

Subject Conservation Land Tax Incentive Program Policy	Policy #		
Compiled by - Branch Biodiversity Branch, Ontario Ministry of Natural Resources	Section Biodiversity Policy and Program Development	Date Issued July 5, 2010	Page 1 of 6

1.0 Definitions

In this policy,

“biodiversity” means the variety of life as expressed through genes, species and ecosystems that is shaped by ecological and evolutionary processes

“Conservation Authority” means a Conservation Authority established under the *Conservation Authorities Act*, RSO 1990

“conservation land” means land that is eligible conservation land under section 26 of Ontario Regulation 282/98, as amended

“eligible landowner” for the Community Conservation Lands category means

- i. a registered charity, within the meaning of subsection 248 (1) of the *Income Tax Act*, one of whose primary objectives is natural heritage conservation
- ii. or a conservation authority

“commercially harvested” means felling and removing trees or tree parts and subsequent barter, sale or trade of those trees

“culling” means to selectively kill, dispose of or remove undesirable tree species. Culling differs from commercial harvesting in that the culled material is not sold.

“natural heritage” means natural heritage features or areas as per the Provincial Policy Statement

“non-timber forest products” means products of biological origin other than wood derived from forests. Non-timber forest products include forest plant and mushroom products.

“plantation” means an artificially reforested area established by planting or direct seeding

“restored” means that additional restoration activities (i.e. planting, seeding) are not required for development of a representative condition to proceed through natural succession.

“value” means the value or feature for which the land was included in the program

2.0 Introduction

The Conservation Land Tax Incentive Program (CLTIP) replaced the Conservation Land Tax Reduction Program (CLTRP) in 1998. Under the CLTRP property taxes paid by participating landowners were rebated by the province. However, CLTIP exempts eligible lands from the payment of property tax. This voluntary program provides an incentive for landowners to protect conservation lands by offering 100% property tax exemption on eligible portions of their properties for their long term commitment to the stewardship of conservation lands.

Ontario Regulation 282/98 (as amended by O. Reg. 388/04) pursuant to the *Assessment Act* R.S.O. 1990, C. A.31 sets out the eligibility criteria for conservation lands that are included in the CLTIP. Eligible natural heritage features are first identified and/or approved by the MNR and eligible property owners receive application packages describing the program and are invited to participate. Eligible lands include all land that has been identified by the MNR as provincially significant wetland, provincially significant areas of natural and scientific interest (ANSI) (life science or earth science category), habitat of a regulated endangered species (as specifically

defined by the CLTIP habitat mapping guidelines for endangered species), or designated as escarpment natural area under the *Niagara Escarpment Planning and Development Act*.

On December 10, 2004, the government announced the addition of the Community Conservation Lands (CCL) category (formerly called 'other conservation lands'). The category applies to lands owned by eligible charitable conservation organizations, which have a primary objective of natural heritage conservation, or Conservation Authorities. To be eligible, these organizations must submit an application identifying their conservation lands to the MNR, including the category of inclusion, and provide supporting documentation.

There is an expanded set of eligibility criteria for eligible charitable conservation organizations and Conservation Authorities. To be eligible for inclusion, the land must meet one of a list of eleven conditions and all properties under the CLTIP must be maintained in a manner that contributes to the natural heritage and the biodiversity objectives for conserving the land.

This policy, in accordance with O. Reg. 282/98 (as amended) establishes the framework to evaluate which lands and land use activities are permitted under the CLTIP. This policy identifies activities that, for the purposes of CLTIP, are considered to be consistent with the natural heritage and biodiversity objectives for conserving land. This policy also identifies how properties should be maintained to contribute to natural heritage and biodiversity objectives for conserving the land.

3.0 Program Direction

3.1 Application

Except as expressly provided herein, this policy applies provincially to all lands that may be eligible for inclusion under the Conservation Land Tax Incentive Program.

