent must document and discuss in the report how the project adheres to or has regard to applicable policies in the local source protection plan. This section should then be used to inform and be reflected in other sections of the report, such as the identification of net positive/negative effects of alternatives, mitigation measures, evaluation of alternatives etc.

- While most source protection plans focused on including policies for significant drinking water threats in the WHPAs and IPZs it should be noted that even though source protection plan policies may not apply in HVAs, these are areas where aquifers are sensitive and at risk to impacts and within these areas, activities may impact the quality of sources of drinking water for systems other than municipal residential systems.

- In order to determine if this project is occurring within a vulnerable area, proponents can use this mapping tool: http://www.applications.ene.gov.on.ca/swp/en/index.php. Note that various layers (including WHPAs, WHPA-Q1 and WHPA-Q2, IPZs, HVAs, SGRAs, EBAs, ICAs) can be turned on through the “Map Legend” bar on the left. The mapping tool will also provide a link to the appropriate source protection plan in order to identify what policies may be applicable in the vulnerable area.

- For further information on the maps or source protection plan policies which may relate to their project, proponents must contact the appropriate source protection authority. **Please consult with the local source protection authority to discuss potential impacts on drinking water. Please document the results of that consultation within the report and include all communication documents/correspondence.**

More Information

For more information on the *Clean Water Act*, source protection areas and plans, including specific information on the vulnerable areas and drinking water threats, please refer to Conservation Ontario’s website where you will also find links to the local source protection plan/assessment report.

A list of the prescribed drinking water threats can be found in section 1.1 of Ontario Regulation 287/07 made under the *Clean Water Act*. In addition to prescribed drinking water threats, some source protection plans may include policies to address additional “local” threat activities, as approved by the MECP.

Climate Change

The document "Considering Climate Change in the Environmental Assessment Process" (Guide) is now a part of the Environmental Assessment program's Guides and Codes of Practice. The Guide sets out the MECP's expectation for considering climate change in the preparation, execution and documentation of environmental assessment studies and processes. The guide provides examples, approaches, resources, and references to assist proponents with consideration of climate change in EA. Proponents should review this Guide in detail.

- **The MECP expects proponents of Class EA projects to:**

    1. Consider during the assessment of alternative solutions and alternative designs, the following:
        a. the project's expected production of greenhouse gas emissions and impacts on carbon sinks (climate change mitigation); and
        b. resilience or vulnerability of the undertaking to changing climatic conditions (climate change adaptation).
    2. Include a discrete section in the report detailing how climate change was considered in the EA.

How climate change is considered can be qualitative or quantitative in nature and should be scaled to the project's level of environmental effect. In all instances, both a project's impacts on climate change (mitigation) and impacts of climate change on a project (adaptation) should be considered.

- The MECP has also prepared another guide to support provincial land use planning direction related to the completion of energy and emission plans. The "Community Emissions Reduction Planning: A Guide for Municipalities" document is designed to educate stakeholders on the municipal opportunities to reduce energy and greenhouse gas emissions, and to provide guidance on methods and techniques to incorporate consideration of energy and greenhouse gas emissions into municipal activities of all types. We encourage you to review the Guide for information.

Air Quality, Dust and Noise

- If there are sensitive receptors in the surrounding area of this project, a quantitative air quality/odour impact assessment will be useful to evaluate alternatives, determine impacts and identify appropriate mitigation measures. The scope of the assessment can be determined based on the potential effects of the proposed alternatives, and typically includes source and receptor characterization and a quantification of local air quality impacts on the sensitive receptors and the environment in the study area. The assessment will compare to all applicable standards or guidelines for all contaminants of concern. **Please contact this office for further consultation on the level of Air Quality Impact Assessment required for this project if not already advised.**

- If a quantitative Air Quality Impact Assessment is not required for the project, the MECP expects that the report contain a qualitative assessment which includes:

    - A discussion of local air quality including existing activities/sources that significantly impact local air quality and how the project may impact existing conditions;
    - A discussion of the nearby sensitive receptors and the project's potential air quality impacts on present and future sensitive receptors;
    - A discussion of local air quality impacts that could arise from this project during both construction and operation; and
    - A discussion of potential mitigation measures.

- As a common practice, “air quality” should be used an evaluation criterion for all road projects.

- Dust and noise control measures should be addressed and included in the construction plans to ensure that nearby residential and other sensitive land uses within the study area are not adversely affected during construction activities.

- The MECP recommends that non-chloride dust-suppressants be applied. For a comprehensive list of fugitive dust prevention and control measures that could be applied, refer to *Cheminfo Services Inc. Best Practices for the Reduction of Air Emissions from Construction and Demolition Activities* report prepared for Environment Canada. March 2005.

- The report should consider the potential impacts of increased noise levels during the operation of the completed project. The proponent should explore all potential measures to mitigate significant noise impacts during the assessment of alternatives.

Ecosystem Protection and Restoration

- Any impacts to ecosystem form and function must be avoided where possible. The report should describe any proposed mitigation measures and how project planning will protect and enhance the local ecosystem.

- Natural heritage and hydrologic features should be identified and described in detail to assess potential impacts and to develop appropriate mitigation measures. The following sensitive environmental features may be located within or adjacent to the study area:
  - Key Natural Heritage Features: Habitat of endangered species and threatened species, fish habitat, wetlands, areas of natural and scientific interest (ANSIs), significant valleylands, significant woodlands; significant wildlife habitat (including habitat of special concern species); sand barrens, savannahs, and tallgrass prairies; and alvars.
  - Key Hydrologic Features: Permanent streams, intermittent streams, inland lakes and their littoral zones, seepage areas and springs, and wetlands.
  - Other natural heritage features and areas such as: vegetation communities, rare species of flora or fauna, Environmentally Sensitive Areas, Environmentally Sensitive Policy Areas, federal and provincial parks and conservation reserves, Greenland systems etc.

We recommend consulting with the Ministry of Natural Resources and Forestry (MNRF), Fisheries and Oceans Canada (DFO) and your local conservation authority to determine if special measures or additional studies will be necessary to preserve and protect these sensitive features. In addition, you may consider the provisions of the Rouge Park Management Plan if applicable.

Species at Risk

- The Ministry of the Environment, Conservation and Parks has now assumed responsibility of Ontario’s Species at Risk program. Information, standards, guidelines, reference materials and technical resources to assist you are found at https://www.ontario.ca/page/species-risk.

- The Client’s Guide to Preliminary Screening for Species at Risk (Draft May 2019) has been attached to the covering email for your reference and use. Please review this document for next steps.

- For any questions related to subsequent permit requirements, please contact SAROntario@ontario.ca.

Surface Water

- The report must include enough information to demonstrate that there will be no negative impacts on the natural features or ecological functions of any watercourses within the study area. Measures should be included in the planning and design process to ensure that any impacts to watercourses from construction or operational activities (e.g. spills, erosion, pollution) are mitigated as part of the proposed undertaking.

- Additional stormwater runoff from new pavement can impact receiving watercourses and flood conditions. Quality and quantity control measures to treat stormwater runoff should be considered for all new impervious areas and, where possible, existing surfaces. The ministry's Stormwater Management Planning and Design Manual (2003) should be referenced in the report and utilized when designing stormwater control methods. **A Stormwater Management Plan should be prepared as part of the Class EA process** that includes:

    - Strategies to address potential water quantity and erosion impacts related to stormwater draining into streams or other sensitive environmental features, and to ensure that adequate (enhanced) water quality is maintained
    - Watershed information, drainage conditions, and other relevant background information
    - Future drainage conditions, stormwater management options, information on erosion and sediment control during construction, and other details of the proposed works
    - Information on maintenance and monitoring commitments.

- Ontario Regulation 60/08 under the *Ontario Water Resources Act* (OWRA) applies to the Lake Simcoe Basin, which encompasses Lake Simcoe and the lands from which surface water drains into Lake Simcoe. If the proposed sewage treatment plant is listed in Table 1 of the regulation, the report should describe how the proposed project and its mitigation measures are consistent with the requirements of this regulation and the OWRA.

- Any potential approval requirements for surface water taking or discharge should be identified in the report. A Permit to Take Water (PTTW) under the OWRA will be required for any water takings that exceed 50,000 L/day, except for certain water taking activities that have been prescribed by the Water Taking EASR Regulation – *O. Reg. 63/16*. These prescribed water-taking activities require registration in the EASR instead of a PTTW. Please review the Water Taking User Guide for EASR for more information. Additionally, an Environmental Compliance Approval under the OWRA is required for municipal stormwater management works.

