

CONSERVATION AGREEMENT BACKGROUNDER

The Land Stewardship Committee (LSC) has recommended to the Board that the Club enter into a conservation agreement with a conservation body in order to strengthen the protection of the Open Lands held by the Club. The LSC and the Board believe that a vote on the recommendation should be based on the form of agreement that would be entered into by the Club. To facilitate input from the Community prior to settling a final form of agreement for consideration by the Community, a draft conservation agreement (the “Draft”) has been prepared.

This Backgrounder outlines the process that has been undertaken in the preparation of the Draft. This Backgrounder also provides an explanation as to the structure and key provisions of the Draft, particularly as they pertain to issues and concerns that have been raised by the Community in meetings and written correspondence. The intention of this Backgrounder is for members to understand the provisions that would be included in the kind of conservation agreement envisioned by the LSC - and thus facilitate the Community discussion later this month when the Community’s input will be sought.

1. What is the genesis of this draft Agreement?

- The Draft has been prepared by Doug Grundy (“DG”), reviewed by the members of the LSC and presented by the LSC to the Board.
- The Draft is based on a template conservation agreement which was provided to DG by the Georgian Bay Land Trust (GBLT). GBLT indicated that the template was a form of conservation agreement typically used GBLT. DG used the template as the model for this Draft.
- DG reviewed the Schedule to the Tadenac Agreement which sets out the development restrictions, restricted activities and permitted activities for the lands covered by the Conservation Agreement entered into by the Tadenac Club with GBLT.

2. How closely does the Draft follow the GBLT template?

- The general structure of the Draft follows the GBLT template.
- There are, however, several provisions in the Draft that have been included in order to reflect issues and concerns that have been raised by members of the LSC and the Community. These modifications are intended to reflect historical stewardship of the Open Lands by the Club, the Club’s intent for the future of these lands and how these lands are part of the uniqueness of Go Home as a cottage community.
- This Backgrounder will identify and explain many of these special provisions.

3. What process was undertaken in preparing the Draft?

- DG began working on the Draft following the 2019 Summer Dock meeting believing that many of the questions, concerns and suggestions raised by members at that meeting could only be properly addressed if the Community was able to review and consider a draft agreement.
- Upon completion of an initial draft, DG provided that draft to Paul Pearson, a lawyer with expertise in negotiating conservation agreement. Pearson has acted for Nature Conservancy of Canada, GBLT and others in the negotiation of conservation agreements. Pearson was asked to review and comment on the initial draft. In particular, DG was seeking Pearson's comments regarding various provisions which DG had included as modifications to the GBLT template in order to address the comments from members at the 2019 Summer Dock meeting.
- After discussing the initial draft with Pearson and consideration of his comments, DG prepared a further draft which was then provided to and discussed with the LSC.
- After receiving the LSC's input, a revised draft was provided by DG to Bill Lougheed. Bill was asked to review that draft in his capacity as Executive Director of GBLT. DG felt that it would be valuable to have an informal discussion with Bill to ensure that any draft provided to the Community for discussion not include provisions that would be "non-starters" for GBLT or any other conservation body.
- The Draft reflects all of this input. Based on this process, DG has indicated to the LSC that the Draft is likely to receive the support of GBLT or any other conservation body.

4. **What are the guiding principles of the Draft?**

- The Draft provides a commitment by the Club to conserve and maintain the Natural Values and Features of the Open Lands. This is the "Conservation Intent".
- Natural Values and Features means the natural community of stone, soil, water, plants and animals that comprise the Open Lands with minimal interference by human activity.
- GBLT recognizes that the Open Lands will remain as private property available only for the use of the Club, its members and their guests.
- The Draft expressly provides that no third party is granted any right of access or use to the Open Lands. This provision is consistent with the general principles of contract law in Canada.

5. **What restrictions would the Club be agreeing to?**

- The Club will commit not to develop the Open Lands. No development means no subdivision of these lands to create new cottage sites and no construction of buildings on these lands except as specifically authorized.
- The specific restrictions pertaining to the development and use of the Open Lands are listed in Section 3.0 of Schedule "C" to the Draft.

