

THE CORPORATION OF THE TOWN OF GEORGINA

REPORT NO. DS-2022-0069

**FOR THE CONSIDERATION OF
COUNCIL**

August 10, 2022

**SUBJECT: LAKE DRIVE SHORELINE JURISDICTION ACTION PLAN PROJECT
SCHEDULE: RESIDENTIAL INDIRECT WATERFRONT PROPERTIES. FILE NO.
05.268**

1. RECOMMENDATIONS:

1. That Council receive Report No. DS-2022-0069 prepared by the Planning Policy Division, Development Services Department, dated August 10, 2022, respecting a Project Schedule for implementation of operational and policy steps in the Lake Drive Shoreline Jurisdiction Action Plan for residential indirect waterfront properties;
2. That Council endorse the Project Schedule for implementation of the Lake Drive Shoreline Jurisdiction Action Plan for residential indirect waterfront properties, in accordance with Report No. DS-2022-0069;
3. That Council provide direction on a potential Interim Policy for indirect waterfront properties within the Lake Drive Shoreline Jurisdiction Action Plan to allow certain works to proceed on lakeside lands, subject to certain conditions, prior to completion of the Action Plan; and,
4. That Council approve a revision to the definition of “lakeside lands” in the Lake Drive Shoreline Jurisdiction Action Plan, as outlined in this report.

2. PURPOSE:

The purpose of this report is to present the proposed Project Schedule for implementation of the Lake Drive Shoreline Jurisdiction Action Plan (Action Plan) as it relates to residential indirect waterfront properties, to Council for endorsement. The Project Schedule includes key Project milestones and timelines.

This report also provides information on the current process for reviewing requests received by staff from indirect waterfront property owners seeking to undertake works on lakeside lands and recommends that Council consider adopting an Interim Policy to provide greater clarity regarding the process and what is required from property owners.

3. BACKGROUND:

In July 2017, Council approved the Lake Drive Jurisdiction Action Plan (Attachment 1). The Action Plan includes a 14 step process intended to 'clear up' title with respect to lands on the lake side along Lake Drive East and North. Specifically, the Town seeks to confirm the boundaries of the Town's road allowance and determine which portion of the road allowance needs to be retained as road allowance and which portion of the road allowance can be deemed as surplus and be divested. The Town also seeks to establish appropriate land use permissions and development standards for the road allowance lands to be divested.

The following excerpt from the *Frequently Asked Questions* section of the Lake Drive Shoreline Jurisdiction Action Plan web page on the Town's website helps set context for this report:

"The Town does not wish to take land. The Town wishes to 'clear up' the title to the numerous properties once and for all. The Town has a legal obligation to deal responsibly with all property that is owned by the Town – such property includes the untraveled portion of the road allowance. The Town wants to treat everyone as fairly as possible, especially when there is more than one person claiming a right to use land that is actually owned by the Town. If a person or his or her family has been using 'beach front' property as the family's private property for years and years, the Town does not intend to change that situation...However, the Town requires the co-operation of individuals...to 'clear up' the title to the Lake Drive land by reaching agreements to allow long enjoyed uses to continue."

On March 30, 2022, following a Council closed session, Town Council passed Resolution No. C-2022-0108 (Attachment 2) to move forward implementation of the Action Plan after a nearly 3 year hiatus which was due in part to legal issues, and in part to the pandemic. Direction from the resolution is summarized below:

1. Authority was delegated to the CAO to retain and/or allocate dedicated personnel and resources to advance implementation of the Lake Drive Jurisdiction Action Plan, excluding Beach Associations;
2. Staff to report back to Council by June 22, 2022 with a report outlining the price, including land costs and actual cost recovery, the Town would consider for the divestiture of road allowance lands within the Action Plan; and,
3. Staff to report back to Council by August 10, 2022 with two reports outlining a schedule to implement the operational and policy steps in the Action Plan; one report for residential indirect waterfront properties and one report for Beach Associations.

As per Council's resolution on March 30, 2022, Staff presented a report to Council on June 22, 2022 relating to costing for the divestiture of surplus Town road allowance lands within the Action Plan.

Also in accordance with the March 30, 2022 Council Resolution, this report provides Council with information on the schedule to implement the operational and policy steps in the Lake Drive Shoreline Jurisdiction Action Plan for residential indirect waterfront properties. A separate report, Report No. DS-2022-0070, provides Council with information on the schedule to implement the operational and policy steps in the Lake Drive Jurisdiction Action Plan for beach associations.