Groundwater

- The status of, and potential impacts to any well water supplies should be addressed. If the project involves groundwater takings or changes to drainage patterns, the quantity and quality of groundwater may be affected due to drawdown effects or the redirection of existing contamination flows. In addition, project activities may infringe on existing wells such that they must be reconstructed or sealed and abandoned. Appropriate information to define existing groundwater conditions should be included in the report.

- If the potential construction or decommissioning of water wells is identified as an issue, the report should refer to Ontario Regulation 903, Wells, under the OWRA.

- Potential impacts to groundwater-dependent natural features should be addressed. Any changes to groundwater flow or quality from groundwater taking may interfere with the ecological processes of streams, wetlands or other surficial features. In addition, discharging contaminated or high volumes of groundwater to these features may have direct impacts on their function. Any potential effects should be identified, and appropriate mitigation measures should be recommended. The level of detail required will be dependent on the significance of the potential impacts.

- Any potential approval requirements for groundwater taking or discharge should be identified in the report. A Permit to Take Water (PTTW) under the OWRA will be required for any water takings that exceed 50,000 L/day, with the exception of certain water taking activities that have been prescribed by the Water Taking EASR Regulation – *O. Reg. 63/16*. These prescribed water-taking activities require registration in the EASR instead of a PTTW. Please review the Water Taking User Guide for EASR for more information.

- Consultation with the railroad authorities is necessary wherever there is a plan to use construction dewatering in the vicinity of railroad lines or where the zone of influence of the construction dewatering potentially intercepts railroad lines.

Excess Materials Management

- In December 2019, MECP released a new regulation under the Environmental Protection Act, titled "On-Site and Excess Soil Management" (O. Reg. 406/19) to support improved management of excess construction soil. This regulation is a key step to support proper management of excess soils, ensuring valuable resources don't go to waste and to provide clear rules on managing and reusing excess soil. New risk-based standards referenced by this regulation help to facilitate local beneficial reuse which in turn will reduce greenhouse gas emissions from soil transportation, while ensuring strong protection of human health and the environment. The new regulation is being phased in over time, with the first phase in effect on January 1, 2021. For more information, please visit https://www.ontario.ca/page/handling-excess-soil.

- The report should reference that activities involving the management of excess soil should be completed in accordance with O. Reg. 406/19 and the MECP's current guidance document titled "Management of Excess Soil – A Guide for Best Management Practices" (2014).

- All waste generated during construction must be disposed of in accordance with ministry requirements

Contaminated Sites

- Any current or historical waste disposal sites should be identified in the report. The status of these sites should be determined to confirm whether approval pursuant to Section 46 of the EPA may be required for land uses on former disposal sites. We recommend referring to the MECP's D-4 guideline for land use considerations near landfills and dumps.
  - Resources available may include regional/local municipal official plans and data; provincial data on large landfill sites and small landfill sites; Environmental Compliance Approval information for waste disposal sites on Access Environment.

- Other known contaminated sites (local, provincial, federal) in the study area should also be identified in the report (Note – information on federal contaminated sites is found on the Government of Canada's website).

- The location of any underground storage tanks should be investigated in the report. Measures should be identified to ensure the integrity of these tanks and to ensure an appropriate response in the event of a spill. The ministry's Spills Action Centre must be contacted in such an event.

- Since the removal or movement of soils may be required, appropriate tests to determine contaminant levels from previous land uses or dumping should be undertaken. If the soils are contaminated, you must determine how and where they are to be disposed of, consistent with *Part XV.1 of the Environmental Protection Act* (EPA) and Ontario Regulation 153/04, Records of Site Condition, which details the new requirements related to site assessment and clean up. Please contact the appropriate MECP District Office for further consultation if contaminated sites are present.

Servicing, Utilities and Facilities

- The report should identify any above or underground utilities in the study area such as transmission lines, telephone/internet, oil/gas etc. The owners should be consulted to discuss impacts to this infrastructure, including potential spills.

- The report should identify any servicing infrastructure in the study area such as wastewater, water, stormwater that may potentially be impacted by the project.

- Any facility that releases emissions to the atmosphere, discharges contaminants to ground or surface water, provides potable water supplies, or stores, transports or disposes of waste must have an Environmental Compliance Approval (ECA) before it can operate lawfully. Please consult with MECP's Environmental Permissions Branch to determine whether a new or amended ECA will be required for any proposed infrastructure.

- We recommend referring to the ministry's environmental land use planning guides to ensure that any potential land use conflicts are considered when planning for any infrastructure or facilities related to wastewater, pipelines, landfills or industrial uses.

Mitigation and Monitoring

- Contractors must be made aware of all environmental considerations so that all environmental standards and commitments for both construction and operation are met. Mitigation measures should be clearly referenced in the report and regularly monitored during the construction stage of the project. In addition, we encourage proponents to conduct post-construction monitoring to ensure all mitigation measures have been effective and are functioning properly.

- Design and construction reports and plans should be based on a best management approach that centres on the prevention of impacts, protection of the existing environment, and opportunities for rehabilitation and enhancement of any impacted areas.

- The proponent's construction and post-construction monitoring plans must be documented in the report, as outlined in Section A.2.5 and A.4.1 of the MEA Class EA parent document.

Consultation

- The report must demonstrate how the consultation provisions of the Class EA have been fulfilled, including documentation of all stakeholder consultation efforts undertaken during the planning process. This includes a discussion in the report that identifies concerns that were raised and **describes how they have been addressed by the proponent** throughout the planning process. The report should also include copies of comments submitted on the project by interested stakeholders, and the proponent's responses to these comments (as directed by the Class EA to include full documentation).

- Please include the full stakeholder distribution/consultation list in the documentation.

Class EA Process

- If this project is a Master Plan: there are several different approaches that can be used to conduct a Master Plan, examples of which are outlined in Appendix 4 of the Class EA. **The Master Plan should clearly indicate the selected approach for conducting the plan**, by identifying whether the levels of assessment, consultation and documentation are sufficient to fulfill the requirements for Schedule B or C projects. Please note that any Schedule B or C projects identified in the plan would be subject to Part II Order Requests under the Environmental Assessment Act, although the plan itself would not be. **Please include a description of the approach being undertaken (use Appendix 4 as a reference).**

- If this project is a Master Plan: Any identified projects should also include information on the MCEA schedule associated with the project.

- The report should provide clear and complete documentation of the planning process in order to allow for transparency in decision-making.

- The Class EA requires the consideration of the effects of each alternative on all aspects of the environment (including planning, natural, social, cultural, economic, technical). The report should include a level of detail (e.g. hydrogeological investigations, terrestrial and aquatic assessments, cultural heritage assessments) such that all potential impacts can be identified, and appropriate mitigation measures can be developed. Any supporting studies conducted during the Class EA process should be referenced and included as part of the report.

- Please include in the report a list of all subsequent permits or approvals that may be required for the implementation of the preferred alternative, including but not limited to, MECP's PTTW, EASR Registrations and ECAs, conservation authority permits, species at risk permits, MTO permits and approvals under the *Impact Assessment Act*, 2019.

- Ministry guidelines and other information related to the issues above are available at http://www.ontario.ca/environment-and-energy/environment-and-energy. We encourage you to review all the available guides and to reference any relevant information in the report.

Amendments to the EAA through the Covid-19 Economic Recovery Act, 2020

Once the EA Report is finalized, the proponent must issue a Notice of Completion providing a minimum 30-day period during which documentation may be reviewed and comment and input can be submitted to the proponent. The Notice of Completion must be sent to the appropriate MECP

Regional Office email address (for projects in MECP Central Region, the email is eanotification.cregion@ontario.ca).

The public has the ability to request a higher level of assessment on a project if they are concerned about potential adverse impacts to constitutionally protected Aboriginal and treaty rights. In addition, the Minister may issue an order on his or her own initiative within a specified time period. The Director (of the Environmental Assessment Branch) will issue a Notice of Proposed Order to the proponent if the Minister is considering an order for the project within 30 days after the conclusion of the comment period on the Notice of Completion. At this time, the Director may request additional information from the proponent. Once the requested information has been received, the Minister will have 30 days within which to make a decision or impose conditions on your project.

Therefore, the proponent cannot proceed with the project until at least 30 days after the end of the comment period provided for in the Notice of Completion. Further, the proponent may not proceed after this time if:

- a Part II Order request has been submitted to the ministry regarding potential adverse impacts to constitutionally protected Aboriginal and treaty rights, or
- the Director has issued a Notice of Proposed order regarding the project.

