

Ministry of the Environment, Conservation and Parks
Engagement Session – REVISED Roundtable Questions

(February 11, 2020)

SUGGESTED RESPONSES FOR CONSERVATION AUTHORITIES

A: Mandatory and Non-Mandatory Programs and Services

In June 2019, *More Homes, More Choice Act, 2019*, amended the *Conservation Authorities Act* (CA Act) to define the core mandatory programs and services of by conservation authorities (CAs). The mandatory programs and services are those related to:

1. Risk of natural hazards
2. Conservation and management of lands owned or controlled by CA, including any interests in land registered on title
3. CAs' duties, functions and responsibilities as a source protection authority under the *Clean Water Act, 2006*
4. Lake Simcoe Region Conservation Authority's duties, functions and responsibilities under the *Lake Simcoe Protection Act, 2008*
5. Other programs and services as prescribed by regulation

Once proclaimed, the new provisions in the *Conservation Authorities Act* will enable conservation authorities to levy municipalities for programs and services under these categories. The specific programs and services under each category are to be defined in regulation.

Municipalities will not be required to provide funds to conservation authorities for non-mandatory programs and services. However, municipalities will be able to fund non-mandatory programs and services if they choose, by entering into time-limited voluntary agreements with conservation authorities.

1. Which CA programs and services should be mandatory for each of the following categories and why? (Please provide answers for any of the categories that are relevant to you).

- Preparing and protecting against the risk of natural hazards
- Maintaining our conservation land
- Drinking water source protection

1. Natural hazards (management) – Dam and Reservoir Operations for Water Management, Channels, Asset Management Planning, Watershed-wide Water Management Plans, Flood Forecasting and Warning; Ice Management; Administering Section 28 Regulation under the *Conservation Authorities Act* and developing associated policies for decision making; Plan Review and EA Review for Natural Hazards; Low Water Response; and, Water and Erosion Control Infrastructure; Hazard Mapping
2. Conservation and management of conservation authority lands - Conservation Area Master Plans, Facility Improvements and Maintenance, Section 29 Regulation under the *Conservation*

Authorities Act; Asset Management Plans; Land Acquisition and Disposal; Hazard Tree Management, Sustainable Forestry; Trail Maintenance and Development.

3. Drinking water source protection – Updating Source Water Plans and Assessment Reports; Administering and assisting Source Protection Committees (SPCs) under the requirements of the Clean Water Act; Assisting partner SP Authorities in the source protection region (SPR); Delivering annual progress reports; and, Policy implementation and integration
4. Protection of the Lake Simcoe watershed – as per the Lake Simcoe Protection Act.
5. CA's duties, functions and responsibilities under an Act prescribed by the regulations - CAs are a public body under the *Planning Act* and the *Environmental Assessment Act*; for natural hazards and for broader watershed management knowledge and should continue to be so

The foundation for avoiding/managing the risks to life and property posed by natural hazards is an approach that considers the most cost efficient and effective mix structural and non-structural alternatives. The best way to undertake this analysis is on a watershed basis. To support analysis, watershed-scale data, monitoring, and modelling are required, along with technical studies, assessments and strategies to determine the nature and extent of hazard problems (either existing or emerging) (e.g., support hazard mapping, enable flood forecasting and warning, etc.). Without this key information, effective long-term solutions cannot be identified or implemented.

Non-structural approaches such as restoration and rehabilitation through stewardship and other activities, public awareness and education, protection of sources areas and land acquisition can play important and effective roles in helping to manage hazard risk. Excluding watershed monitoring and planning in favour of considering only a small range of management alternatives as listed in 1-4, limits opportunities for addressing and managing hazards in a cost effective, holistic and sustainable manner. Mandatory programs should include, at very least, watershed monitoring, data collection and modelling; watershed management (in collaboration with municipalities and other stakeholders, including the Province) , and stewardship and restoration/rehabilitation activities.

2. What programs and services provided by CAs should be non-mandatory?

Non-mandatory programs and services help offset operating costs, save money/effort for the Province and provide benefits to watershed residents, visitors and other stakeholders.

