



Key Recommendations for Modernization of Conservation Authority Operations and Schedule 2 of Bill 108

(ERO 013-5018)

Submitted May 10, 2019

*The following are recommendations submitted by Conservation Ontario to Environmental Registry Posting 013-5018, **Modernization of Conservation Authority Operations** and to **Schedule 2 Bill 108**.*

Recommendation #1: THAT Schedule 2 Conservation Authorities Act (CAA) of Bill 108 be deferred from enactment to provide CAs with an adequate opportunity to consult with their member municipalities

The ERO 45 day comment period and the introduction of amendments to the CAA as part of the Housing Supply Action Plan is not conducive to the conservation authorities' (CAs) abilities to explain or seek comment back from Boards of Directors or adequately communicate with member municipalities in a meaningful way. Especially not during operational pressures of the flood season and with the additional pressure of an in-year provincial funding cut of 50% to the flood management program. The conservation authorities are still trying to adapt to the loss of funding (and the ripple effects of other reductions such as the 50 million tree program) and how that will impact the member municipalities. Additionally, CAs have not had the opportunity to discuss the posting and proposed legislation as a collective (i.e. Conservation Ontario Council).

Recommendation #2: THAT the mandatory programs and services [proposed Section 21.1 (1)], to be prescribed in regulation, be supported and include the addition of: Conserving natural resources

Conservation authorities are concerned about defining and limiting a CA's core mandatory program to the items listed in the ERO and Bill 108 (i.e. natural hazards, conservation-owned lands, source water protection, Lake Simcoe watershed). While these are supported as core mandatory programs and services, they fail to recognize the critical role that CAs play as a watershed and natural resource management agencies. As outlined in the *Conservation Authorities Act (CAA)*, the objects of an authority are to "provide, in the area over which it has jurisdiction, programs and services designed to further the conservation, restoration, development and management of natural resources..." (Sec. 20(1)). Further, for the purposes of accomplishing its objects, an authority has the power to "study and investigate the watershed and to determine programs and services whereby the natural resources of the watershed may be conserved, restored, developed and managed" (Sec. 21(1)(a)). Watershed management has been the foundation for all CA programs and services since the inception of conservation authorities.

Residents of all watersheds rely on clean and sustainable drinking water, breathable air, green spaces and healthy rivers and streams for recreation, healthy soils, forests and wetlands that provide habitat for wildlife, as well as public health and many other benefits. Being in nature restores people and helps

them to stay active and healthy. The *Conservation Authorities Act* established in 1946 was predicated on responding to local issues on a watershed basis.

Including “conserving natural resources” as a mandatory program and eligible for municipal levy would recognize the important role that CAs play in protecting the function and resilience of natural resources at the watershed level. This would be consistent with the “Made-in-Ontario Environment Plan”, which states that conserving natural resources is part of a CA’s core mandate. CAs can assist the Province and local municipalities in addressing climate change and natural resource related issues at the watershed scale which is most cost efficient.

This role of CAs in undertaking programs on a watershed scale would be covered by mandatory programs and services under “conserving natural resources”. It would basically include the key elements of watershed management such as water quality and water quantity and vegetative cover monitoring and modelling on a watershed basis to support multiple objectives that are relevant to the watershed jurisdiction, including improvements to Great Lakes water quality, watershed resilience to climate change (e.g. flooding, biodiversity) and land use change (e.g. urbanization, agricultural intensification). In addition to education programs and community engagement, and land acquisition considerations, it would also include other watershed scale programs such as rural and urban stewardship with local landowners and agencies that improves and protects water quality and quantity and watershed biodiversity through restoration, rehabilitation and green infrastructure.

NOTE: In the absence of implementing the above mandatory program and service then it is imperative that the watershed management activities that advise or reinforce the ability to deliver on the mandatory programs (i.e. natural hazards, source water protection (including Great Lakes) and management of CA conservation areas/lands), be included in the prescribed regulations. These are further described in Recommendation #3 re: Standards and Requirements. In effect, as currently proposed, this would mean that watershed management programs and services related to biodiversity (e.g. management of fish and wildlife habitat, studies and advice on natural heritage, invasive species and endangered species management) and associated education programming would not be eligible for watershed-wide municipal levy support without the agreement of each individual municipality.