4. ANALYSIS:

The Lake Drive Jurisdiction Action Plan is a large and complex project

The Action Plan was approved by Council in July 2017 and includes a 14 step process intended to 'clear up' title of Lake Drive East and Lake Drive North road allowance lands. Specifically, the Town seeks to confirm the boundaries of the Town's road allowance lands and to determine what lands need to be retained as road allowance and what lands are surplus and can be divested. The Town also seeks to establish appropriate land use permissions and development standards for the lands to be divested.

Addressing title and ownership issues on the Town's road allowance lands involves layers of complexity that will take time to address and will require thorough review of title searches dating back two centuries, as well as further surveying work, to confirm Town road allowance boundaries.

Consideration of appropriate land use permissions and development standards for road allowance lands to be divested will be similarly complex, as there is much legislation and regulation currently applicable to these lands that will need to be carefully reviewed prior to establishing a new land use planning framework.

Addressing title and ownership issues and the consideration of appropriate land use permissions and development standards will require consultation with stakeholders such as the Ontario Ministry of Northern Development, Mines, Natural Resources and Forestry, the Lake Simcoe Region Conservation Authority (LSRCA), the Municipal Property Assessment Corporation (MPAC), the Chippewas of Georgina First Nations, residential indirect waterfront property owners, etc.

To date, there has been some progress on implementation of the Action Plan however much of it remains to be completed. Given the scale and complexity of the Project as well as the consultation required, it is anticipated that it will take approximately 3 years to complete, as outlined below.

Project Schedule

The complete Project Schedule for Implementation of the operational and policy steps of the Lake Drive Jurisdiction Action Plan for residential indirect waterfront properties is provided as Attachment 3.

The Project Schedule includes 9 key milestones which are anticipated to be completed in approximately 3 years from re-initiation of the Project in June, 2022.

The 9 key milestones and associated timing are outlined as follows:

1. Project Resourcing (April 2022 – September 2023)

- A Project Committee was established in April 2022 consisting of Town staff and external agencies such as the LSRCA and the Ministry of Northern Development, Mines and Natural Resources and Forestry.
- A Communications Consultant was retained in April 2022 to prepare a Communications Plan to ensure appropriate and meaningful engagement and communication with stakeholders throughout the implementation of the Action Plan.
- A Program Manager was hired in June 2022 to lead implementation of the Action Plan. A temporary Planner/GIS Analyst will also be hired in Q3/Q4 2022 to support implementation of the Action Plan.
- A Planning Consultant, if required, will be retained in Q3 of 2023 to assist with the Official Plan Amendment and Zoning By-law Amendment and/or Community Planning Permit System that will be necessary to establish appropriate land use permissions and development standards on lands to be divested.

2. Project Re-Initiation (June 2022 – September 2022)

Several reports have been and/or will be prepared for Council information and consideration relating to Project re-initiation:

- In June 2022, Staff presented Report No. SI-2022-0006 to Council providing financial information relating to the divestiture of road allowance lands within the Action Plan.

- This staff report provides details on the Project Schedule for implementation of the operational and policy steps in the Action Plan relative to residential indirect waterfront properties. A separate report has been prepared on the Project Schedule for implementation of the operational and policy steps of the Action Plan relative to Beach Associations (Report No. DS-2022-0070).
- A report may be presented to Council in September 2022 for Council's consideration of an Interim Policy to permit certain development and/or works on lakeside lands, subject to conditions, prior to completion of the Action Plan. Examples of such development/works include erosion control/mitigation measures and works to rectify potential life safety hazards. Other types of development/works may only be permitted if sole and clear ownership of lakeside lands can be demonstrated. This report may or may not be required pending direction Council may provide in this regard, as recommended in this report.

3. Current State Analysis – Who Owns What (June 2022 - December 2022)

- A comprehensive review of current and past legal investigations and title searches is currently in progress and anticipated to be completed by December 2022. The findings of this review will be compiled into a Town database and map.
- Consultation with stakeholders will take place both during the review process and after the review once the database is compiled.