1. The ability of CAs to enter into agreements through Memoranda of Understanding should not be constrained nor limited by legislation. Municipalities and others should be allowed to continue to enter into agreements for service for a fee, with approval from the CA Board.
2. Non-mandatory programs and services should be those for which a fee for service is provided. Many popular and revenue generating activities such as local festivals, recreational activities or using conservation areas as wedding venues are not only self-sustaining, but also provide a profit which can be redirected to support mandatory programs and services such as natural hazards.

3. Nothing in the legislation should preclude CAs from entering into partnerships with a variety of stakeholders, including the private sector, to enhance the management or programs on CA-owned sites
4. Conservation Authorities should be permitted to increase fees subject to a transparent process with stakeholders and with approval from the Board of Directors to allow fees for programs and services to keep pace with inflation, cost of living and to ensure financial sustainability.

5. B: The Existing Conservation Authority Model

Conservation authorities are public sector organizations governed by appointed representatives from the municipalities in the authority's jurisdiction and who collectively form the authority membership (commonly referred to as a board). The authority is enabled to have staff. Most board members are elected officials appointed to ensure oversight and accountability for the authority budget and use of the municipal levy. Board members decide on strategic directions and operations of the authority including policy, programs, staffing, budgets, etc.

Conservation authorities are funded by municipalities, the province, the federal government, and self-generated revenue (from fees, grants, product sales, facility rentals, donations, etc.)

1. What is working well with the existing CA model?

CAs are on-the-ground organizations that are nimble and responsive to local needs. CAs provide cost-effective programs to 95% of Ontario's population by leveraging funds and pooling resources in partnership with member municipalities, other stakeholders, and the Province. Many CAs have competent, multi-disciplinary professional staff that provide expert opinions and advice to municipalities and other stakeholders. CAs are adept in forming practical partnerships to facilitate and leverage funding, expertise and partnerships to achieve an array of goals, objectives and benefits which support sustainable communities within the Province. The CA model for watershed management has been in existence for over 70 years and is recognized as one of the most effective approaches in academic literature and has won global acclaim (e.g. Grand River Conservation Authority and Lake Simcoe Region Conservation Authority winning the international Riverprize). The creation of conservation authorities in the 1940s was in response to watershed-wide flooding, erosion and pollution issues which impacted the social and economic well-being of Ontarian. Conservation Authorities have quietly and effectively gone about the business of ensuring the wise use and management of natural resources within their jurisdiction. The benefits that have accrued over time have been substantial.

2. What could be improved in the existing CA model?

The existing CA model has a proven track record. Over the years, the programs and services provided to Ontarian's have resulted in positive outcomes including the avoidance of millions of dollars in potential damages from flooding, erosion and drought, improved water quality in rivers and the Great Lakes; thousands of private restoration projects; the protection of wetlands and other natural features on the landscape which help to attenuate flooding and erosion, and the capable operation of dozens of multi-purpose water management structures (dams and reservoirs) to reduce hazard risk. However, not all CAs have enough capacity/resources to undertake needed programs and the administration of the S. 28 regulations is inconsistent. These challenges cannot be rectified through legislation alone. The introduction of new provincial funding mechanisms to

provide adequate resources for the delivery of mandatory programs, including watershed planning, across the province would significantly increase consistency and capacity across all CAs. In addition, significant improvements in consistency among CAs could be achieved with clear definitions, standards and updated technical guidelines for hazard delineation and management. Leadership from the Province in this regard would substantially improve CA's operations and support much more consistency in approach. The Province could work closely with technical experts within CAs through Conservation Ontario in updating technical guidelines and staff training.

3. How can CA operations be more consistent, transparent and efficient?

CAs are corporate bodies with an independent Board of Directors who is appointed by local municipalities. It is the Board's responsibility to ensure the smooth and transparent operation of the organization and to understand their fiduciary and policy roles. Mandatory Board member training would help orient Board members to their specific roles and responsibilities under the Conservation Authorities Act. This training should be formalized and mandatory. Provincial leadership through Conservation Ontario would be helpful to ensure that training is consistent among CA Boards. All Board meeting minutes, policies, and approved budgets should be readily available to the public. Budgets should be formatted to be transparent and clear to the municipalities who are supporting it through levies. The legislation already enables a provincial audit function (and has for a long time).