3.2 Guiding Principles

- Many of Ontario's most significant conservation lands are privately owned. It is important to encourage responsible stewardship of these lands and the protection of their outstanding natural heritage features.
- The MNR is committed to identifying and protecting significant natural heritage areas and features through the appropriate means.
- The provision of incentives to private landowners, to protect the natural heritage and biodiversity values on their lands, is an important tool to encourage sound stewardship.
- Non-profit conservation organizations that have natural heritage conservation as a primary objective and conservation authorities are key stakeholders in the stewardship of conservation lands in Ontario.
- The tax exemption is intended as an incentive, not as compensation or for the purposes of net revenue enhancement. The selling, barter or trade of timber or non-timber forest products that would result in the removal of natural features and/or biodiversity from the eligible land, is not normally permitted under the CLTIP. In these cases, landowners may be better suited to either the Managed Forest Tax Incentive Program or the Farm Property Class Tax Rate Program.

3.3 Goal

To recognize, encourage and support the long-term stewardship of specific categories of conservation land by offering tax exemption to those landowners who agree to maintain their land in a manner that contributes to the natural heritage and biodiversity objectives for conserving land.

3.4 CLTIP Objectives

The following objectives are the natural heritage and biodiversity objectives for conserving the land, specifically for the purposes of the CLTIP.

- To assist private land owners including charitable conservation organizations and conservation authorities who own conservation lands, in the protection of natural heritage and biodiversity values, for the benefit of the natural environment, local community and the people of Ontario.
- To protect provincially significant conservation lands and regionally significant Community Conservation Lands with representative ecosystems, while promoting natural ecosystem functions, processes and succession.
- To ensure eligible private landowners, eligible charitable conservation organizations with primary objectives for the conservation of natural heritage, and conservation authorities, who own conservation lands, in a manner consistent with O. Reg. 282/98, as amended, and CLTIP program policies, are recognized under the program.
- To prevent incompatible uses which could negatively affect the natural heritage and biodiversity values on conservation lands included under the program.
- To work in concert with other provincial incentive and stewardship programs to collectively enhance the conservation, protection and management of natural heritage features and areas across the province.

3.5 Land Use

Only lands that meet the eligibility requirements set out in Ontario Regulation 282/98, as amended, will be included in the CLTIP.

For the purposes of CLTIP, the following land use activities are considered activities that are consistent with the natural heritage and the biodiversity objectives for conserving the land:

Low impact recreational activities where there is little or no impact on the natural heritage and biodiversity features and objectives are permitted (subject to other legislative requirements or additional limitations imposed by the landowner). This includes but is not limited to, activities such as: hiking, cross-country skiing, snowshoeing, hunting, fishing, and wildlife viewing.

The following (non-exhaustive) routine or regular land use activities are also permitted on properties eligible under CLTIP (subject to other legislative requirements or additional limitations imposed by the landowner):

- Invasive species management
- Infill planting of native species representative of the ecosystem
- Planned prescribed burns
- Planned trail maintenance
- Tree felling/removal for health (i.e. infested or infected trees) or safety purposes, where the wood is not sold

The following is a list of land use activities (non-exhaustive) which may be permitted on properties eligible under CLTIP and require the notification and approval of MNR program staff in order to ensure the activity is consistent with the natural heritage and biodiversity objectives for conserving the land. MNR may request additional information in their assessment of the land use activity. If approved, MNR may also specify conditions for approval.

- Culling non-native tree species where non-native species are a minor component of the forest and culling would enhance residual natural heritage values. (Note: Areas dominated by non-native species are not normally eligible under CLTIP)
- Tree removal/felling for health (i.e. infested or infected trees) or safety purposes, when the wood is intended to be sold
- Fuelwood removal, for sustainable personal use only

- Planned trail development or upgrading – with no demonstrated negative impacts on natural heritage or biodiversity values as evaluated and reported during trail development planning

The following is a list of land uses, features or activities which, for the purpose of the CLTIP, are inconsistent with the natural heritage and biodiversity objectives for conserving land:

Table A – Ineligible features, land uses and activities (non-exhaustive)

(Note: Ineligible features apply to the portion of the land with these ineligible features and not to the remainder of the property that otherwise meets the eligibility criteria)

