

Instream Works

Conducting Work on a Watercourse on Municipal and Private Land

In this guide, learn about:

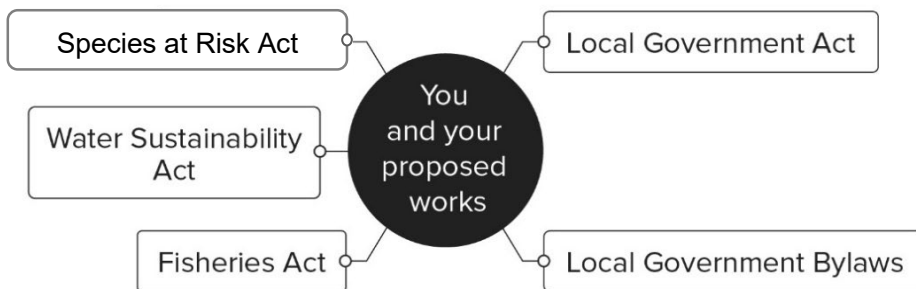
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The Need for Instream Works

It is sometimes necessary to conduct maintenance works on a watercourse (river, creek, ditch, pond, etc.) to reduce negative impacts on property and risks to public safety such as from flooding or bank instability. This is called “Instream Works”. Instream works projects can include removing built-up sediment from a watercourse, installing, removing, or repairing a culvert, watercourse bank repairs/stabilization, and/or removing vegetation adjacent to a watercourse (i.e. the riparian area).

Government Regulations

Several provincial and federal regulations and acts, as well as local bylaws, exist to protect fish and wildlife species and their habitats, and water quality and supply. This means that government approvals and/or permits are generally required to conduct instream works. It is the owner’s responsibility to ensure that works are compliant with all federal, provincial, and local legislation.



The [BC Water Sustainability Act \(WSA\)](#) regulates changes to any “streams” throughout BC, as defined under the WSA. Section 11 of the Act requires that a person may only make “changes in and about a stream” under a **Change Approval** or under Part 3 of the Water Sustainability Regulation via a **Notification** to the Province of BC. Prior to the commencement of works, the Province, through Front Counter BC (FCBC), must be contacted.

Stream is defined under WSA as:

- a) natural watercourse, including a natural glacier course, or a natural body of water, whether or not the stream channel of the stream has been modified, or
- b) a natural source of water supply, including, without limitation, a lake, pond, river, creek, spring, ravine, gulch, wetland or glacier, whether or not usually containing water.

The federal [Fisheries Act](#) (FA) regulates fish and fish habitat in Canada. Section 35 of the Act prohibits “harmful alteration, disruption or destruction of fish habitat (HADD)” unless authorized by Fisheries and Oceans Canada (DFO). For “works near water” that may result in HADD, DFO must be notified prior to the commencement of works.

The federal [Species at Risk Act](#) (SARA) legally protects listed wildlife species and their critical habitat. Section 73 of the SARA requires permits for projects that affect species found in Schedule 1. Permits for projects affecting aquatic species at risk are completed during the FA process. Species that are land or land and water-based can also be impacted by instream works and may require permits through the Province. Therefore, it is advisable to contact FrontCounter BC (FCBC) and/or DFO prior to commencement of works should SARA listed species be potentially present.

The *Migratory Birds Convention Act* (MBCA) and the provincial Wildlife Act both prohibit the disturbance or destruction of active bird nests and eggs. Best management practices restrict clearing of vegetation during the critical bird breeding window (typically March through August, with other timing windows specific to raptors and herons). The nests of some species (listed in the MBCA) are also protected year-round. If tree clearing is required, A Qualified Environmental Professional (QEP) can undertake assessment of the trees on site to determine if nests are occupied, help determine species-appropriate setbacks for nests, identify nests that are protected year-round, and help with permitting requirements.

Township of Langley’s Approach

Various Township of Langley (Township) policies dictate how, when, why, and where instream works are conducted by municipal staff. According to Township policy **#05-002 Private Property – Entering and Working On**, the Township will only undertake works on Township property, except under specific circumstances (i.e. risk to public safety).

Township property includes parcels of land and/or improvements as well as roads, rights-of-way, or works owned or operated by the Township, including those held in trust by the Township.

If works involve cutting of trees on private property, a Tree Removal/Cutting Permit may be required from the Township. Visit tol.ca/treeprotection for more information.

When a requirement for instream works is identified on Township property, the Township follows all local, provincial, and federal regulations and best practices when conducting instream works, including the BC government’s [Requirements and Best Management Practices for Making Changes In and About a Stream in BC](#) (2022). This involves the Township obtaining approvals/permits prior to works by applying to FCBC and/or DFO.

Works may also require additional information and documentation. This can include, but is not limited to engineered designs, channel surveys, fish salvages, environmental monitoring/reporting, and/or detailed restoration and enhancement plans and installations. The Township can provide these services from internal professional staff; however, the Township often retains private consultants and/or contractors for additional environmental, engineering, and construction related services.