Please ensure that the Notice of Completion advises that outstanding concerns are to be directed to the proponent for a response, and that in the event there are outstanding concerns regarding potential adverse impacts to constitutionally protected Aboriginal and treaty rights, Part II Order requests on those matters should be addressed in writing to:

Minister Jeff Yurek
Ministry of Environment, Conservation and Parks
777 Bay Street, 5th Floor
Toronto ON M7A 2J3
minister.mecp@ontario.ca

and

Director, Environmental Assessment Branch
Ministry of Environment, Conservation and Parks
135 St. Clair Ave. W, 1st Floor
Toronto ON, M4V 1P5
EABDirector@ontario.ca

A PROPONENT'S INTRODUCTION TO THE DELEGATION OF PROCEDURAL ASPECTS OF CONSULTATION WITH ABORIGINAL COMMUNITIES

DEFINITIONS

The following definitions are specific to this document and may not apply in other contexts:

Aboriginal communities – the First Nation or Métis communities identified by the Crown for the purpose of consultation.

Consultation – the Crown's legal obligation to consult when the Crown has knowledge of an established or asserted Aboriginal or treaty right and contemplates conduct that might adversely impact that right. This is the type of consultation required pursuant to s. 35 of the *Constitution Act, 1982*. Note that this definition does not include consultation with Aboriginal communities for other reasons, such as regulatory requirements.

Crown – the Ontario Crown, acting through a particular ministry or ministries.

Procedural aspects of consultation – those portions of consultation related to the process of consultation, such as notifying an Aboriginal community about a project, providing information about the potential impacts of a project, responding to concerns raised by an Aboriginal community and proposing changes to the project to avoid negative impacts.

Proponent – the person or entity that wants to undertake a project and requires an Ontario Crown decision or approval for the project.

I. PURPOSE

The Crown has a legal duty to consult Aboriginal communities when it has knowledge of an existing or asserted Aboriginal or treaty right and contemplates conduct that may adversely impact that right. In outlining a framework for the duty to consult, the Supreme Court of Canada has stated that the Crown may delegate procedural aspects of consultation to third parties. This document provides general information about the Ontario Crown's approach to delegation of the procedural aspects of consultation to proponents.

This document is not intended to instruct a proponent about an individual project, and it does not constitute legal advice.

II. WHY IS IT NECESSARY TO CONSULT WITH ABORIGINAL COMMUNITIES?

The objective of the modern law of Aboriginal and treaty rights is the *reconciliation* of Aboriginal peoples and non-Aboriginal peoples and their respective rights, claims and interests. Consultation is an important component of the reconciliation process.

The Crown has a legal duty to consult Aboriginal communities when it has knowledge of an existing or asserted Aboriginal or treaty right and contemplates conduct that might adversely impact that right. For example, the Crown's duty to consult is triggered when it considers issuing a permit, authorization or approval for a project which has the potential to adversely impact an Aboriginal right, such as the right to hunt, fish, or trap in a particular area.

The scope of consultation required in particular circumstances ranges across a spectrum depending on both the nature of the asserted or established right and the seriousness of the potential adverse impacts on that right.

Depending on the particular circumstances, the Crown may also need to take steps to accommodate the potentially impacted Aboriginal or treaty right. For example, the Crown may be required to avoid or minimize the potential adverse impacts of the project.

III. THE CROWN'S ROLE AND RESPONSIBILITIES IN THE DELEGATED CONSULTATION PROCESS

The Crown has the responsibility for ensuring that the duty to consult, and accommodate where appropriate, is met. However, the Crown may delegate the procedural aspects of consultation to a proponent.

There are different ways in which the Crown may delegate the procedural aspects of consultation to a proponent, including through a letter, a memorandum of understanding, legislation, regulation, policy and codes of practice.

If the Crown decides to delegate procedural aspects of consultation, the Crown will generally:

- Ensure that the delegation of procedural aspects of consultation and the responsibilities of the proponent are clearly communicated to the proponent;
- Identify which Aboriginal communities must be consulted;
- Provide contact information for the Aboriginal communities;
- Revise, as necessary, the list of Aboriginal communities to be consulted as new information becomes available and is assessed by the Crown;
- Assess the scope of consultation owed to the Aboriginal communities;
- Maintain appropriate oversight of the actions taken by the proponent in fulfilling the procedural aspects of consultation;
- Assess the adequacy of consultation that is undertaken and any accommodation that may be required;
- Provide a contact within any responsible ministry in case issues arise that require direction from the Crown; and
- Participate in the consultation process as necessary and as determined by the Crown.

IV. THE PROPONENT'S ROLE AND RESPONSIBILITIES IN THE DELEGATED CONSULTATION PROCESS

Where aspects of the consultation process have been delegated to a proponent, the Crown, in meeting its duty to consult, will rely on the proponent's consultation activities and documentation of those activities. The consultation process informs the Crown's decision of whether or not to approve a proposed project or activity.

A proponent's role and responsibilities will vary depending on a variety of factors including the extent of consultation required in the circumstance and the procedural aspects of consultation the Crown has delegated to it. Proponents are often in a better position than the Crown to discuss a project and its potential impacts with Aboriginal communities and to determine ways to avoid or minimize the adverse impacts of a project.

A proponent can raise issues or questions with the Crown at any time during the consultation process. If issues or concerns arise during the consultation that cannot be addressed by the proponent, the proponent should contact the Crown.

a) What might a proponent be required to do in carrying out the procedural aspects of consultation?

Where the Crown delegates procedural aspects of consultation, it is often the proponent's responsibility to provide notice of the proposed project to the identified Aboriginal communities. The notice should indicate that the Crown has delegated the procedural aspects of consultation to the proponent and should include the following information:

- a description of the proposed project or activity;
- mapping;
- proposed timelines;
- details regarding anticipated environmental and other impacts;
- details regarding opportunities to comment; and
- any changes to the proposed project that have been made for seasonal conditions or other factors, where relevant.

Proponents should provide enough information and time to allow Aboriginal communities to provide meaningful feedback regarding the potential impacts of the project. Depending on the nature of consultation required for a project, a proponent also may be required to:

- provide the Crown with copies of any consultation plans prepared and an opportunity to review and comment;
- ensure that any necessary follow-up discussions with Aboriginal communities take place in a timely manner, including to confirm receipt of information, share and update information and to address questions or concerns that may arise;
- as appropriate, discuss with Aboriginal communities potential mitigation measures and/or changes to the project in response to concerns raised by Aboriginal communities;
- use language that is accessible and not overly technical, and translate material into Aboriginal languages where requested or appropriate;
- bear the reasonable costs associated with the consultation process such as, but not limited to, meeting hall rental, meal costs, document translation(s), or to address technical & capacity issues;
- provide the Crown with all the details about potential impacts on established or asserted Aboriginal or treaty rights, how these concerns have been considered and addressed by the proponent and the Aboriginal communities and any steps taken to mitigate the potential impacts;
- provide the Crown with complete and accurate documentation from these meetings and communications; and
- notify the Crown immediately if an Aboriginal community not identified by the Crown approaches the proponent seeking consultation opportunities.

b) What documentation and reporting does the Crown need from the proponent?

Proponents should keep records of all communications with the Aboriginal communities involved in the consultation process and any information provided to these Aboriginal communities.

As the Crown is required to assess the adequacy of consultation, it needs documentation to satisfy itself that the proponent has fulfilled the procedural aspects of consultation delegated to it. The documentation required would typically include:

- the date of meetings, the agendas, any materials distributed, those in attendance and copies of any minutes prepared;
- the description of the proposed project that was shared at the meeting;
- any and all concerns or other feedback provided by the communities;
- any information that was shared by a community in relation to its asserted or established Aboriginal or treaty rights and any potential adverse impacts of the proposed activity, approval or disposition on such rights;
- any proposed project changes or mitigation measures that were discussed, and feedback from Aboriginal communities about the proposed changes and measures;
- any commitments made by the proponent in response to any concerns raised, and feedback from Aboriginal communities on those commitments;
- copies of correspondence to or from Aboriginal communities, and any materials distributed electronically or by mail;
- information regarding any financial assistance provided by the proponent to enable participation by Aboriginal communities in the consultation;
- periodic consultation progress reports or copies of meeting notes if requested by the Crown;
- a summary of how the delegated aspects of consultation were carried out and the results; and
- a summary of issues raised by the Aboriginal communities, how the issues were addressed and any outstanding issues.