4. Identification of lands/easements to be retained by the Town and Eligible Property Owners (EPOs) (September 2022 – January 2023)

- The Town will determine which road allowance lands must be retained, which lands may be deemed surplus and could be divested, and where easements and encroachment agreements are required. Information from Milestone #3 (Current State Analysis) will inform this work and the information will be further confirmed and/or refined during the surveying process (Milestone #6).
- The Town will determine which road allowance lands, if any, are to be retained for the Waterfront Parks Strategic Master Plan.

- The Town will identify Eligible Property Owners (EPOs) to be consulted. EPOs may include, in addition to indirect property owners with straightforward titles:
 - persons shown as owners on the registered title to “pocket PINs” (properties with pocket PINs have more than one entity shown on land registry records as having an interest in the land); and,
 - persons having an interest in properties that are subject to disputed titles which will be addressed during surveying works (Milestone #6) and as per Council direction (see below and Milestone #5).

- Staff will report to Council to provide information and seek direction on:
 - Lands to be retained and lands that are surplus
 - Possible approach for dealing with varying ownership scenarios including pocket pins and Crown lands.
 - Potential financial/payment options for interested EPOs (or others as determined by Council)
 - EPOs and whether deposit should be collected.
 - Project Schedule update.

**5. Gauging Interest from Eligible Property Owners (or others as determined by Council)
(February 2023 – June 2023)**

- Consultation with EPOs to provide update on Project and to outline next steps for those interested in obtaining legal interest in/clearing up title to surplus road allowance lands.

- Notices to be sent to EPOs to determine which EPOs are interested in obtaining legal interest in/clearing title up to surplus road allowance lands.

- Staff will report to Council to provide information and seek direction on:
 - Response from EPOs. If insufficient response from EPOs, Council to decide whether to end the process. If sufficient response from EPOs, Town to move forward with the next milestone in the Project Schedule.
 - Potential approach for dealing with potential ownership, title and lot boundary disputes
 - Project Schedule update

6. Surveying (July 2023 – September 2025)

- Town will issue a Request for Proposals for surveying works and will award a contract to begin works.
- Surveying works will be completed in phases (phasing plan TBD) and will include:
 - Surveying of Town road allowance lands (including required title searches).
 - Mapping out of lakeside lots.
 - Identification of lakeside lots that already legally exist.
 - Identification of ownership, title and/or lot boundary disputes that require resolution.
 - Creating and depositing R-plans.
- Staff will report to Council every 6 months between July 2023 and September 2025 to provide updates on Project Schedule and surveying works.

7. Official Plan/Zoning/Community Planning Permit System (September 2023 – December 2024)

Town Staff will undertake the planning process for an Official Plan Amendment and Zoning By-law Amendment and/or a Community Planning Permit System to establish land use permissions and development standards for the surplus road allowance lands to be divested:

- Town Staff will conduct research and consult with Stakeholders to inform potential new permissions and standards prior to scheduling a Statutory Public Meeting, as required by the Planning Act.
- A Statutory Public Meeting will be held to obtain input on proposed new permissions and standards.
- A recommendation report will be provided to Council for approval of an Official Plan Amendment and a Zoning By-law Amendment and/or a Community Planning Permit System for Council consideration.

Important Note: Appeals to the approval of the Official Plan Amendment and Zoning By-law Amendment and/or Community Planning Permit System will delay

the process as lakeside lot transfers are scheduled to occur only after the appeals are fully resolved.

**8. Road Closure By-laws to be adopted, as required
(December 2024 – October 2025)**

Once the Planning documents have been approved and provided there are no appeals or appeals have been fully resolved, as outlined above, Staff will:

- Prepare the necessary road closure by-laws for surplus road allowance lands and present them to Council for approval.

**9. Transfer Ownership of new Lakeside Lots
(December 2024 – October 2025)**

- The Town will transfer new lakeside lots to EPOs (or others as determined by Council) and will execute any necessary agreement(s) and collect fees, as required.

Potential interim approach to allow certain works to take place on lakeside lands, in advance of completion of the Action Plan

As noted in the Project Schedule for implementation of the operational and policy steps in the Action Plan for indirect waterfront properties, it is anticipated to take approximately 3 years to implement the Action Plan. Staff note that the Town receives requests for approval and/or comments for proposed works on lakeside lands within the Action Plan and Staff anticipate this to continue during implementation of the Action Plan. These requests come from:

- Indirect waterfront property owners seeking Town permission to complete works on lakeside lands; and,
- The LSRCA and Ministry of Northern Development, Mines and Natural Resources and Forestry seeking comments from the Town with respect to proposed works on lakeside lands that require a permit and/or approval from them.