Instream Works on Private Lands

Maintenance of streams and ditches on private property is the responsibility of the property owner (“owner”), including any maintenance required to ensure that a watercourse can effectively convey flow through their property. If instream works are required on private property, the related works and all associated costs (permitting, engineering, consulting, contracting) etc. is the sole responsibility of the owner.

Failure to maintain a watercourse on private property can potentially result in flooding of the property and/or properties or public infrastructure located upstream of the watercourse issue. The owner could be held liable for any resulting damages or impacts.

Depending on the type of work to be conducted, FCBC and DFO must be contacted at least 45 days (and in some cases up to 2+ years) prior to works to notify the agencies and/or obtain permits. If the area contains known federally listed species at risk wildlife or habitat, a SARA permit may also be required. The owner may wish to hire a qualified environmental consultant (QEP) who can help them with this process. In some situations, DFO and/or the province may require the owner to hire a qualified environmental consultant (QEP), as well as other services such as (but not limited to) engineering, geotechnical, archeological, legal survey consultants, and construction contractors.

Procedures and Best Management Practices for Instream Works

Step 1

Is the watercourse regulated by provincial or federal jurisdiction?

- Check the Township’s online map at geosource.tol.ca and select Layer List > environment > Watercourses for general watercourse classification information.
- If the watercourse is not found on the map, or if you believe there may be an error with its location or classification, hire a QEP to determine and/or confirm watercourse presence/classification.

Where possible, instream works should be conducted during the appropriate ‘least-risk’ window. For streams in Langley, the ‘least risk’ windows occur at these times:

Class B (fish-habitat): June 1 – September 15

Class A (salmon-habitat): August 1- September 15

Step 2

Determine scope of works:

- where (i.e. property address and location, stream name)
- why (i.e. flooding/damage occurring)
- extent (i.e. how many meters)
- how (i.e. excavator, hand cleaning)
- who (i.e. consultant, contractor, landowner)
- plans (i.e. environmental, engineering, construction)

If works involve moving soil in or out of private property, a Soil Deposit and Removal Permit from the Township, as well as Agricultural Land Commission (ALC) approval, may be required.

Visit tol.ca/soils

Step 3

Obtain relevant regulatory approvals/notifications:

- Complete the necessary documentation and submit to the appropriate agencies or hire a qualified environmental consultant* to help with this process.

* The environmental consultant will work on the owner's behalf to notify the appropriate agencies and/or obtain the necessary permits. They will also help determine the need for additional services, as mentioned above, should the regulatory process require them.

Step 4

Schedule and conduct the works and required reporting (as determined through the approval process).

Contacts and Resources

BC Water Sustainability Act

Front Counter BC

Website: portal.nrs.gov.bc.ca/web/client/home

Address: Suite 200, 10428 – 153 Street,
Surrey, BC V3R 1E1

Phone: 1-877-855-3222

Email: FrontCounterBC@gov.bc.ca

Federal Fisheries Act

Fisheries and Oceans Canada (DFO)

Pacific Regional Office – Triage and Planning Unit

Website: dfo-mpo.gc.ca/pnw-ppe/index-eng.html

Address: 200-401 Burrard Street,
Vancouver, BC V6C 3S4

Phone: 1-866-845-6776

Email: ReferralsPacific@dfo-mpo.gc.ca

Helpful Links

Species at Risk Act

Website: canada.ca/en/services/environment/wildlife-plants-species/species-risk.html

Committee on the Status of Endangered Wildlife in Canada (COSEWIC)

Website: cosewic.ca/index.php/en-ca/

Species at Risk Mapping

BC Conservation Data Centre

Website: maps.gov.bc.ca/ess/hm/cdc/

DFO Aquatic Species at Risk Map

Website: dfo-mpo.gc.ca/species-especies/sara-lep/map-carte/index-eng.html

Township of Langley

Website: tol.ca/creeks

Maps website: geosource.tol.ca

Environmental Consultants

Owners are encouraged to look up “environmental consultants” in the phone book or search online. Look for consultants that are registered with professional associations such as the BC College of Applied Biologists or the BC Institute of Agrologists.

Local Environmental Not-for-Profit Organizations

Langley Environmental Partner Society (LEPS)

Website: leps.bc.ca/about/

Address: 201- 4839 221 Street Langley, BC

Phone: 604-532-3511

South Coast Conservation Program

Website: sccp.ca/species-and-habitat

Disclaimer: This document is for informational purposes only and it is the responsibility of the user to ensure current and correct processes and procedures are followed. All aspects of the instream works project are the responsibility of the owner, including ensuring DFO and provincial notifications/approvals are complete. The owner is also responsible for all associated costs involved. Additionally, the owner must ensure that the chosen consultants and contractors are qualified professionals and are legal businesses in BC and the Municipality.