In certain circumstances, the Crown may share and discuss the proponent's consultation record with an Aboriginal community to ensure that it is an accurate reflection of the consultation process.

c) Will the Crown require a proponent to provide information about its commercial arrangements with Aboriginal communities?

The Crown may require a proponent to share information about aspects of commercial arrangements between the proponent and Aboriginal communities where the arrangements:

- include elements that are directed at mitigating or otherwise addressing impacts of the project;
- include securing an Aboriginal community's support for the project; or
- may potentially affect the obligations of the Crown to the Aboriginal communities.

The proponent should make every reasonable effort to exempt the Crown from confidentiality provisions in commercial arrangements with Aboriginal communities to the extent necessary to allow this information to be shared with the Crown.

The Crown cannot guarantee that information shared with the Crown will remain confidential. Confidential commercial information should not be provided to the Crown as part of the consultation record if it is not relevant to the duty to consult or otherwise required to be submitted to the Crown as part of the regulatory process.

V. WHAT ARE THE ROLES AND RESPONSIBILITIES OF ABORIGINAL COMMUNITIES' IN THE CONSULTATION PROCESS?

Like the Crown, Aboriginal communities are expected to engage in consultation in good faith. This includes:

- responding to the consultation notice;
- engaging in the proposed consultation process;
- providing relevant documentation;

- clearly articulating the potential impacts of the proposed project on Aboriginal or treaty rights; and
- discussing ways to mitigates any adverse impacts.

Some Aboriginal communities have developed tools, such as consultation protocols, policies or processes that provide guidance on how they would prefer to be consulted. Although not legally binding, proponents are encouraged to respect these community processes where it is reasonable to do so. Please note that there is no obligation for a proponent to pay a fee to an Aboriginal community in order to enter into a consultation process.

To ensure that the Crown is aware of existing community consultation protocols, proponents should contact the relevant Crown ministry when presented with a consultation protocol by an Aboriginal community or anyone purporting to be a representative of an Aboriginal community.

VI. WHAT IF MORE THAN ONE PROVINCIAL CROWN MINISTRY IS INVOLVED IN APPROVING A PROPONENT'S PROJECT?

Depending on the project and the required permits or approvals, one or more ministries may delegate procedural aspects of the Crown's duty to consult to the proponent. The proponent may contact individual ministries for guidance related to the delegation of procedural aspects of consultation for ministry-specific permits/approvals required for the project in question. Proponents are encouraged to seek input from all involved Crown ministries sooner rather than later.

Next Steps

1. Please provide your feedback by Monday April 25, 2022
2. All feedback and input will be reviewed
3. A public consultation summary will be produced
4. An Updated Notice of Completion with final recommended solutions for Sites #4 to #8 will be posted for a 30-day public review period

After the completion of this study:

After the 30-day review, the final recommended solutions will be included in the Stream Restoration and Erosion Control Program to prioritize and allocate budget for detail design and construction.

The detailed design will be consulted and coordinated with Toronto and Region Conservation Authority (TRCA) as well as Parks, Recreation and Forestry division with respect to the impact on trails and other park amenities. Future notification will be issued prior to construction.

Ministry of Heritage, Sport, Tourism and Culture Industries

Programs and Services Branch
401 Bay Street, Suite 1700
Toronto, ON M7A 0A7
Tel: 613-242-3743

Ministère des Industries du Patrimoine, du Sport, du Tourisme et de la Culture

Direction des programmes et des services
401, rue Bay, Bureau 1700
Toronto, ON M7A 0A7
Tél: 613-242-3743

Ontario

March 26, 2021 EMAIL ONLY

Kate Kusiak
Public Consultation
City of Toronto
burkebrook@toronto.ca

MHSTCI File	**:**	**0013775**
Proponent	**:**	**The City of Toronto**
Subject	**:**	**Notice of Study Addendum –Schedule B MCEA**
Project	**:**	**Sherwood Creek-Burke Brook Fish Passage Restoration Addendum**
Location	**:**	**The City of Toronto**

Dear Kate Kusiak:

Thank you for providing the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) with the Notice of Study Addendum the above-referenced project. MHSTCI's interest in this Environmental Assessment (EA) project relates to its mandate of conserving Ontario's cultural heritage.

Under the EA process, the proponent is required to determine a project's potential impact on cultural heritage resources.

Project Summary
The City of Toronto has initiated an addendum to the Sherwood Creek/Burke Brook Fish Passage Restoration Environmental Assessment that was completed in 2006. The study will carry out the requirements for an addendum to a completed Municipal Class Environmental Assessment, 'Schedule B'

Identifying Cultural Heritage Resources
While some cultural heritage resources may have already been formally identified, others may be identified through screening and evaluation. Indigenous communities may have knowledge that can contribute to the identification of cultural heritage resources, and we suggest that any engagement with Indigenous communities includes a discussion about known or potential cultural heritage resources that are of value to these communities. Municipal Heritage Committees, historical societies and other local heritage organizations may also have knowledge that contributes to the identification of cultural heritage resources.

Cultural heritage resources are often of critical importance to Indigenous communities. Indigenous communities may have knowledge that can contribute to the identification of cultural heritage resources, and we suggest that any engagement with Indigenous communities includes a discussion about known or potential cultural heritage resources that are of value to them.

Archaeological Resources

This EA project may impact archaeological resources and should be screened using the MHSTCI *Criteria for Evaluating Archaeological Potential* to determine if an archaeological assessment is needed. MHSTCI archaeological sites data are available at *archaeology@ontario.ca*. If the EA project area exhibits archaeological potential, then an archaeological assessment (AA) should be undertaken by an archaeologist licenced under the *OHA*, who is responsible for submitting the report directly to MHSTCI for review.

Built Heritage Resources and Cultural Heritage Landscapes

A Cultural Heritage Report: Existing Conditions and Preliminary Impact Assessment will be undertaken for the entire study area during the planning phase and will be summarized in the EA Report. This study will:

1. Describe the existing baseline cultural heritage conditions within the study area by identifying all known or potential built heritage resources and cultural heritage landscapes, including a historical summary of the study area. MHSTCI has developed screening criteria that may assist with this exercise: *Criteria for Evaluating for Potential Built Heritage Resources and Cultural Heritage Landscapes*.

2. Identify preliminary potential project-specific impacts on the known and potential built heritage resources and cultural heritage landscapes that have been identified. The report should include a description of the anticipated impact to each known or potential built heritage resource or cultural heritage landscape that has been identified.

3. Recommend measures to avoid or mitigate potential negative impacts to known or potential built heritage resources and cultural heritage landscapes. The proposed mitigation measures are to inform the next steps of project planning and design.

Given that this project covers a large study area, MHSTCI recommends that the Cultural Heritage Report is carried out so that step 1 described above is undertaken early in the planning process. Then, steps 2 and 3 can be undertaken once the preferred alternatives have been selected.

Environmental Assessment Reporting

All technical cultural heritage studies and their recommendations are to be addressed and incorporated into EA projects. Please advise MHSTCI whether any technical cultural heritage studies will be completed for this EA project, and provide them to MHSTCI before issuing a Notice of Completion or commencing any work on the site. If screening has identified no known or potential cultural heritage resources, or no impacts to these resources, please include the completed checklists and supporting documentation in the EA report or file.

Thank you for consulting MHSTCI on this project and please continue to do so throughout the EA process. If you have any questions or require clarification, do not hesitate to contact me.

Sincerely,

Joseph Harvey
Heritage Planner
Joseph.Harvey@Ontario.ca

Ontario

Ministry of Tourism, Culture and Sport

Programs & Services Branch
401 Bay Street, Suite 1700
Toronto ON M7A 0A7

Criteria for Evaluating Potential for Built Heritage Resources and Cultural Heritage Landscapes

A Checklist for the Non-Specialist

The **purpose of the checklist** is to determine:

- if a property(ies) or project area:
  - is a recognized heritage property
  - may be of cultural heritage value
- it includes all areas that may be impacted by project activities, including – but not limited to:
  - the main project area
  - temporary storage
  - staging and working areas
  - temporary roads and detours

Processes covered under this checklist, such as:

- *Planning Act*
- *Environmental Assessment Act*
- *Aggregates Resources Act*
- *Ontario Heritage Act* – Standards and Guidelines for Conservation of Provincial Heritage Properties

Cultural Heritage Evaluation Report (CHER)

If you are not sure how to answer one or more of the questions on the checklist, you may want to hire a qualified person(s) (see page 5 for definitions) to undertake a cultural heritage evaluation report (CHER).