Recommendation #3: THAT the scope of standards and requirements to be prescribed in regulations capture all key elements of the mandatory program and service area, as well as, foundational watershed management and climate change adaptation activities required to support a CA’s ability to deliver on the mandatory program and service while respecting the fact that all eligible activities may not be relevant for every watershed

AND THAT these be developed in consultation with conservation authorities, municipalities, and other stakeholders.

Of critical importance will be the development of standards and requirements for each of the core mandatory program areas and what constitutes eligible activities within each of the mandated areas.

The core mandatory programs and services are supported and should include the following key elements:

1. Natural hazards (management) - Natural Hazard Information and Management Actions; Flood Forecast and Warning; Ice Management; Section 28 Regulation under the *Conservation Authorities Act*; Plan Review and EA Review for Natural Hazards; Low Water Response; and, Flood and Erosion Control and Low Flow Augmentation Infrastructure
2. Conservation and management of conservation authority lands - Conservation Land Information and Management Plans; Section 29 Regulation under the *Conservation Authorities Act*; and, Recreation Water Control Infrastructure
3. Drinking water source protection - Administering Source Protection Committees (SPCs); Assisting the SPC in the latter's powers and duties to be carried out under the *Clean Water Act*; Assisting partner SP Authorities in the source protection region (SPR); Updating Source Protection Plans; Delivering annual progress reports; and, Policy implementation and integration
4. Protection of the Lake Simcoe watershed - that which is identified by the Lake Simcoe Region Conservation Authority.

The standards and requirements need to be framed to allow the specifics of each CA's jurisdiction to dictate the relevance/applicability of each. For example, each CA has different natural hazards with different levels of risk based upon the specific geography of their jurisdiction and, as a further example, some CAs do not have flood and erosion control infrastructure (e.g. dams) to maintain or operate.

If "conserving natural resources" (see Recommendation 2) is not identified as a core program area to reflect the strong watershed management perspective of CAs, then foundational watershed management activities should be identified in the implementation regulations as key components required to carry out the proposed core program areas. As well, the activities described in regulation for each of these core mandatory programs and services should enable our ability to support climate change adaptation as per Ontario's Environment Plan. It is critical that the Ministry consult with conservation authorities, municipalities, and other stakeholders on the development of the regulations outlining the requirements for all mandatory program areas (listed above).

The following paragraphs summarize the relevance of the foundational watershed management activities to the proposed mandatory programs and services:

Watershed management provides the necessary understanding and knowledge of watershed natural resources to effectively make informed decisions and carry out natural hazard protection and management, conservation and management of conservation authority lands and source water protection. Watershed management involves examining the environment and human activities within a watershed area and assesses the relationships between these activities to determine how the natural hazards, conservation areas and water resources of the watershed should be managed to ensure the health and safety of people and the protection of property, that conservation lands retain and enhance their ecological integrity and source water is protected.

Natural Hazards - By applying a holistic approach to watershed management, a range of factors are taken into consideration such as water quality/quantity, significant water features, precipitation, climate water balance, water budgets and the hydraulic cycle. This work provides the foundation upon which natural hazards (e.g. flood and erosion) can be evaluated. Watershed management provides the necessary understanding of the overall system and subsequently guides management actions needed to reduce the risks of natural hazards.

Conservation and management of conservation authority lands - Conservation authority lands often include a watershed's most ecologically sensitive and robust areas. These areas support flood resiliency, filter air and water contaminants, and protect drinking water resources. Watershed management provides the necessary understanding of the overall health of the watershed and subsequently guides conservation and management actions needed to ensure the health of conservation areas.

Source Water Protection - The scientific work, modelling and data collection that is conducted through watershed management supports the science of source water protection. The water budgets, continued monitoring of water quality and water quantity as well as the modelling of surface water, groundwater and climate factors all provide the data and detail necessary to identify threats, risks and opportunities with respect to our drinking water resources. This information, consolidated with land use information, climate modelling and watershed stressors can identify potential future risks and threats to our drinking water resources and guides management actions needed to reduce the risks.

Recommendation 4: THAT the government remove the requirements for individual Municipal Council budget agreement for watershed-based programs called "other programs and services"/ non-mandatory

AND THAT updates to the municipal levy regulation and training be developed in collaboration with conservation authorities and municipalities

The ERO posting and Bill 108 propose to fundamentally change the CA/municipal funding relationship. As a general comment, it is agreed that CAs should be transparent in how they levy municipalities for both mandatory and non-mandatory programs and services. It is further agreed that CA budgets should be presented to their municipalities on an annual basis and distinguish levy funded programs from those that are not. Modern transparency standards for levy review and service agreements/memorandum of understandings for programs and services that the CA is undertaking on behalf of an individual municipality are supported.