6. **What is the importance of Article 2 of the Draft?**

- Article 2 establishes the conservation principles which are to guide the commitments made by the Club and the interpretation of the agreement.
- Article 2 includes an express acknowledgment by GBLT of the lengthy history and stewardship of the Club over these lands.
- If there ever is a dispute between the Club and GBLT over the implementation of the agreement, Article 2 expressly requires that any interpretation of the agreement by a Court must give effect to the clear intent and purpose set out in this Article. See Section 2.6.

7 **What are the Club's obligations?**

- Section 4.3 sets out the Club's obligations.
 1. The Club must abide by the Restrictions – See Section 3.0 of Schedule "C" to the Draft
 - No subdivision of the lands for new cottage sites.
 - Restrictions on the erection of buildings or other structures.
 - Prohibition of certain commercial activities – such as camping, hunting
 - No dumping.
 - Prohibition against the use of pesticides etc.
 - Protection of wetlands and species.
 2. The Club must use reasonable efforts to inform its members and guests of the Restrictions and require them to abide by the Restrictions
 3. The Club cannot knowingly authorize a breach of the Restrictions.
- Section 6.1 sets out the Club's ownership responsibilities.
 1. Establish, monitor and enforce rules and regulations for activities on these lands – subject to the recognition in this Section that the Club cannot fully restrict or control access to these lands and is unable to actively monitor these lands due to the seasonal nature of the Community.
 2. Remove buildings or structures erected on these lands contrary to the Restrictions.
 3. Pay taxes and maintain insurance.
- GBLT will be granted limited access to these lands for the purpose of inspecting and confirming compliance by the Club with the restrictions.

8. **What activities is the Club allowed to permit?**

- GBLT recognizes that activities historically permitted by the Club on the Open Lands have not been inconsistent with the Conservation Intent and can continue as Permitted Activities.

- The Draft permits the Club to authorize new activities which are consistent with the Conservation Intent and which are not destructive to the Natural Values and Features of the Open Lands.
- Section 5.0 of Schedule “C” lists certain activities which are expressly permitted, including:
 - The conduct of scientific research studies related to the Natural Values and Features of the lands.
 - recreational activities that are not destructive including walking, hiking, cross-country skiing, snowmobiling, frisbee golf, yoga and other exercise activities.
 - access for photography, painting, sketching and other similar artistic activities.
 - sport hunting and fishing.
 - social gatherings.

9. Why is there not a longer and more specific list of Permitted Activities?

- Based on the advice received from Paul Pearson and other considerations, the LSC has determined that the best approach for ensuring maximum flexibility for the Club is to be specific about restrictions and be more general about permitted activities.
- Generally speaking, any activity not expressly prohibited will be permitted so long as it is consistent with the Conservation Intent and does not detrimentally impact the Natural Values and Features of these lands.
- The Draft expressly recognizes that activities to date that have been permitted will remain as permitted activities and have not harmed these lands. The Draft contemplates that new activities that are consistent with the Conservation Intent are permitted even though not expressly listed.
- The Draft contemplates the Report will be updated every 25 years – this will be an opportunity to expressly recognize new permitted activities.
- Members may wish to comment on the express list of restricted and permitted activities.

10. Can the Club control who its “partner” is?

- The initial draft reviewed with Paul Pearson provided that the Club could remove the conservation body in certain situations. Due to the obligations that a conservation body is required to assume with respect to a conservation agreement, particularly if funding is coming from a government program, Pearson advised that this provision went too far.
- Section 2.3 of the Draft provides the Club with certain express rights to ensure that the conservation body must be acceptable to the Club. This restricts the conservation body’s ability to assign the arrangement.

11. **What lands will be affected by the agreement?**

- The recommendation from the LSC is that the conservation agreement should apply to all of the Club's lands that are currently zoned as Open Space. Generally, that includes the west side of Long Island, the lands in the Pittsburgh, the inside of Big Island and other than the caretaker's site, the land south of the Main Dock and caretaker's site.
- This does not include the remaining unsold cottage sites, Pig Island, the Main Dock area and the caretaker's site.