The CHER will help you:

- identify, evaluate and protect cultural heritage resources on your property or project area
- reduce potential delays and risks to a project

Other checklists

Please use a separate checklist for your project, if:

- you are seeking a Renewable Energy Approval under Ontario Regulation 359/09 – separate checklist
- your Parent Class EA document has an approved screening criteria (as referenced in Question 1)

Please refer to the Instructions pages for more detailed information and when completing this form.

Project or Property Name
Sherwood Creek-Burke Brook Fish Passage Restoration Addendum

Project or Property Location (upper and lower or single tier municipality)
NHIC: 17PJ3142 & 17PJ3042

Proponent Name
GEO Morphix Ltd.

Proponent Contact Information
Bryce Molder (Brycem@geomorphix.com) & Paul Villard (Paulv@geomorphix.com)

Screening Questions

	Yes	No
1. Is there a pre-approved screening checklist, methodology or process in place?	☐	☑

If Yes, please follow the pre-approved screening checklist, methodology or process.

If No, continue to Question 2.

Part A: Screening for known (or recognized) Cultural Heritage Value

	Yes	No
2. Has the property (or project area) been evaluated before and found **not** to be of cultural heritage value?	☐	☑

If Yes, do **not** complete the rest of the checklist.

The proponent, property owner and/or approval authority will:

- summarize the previous evaluation and
- add this checklist to the project file, with the appropriate documents that demonstrate a cultural heritage evaluation was undertaken

The summary and appropriate documentation may be:

- submitted as part of a report requirement
- maintained by the property owner, proponent or approval authority

If No, continue to Question 3.

	Yes	No
3. Is the property (or project area):		
a. identified, designated or otherwise protected under the *Ontario Heritage Act* as being of cultural heritage value?	☐	☑
b. a National Historic Site (or part of)?	☐	☑
c. designated under the *Heritage Railway Stations Protection Act*?	☐	☑
d. designated under the *Heritage Lighthouse Protection Act*?	☐	☑
e. identified as a Federal Heritage Building by the Federal Heritage Buildings Review Office (FHBRO)?	☐	☑
f. located within a United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage Site?	☐	☑

If Yes to any of the above questions, you need to hire a qualified person(s) to undertake:

- a Cultural Heritage Evaluation Report, if a Statement of Cultural Heritage Value has not previously been prepared or the statement needs to be updated

If a Statement of Cultural Heritage Value has been prepared previously and if alterations or development are proposed, you need to hire a qualified person(s) to undertake:

- a Heritage Impact Assessment (HIA) – the report will assess and avoid, eliminate or mitigate impacts

If No, continue to Question 4.

Part B: Screening for Potential Cultural Heritage Value

	Yes	No
4. Does the property (or project area) contain a parcel of land that:		
a. is the subject of a municipal, provincial or federal commemorative or interpretive plaque?	☐	☑
b. has or is adjacent to a known burial site and/or cemetery?	☐	☑
c. is in a Canadian Heritage River watershed?	☐	☑
d. contains buildings or structures that are 40 or more years old?	☐	☑

Part C: Other Considerations

	Yes	No
5. Is there local or Aboriginal knowledge or accessible documentation suggesting that the property (or project area):		
a. is considered a landmark in the local community or contains any structures or sites that are important in defining the character of the area?	☐	☑
b. has a special association with a community, person or historical event?	☐	☑
c. contains or is part of a cultural heritage landscape?	☐	☑

If Yes to one or more of the above questions (Part B and C), there is potential for cultural heritage resources on the property or within the project area.

You need to hire a qualified person(s) to undertake:

- a Cultural Heritage Evaluation Report (CHER)

If the property is determined to be of cultural heritage value and alterations or development is proposed, you need to hire a qualified person(s) to undertake:

- a Heritage Impact Assessment (HIA) – the report will assess and avoid, eliminate or mitigate impacts

If No to all of the above questions, there is low potential for built heritage or cultural heritage landscape on the property.

The proponent, property owner and/or approval authority will:

- summarize the conclusion
- add this checklist with the appropriate documentation to the project file

The summary and appropriate documentation may be:

- submitted as part of a report requirement e.g. under the *Environmental Assessment Act, Planning Act* processes
- maintained by the property owner, proponent or approval authority

Instructions

Please have the following available, when requesting information related to the screening questions below:

- a clear map showing the location and boundary of the property or project area
  - large scale and small scale showing nearby township names for context purposes
- the municipal addresses of all properties within the project area
- the lot(s), concession(s), and parcel number(s) of all properties within a project area

For more information, see the Ministry of Tourism, Culture and Sport's Ontario Heritage Toolkit or Standards and Guidelines for Conservation of Provincial Heritage Properties.

In this context, the following definitions apply:

- **qualified person(s)** means individuals – professional engineers, architects, archaeologists, etc. – having relevant, recent experience in the conservation of cultural heritage resources.
- **proponent** means a person, agency, group or organization that carries out or proposes to carry out an undertaking or is the owner or person having charge, management or control of an undertaking.

1. Is there a pre-approved screening checklist, methodology or process in place?

An existing checklist, methodology or process may already be in place for identifying potential cultural heritage resources, including:

- one endorsed by a municipality
- an environmental assessment process e.g. screening checklist for municipal bridges
- one that is approved by the Ministry of Tourism, Culture and Sport (MTCS) under the Ontario government's Standards & Guidelines for Conservation of Provincial Heritage Properties [s.B.2.]

Part A: Screening for known (or recognized) Cultural Heritage Value

2. Has the property (or project area) been evaluated before and found not to be of cultural heritage value?

Respond 'yes' to this question, if all of the following are true:

A property can be considered not to be of cultural heritage value if:

- a Cultural Heritage Evaluation Report (CHER) - or equivalent - has been prepared for the property with the advice of a qualified person and it has been determined not to be of cultural heritage value and/or
- the municipal heritage committee has evaluated the property for its cultural heritage value or interest and determined that the property is not of cultural heritage value or interest

A property may need to be re-evaluated, if:

- there is evidence that its heritage attributes may have changed
- new information is available
- the existing Statement of Cultural Heritage Value does not provide the information necessary to manage the property
- the evaluation took place after 2005 and did not use the criteria in Regulations 9/06 and 10/06

Note: Ontario government ministries and public bodies [prescribed under Regulation 157/10] may continue to use their existing evaluation processes, until the evaluation process required under section B.2 of the Standards & Guidelines for Conservation of Provincial Heritage Properties has been developed and approved by MTCS.

To determine if your property or project area has been evaluated, contact:

- the approval authority
- the proponent
- the Ministry of Tourism, Culture and Sport

3a. Is the property (or project area) identified, designated or otherwise protected under the *Ontario Heritage Act* as being of cultural heritage value e.g.:

i. designated under the *Ontario Heritage Act*

- individual designation (Part IV)
- part of a heritage conservation district (Part V)

Individual Designation – Part IV

A property that is designated:

- by a municipal by-law as being of cultural heritage value or interest [s.29 of the *Ontario Heritage Act*]
- by order of the Minister of Tourism, Culture and Sport as being of cultural heritage value or interest of provincial significance [s.34.5]. **Note**: To date, no properties have been designated by the Minister.

Heritage Conservation District – Part V

A property or project area that is located within an area designated by a municipal by-law as a heritage conservation district [s. 41 of the *Ontario Heritage Act*].

For more information on Parts IV and V, contact:

- municipal clerk
- Ontario Heritage Trust
- local land registry office (for a title search)

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ii. subject of an agreement, covenant or easement entered into under Parts II or IV of the *Ontario Heritage Act*

An agreement, covenant or easement is usually between the owner of a property and a conservation body or level of government. It is usually registered on title.

The primary purpose of the agreement is to:

- preserve, conserve, and maintain a cultural heritage resource
- prevent its destruction, demolition or loss

For more information, contact:

- Ontario Heritage Trust - for an agreement, covenant or easement [clause 10 (1) (c) of the *Ontario Heritage Act*]
- municipal clerk – for a property that is the subject of an easement or a covenant [s.37 of the *Ontario Heritage Act*]
- local land registry office (for a title search)

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iii. listed on a register of heritage properties maintained by the municipality

Municipal registers are the official lists - or record - of cultural heritage properties identified as being important to the community.