4. Are current CA permitting and plan review roles and responsibilities appropriate or not? Why or why not?

The current CA permitting and plan review roles and responsibilities are appropriate to keep people and property safe. Through both review processes, CA staff provide technical expertise regarding risk to life and property from hazards. This expertise resides with the CA, not the municipality. By ensuring that no new development is permitted in high risk areas, risk to life and property has been reduced in Ontario. Costs associated with flood damage, business disruptions, emergency services and remedial measures have been avoided by keeping greenfield development away from hazards. The CAs role in ensuring that this is the case is critical and effective. This approach was lauded by the recent Independent Review of the 2019 Flood Events in Ontario.

What are the roles of CAs:

CAs have multiple review roles in permitting and planning. While these roles are all essential, it is difficult for the lay person to understand them and that is why there is confusion and perceived overlap of responsibility with municipalities. However, each CA role is unique and complementary to the land use process under the Planning Act and should not be considered duplicative, but supportive.

Permitting: Conservation Authorities regulate development and activities in or adjacent to river or stream valleys, Great Lakes and inland lakes shorelines, watercourses, hazardous lands and wetlands. They do so to ensure that flooding, erosion, dynamic beaches, pollution or the conservation of land are not affected (the five tests). They also regulate the straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream, watercourse or for changing or interfering in any way with a wetland.

River or stream valleys temporarily store floodwaters, moderate high water levels, protect water quality, provide groundwater recharge, and prevent erosion. Coincidentally, river or stream valleys

also provide essential habitat for wildlife and aquatic species and support economic sectors such as tourism, forestry and fishing. Protection of valleys and their functions helps to reduce flooding and erosion, moderate river flows (especially during drought) and maintain resiliency on the landscape to buffer the impacts of climate change. This in turn reduces costs to governments and landowners.

Through the permitting process, the application is reviewed on its technical merits and permits are issued if the five tests can be met or the change/interference is acceptable. Each Conservation Authority has policies (most are publicly available on CA websites) which provide the criteria to be assessed which in the opinion of the authority would meet the tests. Permit applications which are not technically sound are heard before the Board of Directors, sitting as a tribunal under the Statutory Powers and Procedures Act. Should the permission still be denied, an appeal is available through the Mining and Lands Tribunal.

Plan Review: CAs have delegated responsibilities to represent provincial interests regarding Natural Hazards (Section 3.1 under Public Health and Safety made under the Provincial Policy Statement). These delegated responsibilities require CAs to review and provide comments on policy documents (e.g. Official Plans and Zoning Bylaws) as part of the Provincial One-Window Plan Review Service.

The other roles that CAs play in plan review are outlined in the 2010 document, “CA Roles and Responsibilities in Plan Review and Permitting” and they remain relevant today. Including their role as a public commenting body under the *Planning Act* and the *Environmental Assessment Act* whereby they can identify concerns arising from their role as a watershed management agency and can provide advice/opinion on the implications of the application for the local natural resources.

5. What about CA permitting is working well and how could CA permitting be improved?

Through initiatives led by Conservation Ontario over the past few years, CAs have focused on improving client service and reducing response times. However, even before then, Conservation Halton took a proactive approach to improving permitting response times. A Process Re-Engineering Study, finalized in 2017, provided 50 recommendations for improving CH’s plan review and permitting processes and service delivery. Most of these have been implemented. Response times are tracked and publicly reported on through the Conservation Halton Annual Report. There has been an appreciable reduction in response times. Conservation Halton continues to work with its municipalities to find collective ways for the planning process to be further streamlined. A Client Service Policy, developed and approved by the CH Board of Directors, outlines CH’s commitments to the service targets and performance measures set in the CH Strategic Plan.

The biggest issue with the permitting program is dealing with problems associated with lack of compliance for permitted activities and blatant disregard by some landowners to apply for permits. While most compliance issues can be resolved onsite through negotiation with a willing landowner, there are cases where the landowner is unwilling to comply. Where risks are high, provincial legislation needs to be defended, but there is currently no financial or legal assistance from the Province. Closer coordination, support and access to legal counsel to assist CAs in defending the provincial legislation would improve permit compliance and reduce the financial burden on municipalities for compliance and legal actions.