The requests for comment and/or approval typically relate to indirect waterfront property owners seeking to complete works on lakeside lands for the following purposes:

- Erosion control and mitigation;

- Construction and/or repair of a dock, boathouse or structure; and,
- Repair of an existing building, structure, fence, etc. that is a safety hazard.

Given the above, Staff recommend that Council consider approving an Interim Policy, regarding:

- The type of works that may be permitted on lakeside lands while the Town implements the Action Plan;
- Materials and information required by the Town to complete their review; and,
- The process for submitting requests for review by the Town.

Staff propose to bring a draft Interim Policy to Council for their consideration in September 2022.

Revision required to definition of “Lakeside lands” in the Lake Drive Shoreline Jurisdiction Action Plan

The discussion at the June 22, 2022 Council meeting with respect to the report on the costing for the divestiture of surplus road allowance lands highlighted an important required revision to a defined term in the Action Plan. Specifically, the Action Plan currently defines “Lakeside lands” as:

“Means the lands from the shoreline to the travelled portion of the road allowance.”

The above definition of “Lakeside lands” must be revised as it is used throughout the Action Plan to reference Town road allowance lands that may be divested. Lakeside lands may include Town’s road allowance lands however the Town’s road allowance lands do not in all cases go to the shoreline/water’s edge. In some cases, Lakeside lands may include Crown owned lands or may include privately owned lands that directly abut the shoreline. As such, it is recommended that the definition of “Lakeside lands” be revised as follows:

“Means the lands owned by the Town that are situate between the shoreline and the travelled portion of the road allowance.”

Attachment 3 provides an updated Action Plan with the revised definition of “Lakeside lands” as noted above.

The Town is only able to deal with the portion of the lakeside lands that it owns, whether it goes directly to the shoreline or water’s edge or not.

5. RELATIONSHIP TO STRATEGIC PLAN:

The following is one of 39 actions in the current 2019-2023 Corporate Strategic Plan under the Deliver Exceptional Service pillar:

- Continue collaborative efforts to address jurisdiction along Lake Drive

6. FINANCIAL AND BUDGETARY IMPACT:

The budget for this initiative is as follows:

Core Cost components	Upper Limit
Program Manager (up to 3 years)	\$480,000 (incl. payroll costs)
Planning/GIS Technologist (up to 3 years)	\$308,000 (Incl. payroll costs)
Communications Support	\$75,000 (excl. taxes)
Planning Consultant	\$100,000 (excl. taxes)
Legal Counsel	\$300,000 (excl. taxes)
Surveying (\$2,500-\$4,500/parcel x approx. 400 parcels) <i>Rounded up to 400 lots for contingency purposes</i>	\$1,000,000 – \$1,800,000 (excl. taxes)
Total	\$2,263,000 - \$3,063,000 (excl. taxes)

Legal costs for transferring the parcels are not included above as it is anticipated those costs would be directly flowed through to the transferees as each transfer occurs. It's also noted that the above does not factor in any budget for planning related appeals.

7. PUBLIC CONSULTATION AND NOTICE REQUIREMENTS:

There are no legislated notice requirements associated with this report. However, a notice was mailed out to indirect waterfront property owners within the Action Plan to provide an update on the Project and to advise of this report to Council.

8. CONCLUSION:

The Town seeks to resolve title matters associated with lands along the west and north sides of Lake Drive North and East through the Project Schedule to implement the Lake Drive Shoreline Jurisdiction Action Plan as set out in this report. In seeking this resolution, the Town wants to clarify ownership, and where possible, divest its ownership of surplus road allowance.

APPROVALS

Prepared By: Anna Henriques, Program Manager, Planning & Corporate Projects

Recommended By: Shawn Nastke, Director, Strategic Initiatives

Approved By: Rob Wheeler, Deputy Chief Administrative Officer

Attachments:

Attachment 1: Lake Drive Shoreline Jurisdiction Action Plan

Attachment 2: March 30 Council Minutes and Resolutions (Resolution No. C-2022-0108 and C-2022-0109)

Attachment 3: Lake Drive Shoreline Jurisdiction Action Plan Project Schedule: Residential Indirect Waterfront Properties

Attachment 4: Updated Lake Drive Jurisdiction Action Plan with revised definition for 'Lakeside lands'