Registers include:

- all properties that are designated under the *Ontario Heritage Act* (Part IV or V)
- properties that have not been formally designated, but have been identified as having cultural heritage value or interest to the community

For more information, contact:

- municipal clerk
- municipal heritage planning staff
- municipal heritage committee

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iv. subject to a notice of:

- intention to designate (under Part IV of the *Ontario Heritage Act*)
- a Heritage Conservation District study area bylaw (under Part V of the *Ontario Heritage Act*)

A property that is subject to a **notice of intention to designate** as a property of cultural heritage value or interest and the notice is in accordance with:

- section 29 of the *Ontario Heritage Act*
- section 34.6 of the *Ontario Heritage Act*. **Note**: To date, the only applicable property is Meldrum Bay Inn, Manitoulin Island. [s.34.6]

An area designated by a municipal by-law made under section 40.1 of the *Ontario Heritage Act* as a **heritage conservation district study area**.

For more information, contact:

- municipal clerk – for a property that is the subject of notice of intention [s. 29 and s. 40.1]
- Ontario Heritage Trust

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v. included in the Ministry of Tourism, Culture and Sport's list of provincial heritage properties

Provincial heritage properties are properties the Government of Ontario owns or controls that have cultural heritage value or interest.

The Ministry of Tourism, Culture and Sport (MTCS) maintains a list of all provincial heritage properties based on information provided by ministries and prescribed public bodies. As they are identified, MTCS adds properties to the list of provincial heritage properties.

For more information, contact the MTCS Registrar at registrar@ontario.ca.

3b. Is the property (or project area) a National Historic Site (or part of)?

National Historic Sites are properties or districts of national historic significance that are designated by the Federal Minister of the Environment, under the *Canada National Parks Act*, based on the advice of the Historic Sites and Monuments Board of Canada.

For more information, see the National Historic Sites website.

3c. Is the property (or project area) designated under the *Heritage Railway Stations Protection Act*?

The *Heritage Railway Stations Protection Act* protects heritage railway stations that are owned by a railway company under federal jurisdiction. Designated railway stations that pass from federal ownership may continue to have cultural heritage value.

For more information, see the Directory of Designated Heritage Railway Stations.

3d. Is the property (or project area) designated under the *Heritage Lighthouse Protection Act*?

The *Heritage Lighthouse Protection Act* helps preserve historically significant Canadian lighthouses. The Act sets up a public nomination process and includes heritage building conservation standards for lighthouses which are officially designated.

For more information, see the Heritage Lighthouses of Canada website.

3e. Is the property (or project area) identified as a Federal Heritage Building by the Federal Heritage Buildings Review Office?

The role of the Federal Heritage Buildings Review Office (FHBRO) is to help the federal government protect the heritage buildings it owns. The policy applies to all federal government departments that administer real property, but not to federal Crown Corporations.

For more information, contact the Federal Heritage Buildings Review Office.

See a directory of all federal heritage designations.

3f. Is the property (or project area) located within a United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage Site?

A UNESCO World Heritage Site is a place listed by UNESCO as having outstanding universal value to humanity under the Convention Concerning the Protection of the World Cultural and Natural Heritage. In order to retain the status of a World Heritage Site, each site must maintain its character defining features.

Currently, the Rideau Canal is the only World Heritage Site in Ontario.

For more information, see Parks Canada – World Heritage Site website.

Part B: Screening for potential Cultural Heritage Value

4a. Does the property (or project area) contain a parcel of land that has a municipal, provincial or federal commemorative or interpretive plaque?

Heritage resources are often recognized with formal plaques or markers.

Plaques are prepared by:

- municipalities
- provincial ministries or agencies
- federal ministries or agencies
- local non-government or non-profit organizations

For more information, contact:

- municipal heritage committees or local heritage organizations – for information on the location of plaques in their community
- Ontario Historical Society's Heritage directory – for a list of historical societies and heritage organizations
- Ontario Heritage Trust – for a list of plaques commemorating Ontario's history
- Historic Sites and Monuments Board of Canada – for a list of plaques commemorating Canada's history

4b. Does the property (or project area) contain a parcel of land that has or is adjacent to a known burial site and/or cemetery?

For more information on known cemeteries and/or burial sites, see:

- Cemeteries Regulations, Ontario Ministry of Consumer Services – for a database of registered cemeteries
- Ontario Genealogical Society (OGS) – to locate records of Ontario cemeteries, both currently and no longer in existence; cairns, family plots and burial registers
- Canadian County Atlas Digital Project – to locate early cemeteries

In this context, adjacent means contiguous or as otherwise defined in a municipal official plan.

4c. Does the property (or project area) contain a parcel of land that is in a Canadian Heritage River watershed?

The Canadian Heritage River System is a national river conservation program that promotes, protects and enhances the best examples of Canada's river heritage.

Canadian Heritage Rivers must have, and maintain, outstanding natural, cultural and/or recreational values, and a high level of public support.

For more information, contact the Canadian Heritage River System.

If you have questions regarding the boundaries of a watershed, please contact:

- your conservation authority
- municipal staff

4d. Does the property (or project area) contain a parcel of land that contains buildings or structures that are 40 or more years old?

A 40 year 'rule of thumb' is typically used to indicate the potential of a site to be of cultural heritage value. The approximate age of buildings and/or structures may be estimated based on:

- history of the development of the area
- fire insurance maps
- architectural style
- building methods

Property owners may have information on the age of any buildings or structures on their property. The municipality, local land registry office or library may also have background information on the property.

Note: 40+ year old buildings or structure do not necessarily hold cultural heritage value or interest; their age simply indicates a higher potential.

A building or structure can include:

- residential structure
- farm building or outbuilding
- industrial, commercial, or institutional building
- remnant or ruin
- engineering work such as a bridge, canal, dams, etc.

For more information on researching the age of buildings or properties, see the Ontario Heritage Tool Kit Guide Heritage Property Evaluation.

Part C: Other Considerations

5a. Is there local or Aboriginal knowledge or accessible documentation suggesting that the property (or project area) is considered a landmark in the local community or contains any structures or sites that are important to defining the character of the area?

Local or Aboriginal knowledge may reveal that the project location is situated on a parcel of land that has potential landmarks or defining structures and sites, for instance:

- buildings or landscape features accessible to the public or readily noticeable and widely known
- complexes of buildings
- monuments
- ruins

5b. Is there local or Aboriginal knowledge or accessible documentation suggesting that the property (or project area) has a special association with a community, person or historical event?

Local or Aboriginal knowledge may reveal that the project location is situated on a parcel of land that has a special association with a community, person or event of historic interest, for instance:

- Aboriginal sacred site
- traditional-use area
- battlefield
- birthplace of an individual of importance to the community

5c. Is there local or Aboriginal knowledge or accessible documentation suggesting that the property (or project area) contains or is part of a cultural heritage landscape?

Landscapes (which may include a combination of archaeological resources, built heritage resources and landscape elements) may be of cultural heritage value or interest to a community.

For example, an Aboriginal trail, historic road or rail corridor may have been established as a key transportation or trade route and may have been important to the early settlement of an area. Parks, designed gardens or unique landforms such as waterfalls, rock faces, caverns, or mounds are areas that may have connections to a particular event, group or belief.

For more information on Questions 5.a., 5.b. and 5.c., contact:

- Elders in Aboriginal Communities or community researchers who may have information on potential cultural heritage resources. Please note that Aboriginal traditional knowledge may be considered sensitive.
- municipal heritage committees or local heritage organizations
- Ontario Historical Society's "Heritage Directory" - for a list of historical societies and heritage organizations in the province

An internet search may find helpful resources, including:

- historical maps
- historical walking tours
- municipal heritage management plans
- cultural heritage landscape studies
- municipal cultural plans

Information specific to trails may be obtained through Ontario Trails.

July 21, 2022 CFN 64531

BY E-MAIL ONLY (BurkeBrook@toronto.ca)

Kate Kusiak
City of Toronto
55 John Street, Metro Hall, 19th Floor
Toronto, ON, M5V 3C6

Dear Kate Kusiak,

Re: Draft Project File Report
City of Toronto - Sherwood Creek - Burke Brook Fish Passage Restoration
Municipal Class Environmental Assessment – Schedule B
Don River Watershed; North York Community Council Area; City of Toronto

Toronto and Region Conservation Authority (TRCA) staff received the draft Project File Report (PFR) dated July 16, 2021 technical studies and a letter of response to our previous concerns for the above noted project on May 10, 2022.

PROJECT OVERVIEW

Staff understands that the draft PFR involves addressing channel erosion and migration caused by large storm events. The primary goals of the proposed solutions under this addendum are mainly to protect local Toronto Water infrastructure and to combat systematic channel degradation and enlargement to prevent further decline. The secondary goals proposed are to enhance aquatic and riparian habitat, maintain or enhance channel conveyance of floods, and to preserve the lone Butternut Tree documented on the north bank. Under this addendum, approximately 1,165m of Sherwood Creek, east of Bayview Avenue were identified and divided into 4 separate reach opportunities. Whereas, Reach 1 is located closest to the West Don River and Reach 4 is just east of Bayview Avenue.