Feature/Land Use/Activity	Prohibitions/Limitations
Built Areas	<ul style="list-style-type: none"> • Buildings or improvements and the lands associated with them (includes maintained roadways and parking facilities)
Landscaped Areas	<ul style="list-style-type: none"> • Landscaped and groomed areas (e.g., recreation areas, such as picnic-camping-swimming areas, ski hills)
Farmed Areas	<ul style="list-style-type: none"> • Includes areas recently or currently part of a farming operation (including crop farming, fallow field rotation and pasture lands). • Recently abandoned farmed lands where the vegetative cover is not representative of the natural ecosystem.
Unrepresentative Conditions	<ul style="list-style-type: none"> • Areas where non-native or invasive vegetative species are a significant component • Plantations which include non-native species • Plantations managed for the production of fruits, nuts, Christmas trees or nursery stock • Plantations that are managed for forest products • Lands that are intended to be restored or are restored with inappropriate species, as evaluated by the MNR, will not normally be included. With regard to restoration lands, once restoration activities have been completed these lands may be included (provided that it has been at least 10 years since the land was commercially harvested).
Non-Timber Forest Products	<ul style="list-style-type: none"> • Harvesting for sale, barter or trade
Site Alteration	<ul style="list-style-type: none"> • Includes, but not limited to; draining, dredging, filling of wetlands; aggregate extraction; grading and soil removal.
Motorized vehicle use	<ul style="list-style-type: none"> • Off-trail use generally prohibited except for infrequent off-trail use and where biodiversity and natural heritage values are not negatively impacted

Exceptions may be considered by the program administrator where the land is specifically designated for habitat maintenance or recovery (e.g. ongoing grazing for the provision of Loggerhead Shrike habitat) or where surficial land use does not affect the feature (e.g. Earth Science ANSI).

The land uses and activities that are consistent with the natural heritage and biodiversity objectives for conserving land are dependent on the kind of features being maintained. If a land use or activity occurs that detrimentally affects the features which initially contributed to an area being identified as eligible conservation land, that land may no longer be eligible for tax exemption under the CLTIP.

3.5.1 Commercial Timber Harvesting

CLTIP recognizes that good forest management and silvicultural practices provide significant benefit to wildlife, the environment, the economy and society as a whole. However, CLTIP does not have the regulatory requirement for a formal plan to be developed and approved to be eligible for the program. Therefore CLTIP does not have the regulatory mechanism to ensure that forest harvesting would occur in a manner that does not negatively affect natural heritage and biodiversity values.

The complementary Managed Forest Tax Incentive Program requires management plans to be developed in accordance with good forestry practices and approved by certified approvers to participate in the program. Should a property owner wish to actively manage their forest property for a range of values including natural heritage, biodiversity and economic benefits, this may be done under an approved management plan as required by the Managed Forest Tax Incentive Program.

Harvesting at a commercial scale must be done under an approved plan to ensure ecological sustainability. Therefore, harvesting of merchantable wood with the intent or outcome of the sale, barter or trade of forest products is not permitted under CLTIP.

3.5.2 Open Areas

For greater certainty, open areas such as meadows and grasslands of native species are important natural heritage features and would be eligible features on eligible lands as identified under O. Reg. 282/98 (as amended). This would also include activities required to maintain these features when planned and conducted in a safe and sustainable fashion e.g. prescribed burning or mowing. Open areas primarily void of vegetation or dominated by non-native or invasive species would not be eligible areas under CLTIP. When submitting CCL applications including open spaces additional information may be required e.g. photographs or a description of the open space, to ensure the area is program eligible.

3.6 Revenue Generation

Selling forest or non-timber forest products that would result in the removal of natural products or features and/or biodiversity, would not normally be permitted on eligible CLTIP conservation lands. The limited sale of forest products as a result of special circumstances (e.g. sale of trees removed for safety or health purposes) may be permitted with the approval of the MNR.

For eligible conservation lands where a fee is charged by the eligible landowner to enter onto lands or partake in compatible activities that fee would be considered incidental and the land would not be excluded from the CLTIP as a result.

3.7 Final Decision

MNR will make the final decision with respect to program compatibility.

Where questions arise regarding the compatibility of a land use or activity, MNR will consider;

- whether the land use or land use activity is consistent with the natural heritage and biodiversity objectives for conserving land,
- whether the land is eligible under another more appropriate incentive program
- whether the feature(s) for which the land has been included in the CLTIP are being negatively impacted; and
- whether sufficient information has been provided to allow for the evaluation of eligibility

If a landowner disagrees with the decision that land is or is not conservation land, any person, including a municipality may bring an appeal under subsection 40(1) of the *Assessment Act*.