The creation of conservation authorities recognized that water does not stop flowing at political boundaries and that there are economies of scale through cost sharing. Members of the Board of Directors are appointed by all involved municipalities, and this watershed management governance provides an essential multi-municipality perspective on which program investments will most benefit a watershed and should be supported by a municipal levy. The provincial proposal limits use of municipal levy to "mandatory programs and services" (standards and requirements to be prescribed in regulation) related to Natural Hazards, Conservation-owned Lands, Drinking Water Protection, and to Lake Simcoe

watershed protection. “Other programs and services”/non-mandatory identified by a CA Board for their watershed would need individual Municipal Council agreement on budget for them (21.1.2(2)) and accounting with each municipality that participates in order for a municipal levy to be applied. The proposal will consume resources and may unintentionally lead to financial inefficiencies and poor management of watershed resources. In effect it undermines the mandate, premise and value of the multi-municipality/watershed governance of conservation authorities.

The provision of a transition period and the ability to request an extension that has been provided in the proposed legislation is appreciated; however, this new administrative instrument appears cumbersome at best and prone to definitional challenges. It transfers components of budget decision making to municipal councils rather than with the Board of Directors. Instead we encourage a review of current training for CA Boards and municipalities with an emphasis on member roles, powers and responsibilities, as a reminder that program and budget control is already fully within their power. The existing governance structure was designed for this level of control; it seems more efficient to maximize the effectiveness of the existing governance structure through training than to create a new administrative tool that will greatly complicate the process, as well as create an additional administrative burden. It is unclear why a government that wants to reduce red tape and improve efficiencies is creating such a complicated and time consuming process for watershed management programs and services CA Boards deem necessary to provide.

NOTE: If Recommendation 2 is adopted then the administrative burden is reduced and this section could be retained to capture the rare circumstances when municipal levy is proposed to be used for “other programs and services”.

Recommendation 5: THAT the Province continue to invest in the core mandatory programs and services to be delivered by conservation authorities and support CA eligibility for other provincial funding programs

There are currently provincial transfer payments to all CAs for natural hazards (Ministry of Natural Resources and Forestry) and source water protection (Ministry of Environment, Conservation and Parks). The Province’s ‘Made-in-Ontario Environment Plan’ recognizes how issues such as climate change can impact and threaten Ontario’s economic prosperity and the well-being of its people; and states that addressing these challenges is a shared responsibility. However, the 2019 Ontario budget cut 50% of the natural hazards program funding to conservation authorities. This seems to be a contradiction to the Environment Plan commitments and is a concerning signal that the Province is on a path to reducing the remainder of its natural hazards financial support responsibilities to municipalities who, themselves, have also seen a reduction in their own provincial transfer payments as well as cuts to public health and other shared cross sector programs. This is unfair and the province is encouraged to continue its investment in these core mandatory programs and services.

Additionally, individual CAs are important on-the-ground delivery agents for numerous provincial programs through special contracts for example and it should be ensured that the eligibility of CAs for

these other provincial funding opportunities is not negatively affected and in fact, is improved. This would include provincial funding programs such as the Trillium Fund and the Canada-Ontario Agreement for Great Lakes Water Quality.

Recommendation 6: THAT core mandatory programs may be applied to municipal levy or could utilize other sources of revenue.

Given the instability of provincial transfer payments and additional pressures on municipal budgets from provincial cuts, the CA/municipal budget relationship should retain the CA Board's ability to charge and use fee revenues. It is our request that these core mandatory programs may be applied to municipal levy or could utilize other sources of revenue. For example, CAs want the option of using self-generated revenue to support conservation (owned) land management, in addition to, or rather than, municipal levy.

Other Proposals – Appointment of an Investigator (proposed Section 23.1 (4 – 8)); Duty of Members (proposed Section 14.1)

These proposals are supported. With regard to investigations, it is assumed that given the costs of an investigation are to be borne by the Authority that some measures would be established to determine the reasons why an investigation may be initiated and whether or not concerns can be first addressed through a Board process.

Any questions regarding this submission can be directed to Bonnie Fox (Manager of Policy and Planning) at bfox@conservationontario.ca or 905-895-0716 ext 223.