The addendum details 5 alternative solution approaches are identified to address the issues in each reach that include:

1. Do Nothing – The risk to Toronto Water assets remains the same or changes (increases or decreases) depending on channel morphodynamics. No human intervention.
2. Reach Based Rehabilitation – Consists of the rehabilitation and/or protection of multiple Toronto Water infrastructure across a given channel reach.
3. Reach Based Rehabilitation (across Multiple Divisions) – Consists of the rehabilitation and/or protection of multiple Toronto Water infrastructure across a given channel reach, but also includes infrastructure that is not maintained by Toronto Water.

4. Channel Realignment – Consists of the protection of Toronto Water infrastructure at the reach-scale by realigning the existing channel form away from existing infrastructure.
5. Move Infrastructure – Consists of replacing existing at-risk infrastructure with new structures set away with the channel hazard.

Alternative solution #1 – Do Nothing, was selected for Reach 1 (BB1) & 2 (BB2). Alternative solution #2 – Reach-based works, was selected for Reach 3 (BB3) & 4 (BB4). Under the proposed Alternative Solution #2 – Reach based works include channel bed grade controls and channel bank erosion protection within approximately 425m stretch of Sherwood Creek. This solution is being proposed post-completion of the Sherwood Creek – Burke Brook Fish Passage Restoration Environmental Assessment (2006).

Since the completion of the MCEA (2006), additional studies have been completed to protect high risk sanitary infrastructure as well as other infrastructure within the Burke Brook Ravine, between Bayview Avenue and the West Don River. The reason for this addendum is due to large storm events that have caused further channel erosion and migration which increased the risk of damage and failure to Toronto Water sanitary infrastructure. Hence, the MCEA Addendum is redirected from fish passage to at-risk Toronto Water valley infrastructure and their long-term protection. As noted in comments below, TRCA staff have questions and concerns regarding this approach.

PROJECT REVIEW

Staff understands the preferred alternative selected for implementation involves Alternative #1 – Do Nothing as it pertains to Reach 1 (BB1) & 2 (BB2) and Alternative #2 – Reach Based Rehabilitation as it pertains to Reach 3 (BB3) & 4 (BB4). The proposed works for BB3 includes the reinforcement of approximately 175m of the north channel bank, which also addresses the risk to the sanitary sewer crossing (SSC3-1). The proposed works for BB4 includes the reinforcement of approximately 250m of the north channel bank, which would tie-in to previously implemented erosion mitigation treatments and address risk to the sanitary sewer crossing (SSC4-1). While staff has no objection in principle to the preferred alternative based on the provided assessment in the Draft PFR, the following concerns identified in Appendix A must be addressed in the final EA document. Detailed comments are provided in Appendix A. These comments should be included as an appendix in the final EA report along with responses.

RESUBMISSION REQUIREMENTS

Please ensure TRCA receives a digital copy of the Notice of Study Completion, as well one (1) digital copy of the final PFR. The final EA document should be accompanied by a covering letter which uses the numbering scheme provided in this letter and identifies how these comments have been addressed. Digital materials must be submitted in PDF format, with drawings pre-scaled to print on 11”x17” pages. Materials may be submitted on discs, via e-mail (if less than 5 MB), or through file transfer protocol (FTP) sites (if posted for a minimum of two weeks).

REVIEW FEES

Please be advised that this application fee is still under review. Please see Comment #1 in Appendix A and provide a response. Once a response is received, TRCA will be able to advise on the fee.

Should you have any questions or require any additional information please contact me at (437)-880-2392 or at justin.leepack@trca.ca.

Regards,

Justin Lee Pack
Planner, Infrastructure Planning and Permits
Development and Engineering Services

/JLP

Attached: Appendix A

BY E-MAIL

cc: Proponent: Niloufar Mohajerani, Engineer, Stormwater Management Infrastructure (Niloufar.mohajerani@toronto.ca)
TRCA: Zack Carlan, Senior Planner, Infrastructure Planning and Permits
Sharon Lingertat, Senior Manager, Infrastructure Planning and Permits
Nancy Gaffney, Government and Community Relations Specialist

Appendix A: TRCA Comments and Proponent Responses

Item	TRCA Staff Comments July 21, 2022	Proponent Response
Planning		
1.	Please clarify why the title of the main document is “Burke Brook Fish Passage Restoration” if the goal of the document has been redirected from fish passage to at-risk Toronto Water valley infrastructure and their long-term protection, as explained in Section 1.2. a) It appears that this addendum will result in a change in scope of work from what was previously presented in the original EA. Please clarify whether MECP has been consulted about the proposed addendum and change in scope. b) Please provide clarification as to why a new Municipal Class Environmental Assessment (MCEA) is not being proposed given the change in scope as the addendum proposes alternatives solutions to address different issues than the MCEA conducted over 10 years ago. c) Depending on the answer to the above and whether this project is confirmed to be an EA addendum. Fees will be charged appropriately based on TRCA’s Fee Schedule.	The title of 2006 MCEA was poorly selected as the original study also concentrated on erosion control and protection of water and sewer assets. The scope has not changed from the original EA. The outcome of this EA revision will still improve aquatic habitat and protect Toronto Water infrastructure.
2.	The TRCA’s The Living City Policies state that all developments (including infrastructure) should demonstrate that the protection hierarchy has been followed: avoidance of impacts, minimization of impacts, and mitigation of impacts. Avoidance and minimization of impacts are mainly accomplished during the planning and design phases. As such, please demonstrate that the following have been considered and enacted to the best of your ability: Avoidance and minimization of impacts to the terrestrial habitat (even if considered “temporary” – such as removal of trees). This includes, for example, aligning access road along the existing trail; considering the use of smaller equipment to allow a narrower trail; establishing a specific area for truck turnaround (instead of having a wider access road all along); establishing a site staging area in a site that is already non-vegetated or in an existing lawn. Coordination of construction timing for the proposed long-term protection of the Toronto Water valley infrastructure through reach-based rehabilitation with other proposed land uses, such as proposed improvements to the existing trail or proposed slope failure remediation projects. Efforts to avoid unnecessary disturbance to the valley should be made. Thus, the access road for the proposed creek rehabilitations should align with the existing trail as much as possible.	Noted. Preliminary details related to reduction of disturbance are provided in the conceptual drawings and Section 8 of the report. Site access currently follows the existing trail to mitigate the disturbance to local vegetation and includes multiple turnaround locations. However, the details presented herein are conceptual/preliminary in nature. Additional recommendations for disturbance avoidance shall be set out during detailed design.
3.	At this time, it appears that approximately 0.55 ha of forest is proposed for removal to facilitate the proposed works. Please consider alternatives (access routes, staging areas, etc.) that would allow for decreasing the area of impact as much as possible.	There are limited options to further reduce disturbance over what is currently shown. The 0.55 ha is a conservative estimate based on aerial review and and can be refined with completion of a formal tree survey, to be completed during detailed design. In addition, channel realignment requires temporary loss of terrestrial

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		lands, once restored the results is in near zero net.
4.	The document recognizes that there are wetland habitats within the riparian area but does not show these wetland areas in the mapping/images. Please clearly delineate the existing wetlands adjacent to the proposed disturbance area and clarify how these habitats will be protected from disturbance. Based on TRCA's ELC layer it appears there is a White Elm Mineral Deciduous Swamp (SWD4-2) immediately adjacent to works proposed along SSP3-1 and SSP2-5.	Notes will be added to the conceptual drawings. Specific ESC recommendations in vicinity to the wetland features will be covered during detailed design.
5.	The use of geotextile within the channel is not supported by TRCA. Please adjust the drawings accordingly.	At this time, geotextile is only shown in the temporary crossing and unwatering filtration system detail. We will include a note that use of geotextile is not preferred, and that a biodegradable equivalent is to be used, wherever possible.
6.	Please incorporate hybrid approaches, such as vegetated rock buttress and vegetated revetment as much as possible for the detailed design.	We agree with this approach. Armourstone walls used only when necessary to protect high risk infrastructure.
7.	There are some "sticky notes" provided by Rod Anderton throughout the Conceptual Design Drawings on the submitted PDF. In one of these notes, it is suggested that round stones should not be used in the watercourse where the work intends to protect TW infrastructure. Please note that along specific areas where the TW Infrastructure needs to be protected sub-angular stones could be accepted; however, for all other areas along the watercourse bed, riverstone should be used.	Toronto Water does not use round-stone for the protection of infrastructure. Round stone in locations of high energy/shear stress. There is no stone recharge zone upstream to replace stones plucked from the channel. In areas with high energy but no City infrastructure to protect the use of sub-round stone may be appropriate but in most cases due to the energy and flashiness of the stream sub-granular stone will be used in most cases.
8.	For the Restoration of the disturbed area, please maximize the plantings of native trees, shrubs and ground cover as much as possible. For the detailed design, please provide a Restoration Plan with all details, including species, density, planting method, type of material (e.g. burlapped, bare-root, etc.), and maintenance schedule (minimum of 2 years).	Noted, will be addressed during detailed design.
9.	For the detailed design, please provide a phased multi-barrier Erosion and Sediment Control Stand-alone Plan. Please refer to the Erosion and Sediment Control Guide for Urban Construction, available at: https://trcaca.s3.ca-central-1.amazonaws.com/app/uploads/2020/01/30145157/ESC-Guide-for-Urban-Construction_FINAL.pdf	Noted, will be addressed during detailed design.