4.0 Authorization and Approval

4.1 All Lands Under the CLTIP

The MNR is the primary decision maker regarding the eligibility of lands under the CLTIP. Decisions will be based on the best available information at the time. MNR may make exceptions to the policy when, in its judgment, such exception still satisfies the requirements of O. Reg 282/98 (as amended) and is in the best interest of the province or CLTIP.

Upon request of MNR, landowners must allow the MNR, or its agent, to inspect land(s) included in the CLTIP and must cooperate with said person in the course of the inspection. Failure to do so will result in exclusion of the landowner from the CLTIP.

The property must be owned by the applicant on January 1 of the tax year for which the application is submitted (i.e., January 1, 2010 for the 2010 tax year). To be included in the CLTIP the eligible conservation land portion of the property must be a minimum of 0.5 acres.

Municipalities or other governments, including agencies thereof, are not eligible landowners under the CLTIP.

Properties that have been commercially harvested are not eligible to participate in CLTIP for a period of at least ten years after the harvest has taken place, or until such time as the property has been re-evaluated by MNR to determine if CLTIP features and values have been retained.

Applications must be submitted by July 31 and those properties that are approved by the MNR will receive tax relief the following taxation year. Reconsiderations for a missed deadline may be considered where the property was acquired after July 31 but before December 31. Applications for reconsideration must be filed in accordance with specifications under the *Assessment Act* and O. Reg. 282/98, as amended.

Applications must be submitted annually in order to continue participating in the CLTIP.

If a landowner would like an area of land to be evaluated or re-evaluated, for the purpose of inclusion in CLTIP, including land that was previously deemed all or in part ineligible, the landowner should contact their local District MNR Office. Evaluations or site visits are at the discretion of the local MNR, with the permission of the landowner.

The MNR, from time to time, may audit CLTIP lands to ensure compatibility with the program and policy.

Natural feature boundaries do not exist in perpetuity. The MNR may from time to time, refine or revise features or boundaries that affect CLTIP eligibility and will notify landowners of eligibility changes. Feature boundaries will be determined based on the best information available to the MNR at the time of evaluation.

Changes in CLTIP eligible acreage due to eligible feature boundary amendments are not retroactive.

4.2 Community Conservation Lands Category

The landowner has the responsibility to provide sufficient information in their CLTIP application in order to assist MNR in determining program eligibility within a reasonable time frame.

The submission of applications with incomplete, insufficient or incorrect information may result in the rejection of the application. The onus is on the landowner to ensure the application package is complete.

If a landowner would like property to be evaluated or re-evaluated, where it was previously deemed all or in part ineligible, the landowner must submit a complete Community Conservation Land CLTIP application package to MNR with all relevant and supporting information.

4.3 Deviation from CLTIP Objectives

If MNR finds that land is no longer eligible for the CLTIP or land use activities occurred on the land that were inconsistent with the natural heritage and biodiversity objectives, while receiving program benefits, MNR may remove the land from the CLTIP. If a landowner received benefit under the CLTIP (while not eligible), MNR may notify the Municipal Property Assessment Corporation (MPAC), identifying the duration of non-compliance. For the timeframe that MNR identifies ineligibility, MPAC will direct the Municipality to recover those taxes, up to a maximum of four previous years.

5.0 Statement of Environmental Values

In 2008, MNR revised its Statement of Environmental Values (SEV) under the Environmental Bill of Rights (EBR). The SEV is a document that describes how the purposes of the EBR are to be considered whenever decisions that might significantly affect the environment are made in the Ministry. The Ministry has considered its SEV during the development of this Conservation Land Tax Incentive Program policy. This document is intended to reflect the direction set out in the SEV and to further the objectives of managing our natural resources on a sustainable basis.

6.0 Legal References

- *Assessment Act, RSO 1990*
- *Conservation Authorities Act, RSO 1990*
- *Environmental Bill of Rights, SO 1993*
- *Income Tax Act, 1985 (Canada)*

6.1 Policy and Other References

- Statement of Environmental Values 2008
- Provincial Policy Statement 2005