6. How can the oversight of CAs be improved? Should there be oversight of CA operations (e.g. by the province or municipalities?) Why or why not?

There is already significant oversight of Ontario's conservation authorities, both by municipalities and the Province.

Municipal Oversight

Municipalities have a strong governance role with CAs. Conservation authorities are governed by a Board of Directors whose representatives are appointed by member municipalities. These can be either elected officials or others.

CA Boards are responsible for reviewing and approving CA annual workplans, budgets and audited financial statements as well as any broader strategic directions. Conservation authorities report on their activities annually to municipalities. These reports and annual financial audits are posted online.

Conservation authorities follow a similar process regarding municipal budgets. Typically, CA staff prepare a preliminary budget based on workplan priorities and informed by monitoring data; presented to BOD for discussion and feedback; revised draft budget for Board review; circulated to member municipalities / presentations to municipal councils; Board considers feedback from municipalities prior to adopting budget.

Provincial Oversight

Overall, CAs are created under provincial legislation and there are public expectations that the Province has some control. Bill 108 amendment Section 23 specifically ensures provincial oversight for conservation authorities and allows the Minister to appoint an investigator.

As well, as a result of amendments to the *Conservation Authorities Act* in 2017 all CAs developed and passed CA Administrative By-laws in 2018 which ensure common best practices for Boards such as Codes of Conduct and Conflict of Interest guidelines.

Conservation Authority Board members are to make decisions in the best interest of the corporation (i.e. CA). Bill 108 amendment Section 14 "Duty of members" states that: *Every member of an authority shall act honestly and in good faith with a view to furthering the objects of the authority.* This is consistent with a recommendation from the Auditor General in the 2018 *Special Audit of the Niagara Peninsula Conservation Authority*.

7. What are your thoughts on CA board composition? Should municipalities be allowed to continue to appoint members of the public to CA boards? What should be the length of CA board appointments? (Currently it is 4 years.)

It is currently a municipal decision as to who to appoint to the Board. Municipalities appoint either elected or non-elected officials to CA boards. The majority of the CAs' 429 board members are elected municipal councillors (385).

Currently, most CA board members serve a four-year term which coincides with the municipal election cycle.

C: Partners and Collaborations

Conservation authorities collaborate with a variety of stakeholders. Please tell us more about key partnerships and/or collaborations that your organization is involved with.

- 1. Please describe key collaborations between CAs and partners that your organization is involved in (e.g. provide funding; share staff or other resources; work together on specific projects; provide volunteers)**
- 2. How long has this collaboration / partnership been in place?**
- 3. What about your partnerships is working well and what needs improvement?**

CAs have utilized partnerships to implement many on-the-ground restoration activities and best management practices, applied scientific research to inform management decisions, and other activities for the benefit of watershed residents. Conservation Halton tracks and reports on partnership and stewardship activities on a yearly basis in its annual report. In 2019, 150 environmental partnership initiatives were carried out. These partnerships enable Conservation Halton to leverage grant and partnership dollars. In 2019, we estimate that for every dollar invested by Conservation Halton, \$28.11 are leveraged for stewardship and restoration work.

Another example of a partnership is the Cootes to Escarpment EcoPark System, which is a 2, 200 ha network of protected green space. A collective of nine partner agencies, including Conservation Halton, provide funds for a secretariat responsible for administering, leading and coordinating projects and programs. The partnership allows for landscape-level coordination of the management of natural heritage lands owned by eight different landowners. Resources are shared (financial and staff) to implement restoration projects, improve ecological functions, improve the delivery of recreational opportunities and provide community outreach services to residents living within and around the EcoPark System. Management Plans have been completed for all six “Heritage Lands” management units within the EcoPark System, with funding provided by Ontario Trillium Foundation.

D: Additional Feedback

- 1. Do you have any other feedback that would inform the government’s review of legislation, regulations and policies related to conservation authorities?**