

## Ecology

# Section 404 Local Coordination Procedures: Legacy Projects

Applicability  
Best Practices  
Agency Coordination

## APPLICABILITY

The [Local Coordination Procedures \(LCP\)](#) will apply to all GDOT major widening or new location projects and any project likely to require a Regional General Permit (RGP) 35 or an Individual Permit (IP). For projects already underway and following the [Plan Development Process \(PDP\)](#) prior to the LCP effective date of August 28, 2019, coordination will be required to assure compliance with the [Clean Water Act Section 404\(b\)\(1\) guidelines](#) and consistency of the project with the intent of the LCP. For purposes of this coordination, those projects are referred to as *legacy projects*.

### Projects with Previous Environmental Clearance

One type of legacy project has received prior environmental clearance through GDOT's procedures for state-funded or federal-aid projects prior to the effective date of the new LCP. In some cases, the environmental process may be recent enough to acknowledge the current Section 404 RGP conditions from US Army Corps of Engineers (USACE) Savannah District. While less common, some projects may have completed certain environmental processes while waiting over several years for construction funding.

### Projects Underway Before Start of LCP

Legacy projects for the 2019 LCP also include those currently in the preliminary engineering stage of plan development. In these cases, the project's Need & Purpose, range of alternatives, and scope of field data collection may have been defined already prior to the effective date.

In either example, coordination will be necessary to show how the project would still meet the intent of the LCP. It is important to consider the applicability of RGP 30-35, which went into effect October 8, 2018. Both the RGPs and LCP were created to address particular types of transportation projects. Any project not yet permitted prior to issuance of the 2018 RGPs is subject to the thresholds and conditions of the RGPs, regardless of any prior coordination steps or assumptions about required permit type. The following best practices and procedures will help the project team assure alignment with the LCP framework.

## BEST PRACTICES

### Summary of Project History for Checkpoints 1 and 2

- > Begin the LCP process with a comparison of the estimated impacts to Waters of the US (WOTUS) with the thresholds and conditions of RGP 34 and RGP 35. The project ecologist should confirm, with technical input from the project team as needed, whether the current scope of the legacy project qualifies for RGP 34 (widening and/or new alignment sections). If so, the project ecologist should prepare a brief memorandum (memo) for the project files describing the project background, proposed alignment, estimated impacts, and how the project will remain below the thresholds of RGP 35 or IP. In those cases, no Checkpoint 1 or 2 meeting would be necessary.
- > For any legacy project that is likely to require RGP 35 or IP based on anticipated impacts, the project team can provide a brief project status memo to address the topics of Checkpoints 1 and 2. The memo should include a description of the work completed to date with project need and purpose, alternatives reviewed, data collected, and a summary of efforts to avoid and minimize impacts.
- > For any legacy project that previously completed PAR coordination, the intent of the LCP is not to require new PAR coordination unless the project alignment or anticipated impacts have changed significantly. The previous preliminary LEDPA determination would remain valid through permit application unless the project substantially changes in scope.

### Documentation Detail for Checkpoint 3

- > In the case of significant project changes, the 2019 LCP process can be addressed through a PAR Report that highlights changes to the proposed alignment, existing site conditions, and anticipated impacts to WOTUS. As each project has unique conditions, the project team may consult with USACE about the level of detail to update in the PAR Report.
- > The PAR presentation for a legacy project will follow similar steps to prepare materials and submit in advance of the Checklist 3 meeting date. The presentation should include an introduction about the project's current status, its need and purpose, alternatives considered, and extent of efforts to minimize impacts.

## AGENCY COORDINATION

### Summary of Previous Coordination

As agency coordination is at the heart of the LCP, tracking past coordination for a legacy project is important to ensure its consistency with the LCP and readiness for the eventual permit application.

- > The best starting point is gathering and organizing records of previous meeting agendas, meeting minutes, presentations, handouts, phone call records, agency coordination letters, and agency responses to memoranda and reports that are relevant to previous evaluation of alternatives and impact minimization.

- > A brief summary of the past coordination steps and outcomes (including referenced dates of supporting correspondence) would be helpful to make sure where the project fits within the LCP framework.

### Combined Checkpoints with Other Agency Coordination

For cases when the PDP for a major widening or new location project is well underway prior to the 2019 LCP, the project team can identify opportunities to cover the LCP Checkpoints as part of ongoing agency coordination for the project. Depending on the complexity of the project and alternatives, GDOT will determine the appropriate format of addressing LCP Checkpoints 1 and 2 to maintain project schedule. In cases where the project's impacts clearly would not require an RGP 35 or IP, the legacy project would not have to complete Checkpoints 1 and 2 prior to other RGP applications.

### *Guidebook Revision History*

Revision Description	Relevant Sections	Revision Date
Initial Publication	All	10/8/2020
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