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Geotechnical Engineering		
10.	The area has steep slopes susceptible to erosion and instability. Example, the previous slope stability studies for the north side slope has shown that the slope is vulnerable to the risk of slope instability and erosion. Therefore, the proposed work will need to have the minimal disturbance to the slope including its toe to avoid the destabilizing effects. Please clarify how the area at the base of the slope, where the proposed works are located, will be accessed without altering or destabilizing the slope. Please show the proposed construction access on the site plan and demonstrate that there will not be a slope alterations or impact to the slope (example significant excavation at the base of slope or on the slope with the risk of endangering the slope stability or triggering the instability.	TRCA's concern is acknowledged, however since we are not producing detailed design these details are not included in conceptual plans.
11.	Once the detailed design is in-progress, please develop the protection works proposed at the area of base of valley slope, so that the amount of excavation to the base of slope is minimized. If the retaining walls are proposed as part of the protection works (example: armourstone toe protection walls), they need to be appropriately designed by qualified engineer. The geotechnical studies are needed to ensure that they are appropriate from a geotechnical point of view and will remain stable. The stability of the armourstone protection all will be crucial to ensure that the slope stability condition of the valley slope is not endangered.	Noted, will be addressed during detailed design.
12.	The temporary or permanent excavations at the base of the steep slopes in this area will need to be minimized to avoid exacerbating the slope stability issues. Once the solutions are further developed at the detailed design in-progress, the solutions need to be developed, so that the impact to the existing slope be minimized. Once the existing slopes will be altered, all mitigative measures against triggering further slope instability and erosion issues will need to be developed by a geotechnical engineer and accordingly implemented in the design as well as construction.	Noted, will be addressed during detailed design.
13.	All disturbed slopes in the area (example: temporary excavations areas and construction access) will need to be reconstructed/engineered at the end of construction to ensure the stability. Provided the valley is constituted of steep slopes prone to erosion, the reconstruction of the disturbed slopes due to the construction or proposed works will need a review and sign-off by geotechnical engineer. All details will need to be also shown on the drawings.	Noted, will be addressed during detailed design.
14.	For the completeness of the fluvial report (dated 2021), on Figure 9, the toe erosion allowance has been shown as the erosion hazard limit. Provided the valley is a steep slope, the erosion hazard limit will also need to take into consider the slope stability allowance as well. Please revise the label on Figure 9 to mention that this is only the fluvial hazard component without considering the setback, which will be needed on the tableland of the slopes to delineate the Long-term Stable Top of Slope.	Covered in Section 4.2. Further clarification added.
15.	All necessary engineering drawings showing the proposed works, construction details including access, staging, storage, stockpiling, sequencing, temporary excavation and permanent alterations, geotechnical studies in support of the proposed works, mitigative measures against the triggering the slope instability will need to be provided in support of the proposed works.	Noted, will be addressed during detailed design.
16.	The monitoring of the steep slopes and tableland will be also needed during the construction. Such monitoring program will need to be developed during the detailed design and implemented accordingly during the construction works.	Noted, will be addressed during detailed design.
Water Resources		

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17.	Water Resources supports Alternative 2 – Restore Stream Segment. At detailed design, please provide a HEC-RAS analysis for the proposed design demonstrating no negative water surface elevation impacts upstream and downstream of the works. Please also provide all supporting calculations which shows the measures can withstand the velocities and shear stresses of the watercourse.	Noted, will be addressed during detailed design.
General		
18.	TRCA notes that the proposed addendum is add to the Sherwood Creek / Burke Brook Fish Passage Restoration EA (2006) but is 'largely redirected from fish passage to at-risk Toronto Water valley infrastructure and their long-term protection'. Please confirm if the works under the MCEA (2006) has been completed, and please provide further clarification as how this works is related to fish passage restoration as it is unclear.	A description of the works completed as part of the 2006 EA as well as the purpose of the current is included in Sections 1 and 2 of the report. In summary, the EA was completed and the preferred design alternative implemented at select sites throughout Burke Brook. The restoration work enhanced fish passage conditions up to Bayview Avenue through provision of multiple grade controls (e.g., vortex rock weirs). Additional text will be added to these sections of the report for clarification. As indicated above, original EA was titled improperly. The study dealt substantially with channel restoration and works to protect TW infrastructure and this study is simply an update/continuation after 15 years of geomorphological condition alterations.
19.	Please note that the TRCA is proposing a slope stabilization project along Burke Brook Ravine, north of 150 Kilgour Road (CFN 64095). The City should coordinate with the TRCA ERM team on this project as it is unclear on how project timelines, staging areas will work together. The TRCA ERM project manager is Daniel Dyce who can be contacted at 437-232-5475 or Daniel.Dyce@trca.ca.	Project's team is aware and will coordinate.
20.	Please note that the City of Toronto is proposing a Trail Improvement project along Burke Brook Ravine, directly east of Bayview Avenue and south of Sunnybrook Health Sciences Centre (CFN 65584). The City should coordinate internally on this project as it is unclear on how project timelines, staging areas will work together. The City project manager is Cheryl Post at 416-392-1948 or Cheryl.Post@toronto.ca.	Project's team is aware and will coordinate.

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21.	It is recommended that the City engage with TRCA staff at the Detailed Design phase through pre-consultation. TRCA will advise on additional permitting requirements as part of detailed design prior to submitting a permit application for the works. Staff will also identify timelines and required fees for the permit application at that time. The design drawing should also include all TRCA Standard notes.	Project's team is aware and will coordinate.
22.	Please be advised that the subject property appears to fall within the Highly Vulnerable Aquifers (HVA), vulnerable areas under the Credit Valley - Toronto and Region - Central Lake Ontario Source Protection Plan (CTC SPP).	Project's team is aware and will coordinate.
23.	Please note the proposed channel work for the preferred alternative is proposed on TRCA property (under management agreement with the City of Toronto) as is understood by the City of Toronto and identified in the draft project file document. Please be advised of the following: a) TRCA Property requirements will need to be finalized prior to permit issuance which may include the requirements for permanent easements for any proposed infrastructure on TRCA property, if not already in existence. A permanent easement for infrastructure on TRCA property requires TRCA Board approval and lead time prior to construction. Following the filing of the MCEA addendum, it is requested that City staff continue to consult with TRCA staff regarding the detailed design and permit application submission in addition to TRCA property timelines. Staff request that following the filing of the MCEA addendum, when available, the City of Toronto provide the permit application for review with the proposed channel work and all necessary information so that technical staff can review and provide comment on the proposed permanent alignment of the channel within TRCA property to allow the permanent easement process to proceed, if required. TRCA technical, planning and property staff will need to be appropriately satisfied prior to any permanent easement process proceeding and the easement being provided for board approval. b) For the TRCA permit process, please note that TRCA Archaeology screening will be required for any ground disturbance associated with construction on TRCA property that has not already been previously screened through TRCA archaeology process. Please note, as per our 2021 Fee Schedule, an Archaeology Screening has an associated cost of $565.00 + HST. Additional fees may be required depending o the level of assessment required. Staff will continue to coordinate with City of Toronto staff for next steps on this requirement.	Noted – Agree.
24.	Please note the proposed work associated with preferred alternative 2 is located within the regulatory floodplain of Sherwood Creek. As part of the detailed design stage, please ensure a flood contingency plan is developed and provided as part of the permit submission package.	Noted, will be addressed during detailed design.