



A Watershed Moment – The true cost of rolling back decades of environmental protection in Ontario

November 9, 2022

Reaction from Conservation Authorities to the Proposed Changes to the *Conservation Authorities Act*

On October 25, the Ontario government unveiled [Bill 23](#) and related regulations. Conservation Ontario's top concerns include:

- Proposal to bar municipalities from entering into voluntary agreements with conservation authorities (CAs) for review and comment on development applications such as natural heritage and water resources plan review. This is an important role for many conservation authorities, on behalf of municipalities, across the province.
- A new regulation-making ability has been introduced in the *Conservation Authorities Act* to enable exemptions from natural hazard permits where *Planning Act* approvals are in place in select municipalities. In these cases, the Province proposes to transfer some or all of conservation authority regulatory responsibilities to municipalities.
- Proposal to freeze conservation authority development fees as early as January 1, 2023. Currently conservation authority development fees are based on cost recovery. A freeze on fees will quickly create a deficit.
- Proposal that conservation authorities identify potential conservation lands that could support housing development in the inventory of conservation lands they are required to create.

KEY RECOMMENDATIONS

The proposed changes in Bill 23 will create a number of unintended consequences which roll back 70 years of successful conservation authority watershed management at a time when we need this work more than ever in order to address the growing impacts of climate change.

In order to avoid unintended consequences, Conservation Ontario proposes the following:

1. Allow municipalities to enter into agreements with conservation authorities for review and comment on development applications such as natural heritage and water resources plan review.
2. Development subject to *Planning Act* authorizations should not be exempt from requiring a conservation authority permit and conservation authority regulations should not be delegated to municipalities.
3. The Multi-stakeholder Conservation Authority Working Group needs to continue working with the Province to provide advice and solutions for successful implementation.
4. Conservation authority development fees should not be frozen since they are based on cost recovery.

5. Careful consideration is required when identifying conservation authority lands to support housing development.

UNINTENDED CONSEQUENCES AS A RESULT OF THESE CHANGES

We are concerned that some changes proposed in Bill 23 will:

- place new responsibilities on municipalities for natural hazards and natural resources that may lead to inefficiencies, uncertainties and delays in the development review process;
- weaken the ability of conservation authorities to protect people and property from natural hazards; and
- reduce critical, natural infrastructure like wetlands and greenspaces that reduce flooding and protect waters in our lakes and rivers.

The proposed changes will not achieve the objectives that the government is looking for in order to quickly address the housing crisis. More likely, they will create additional delays and increased costs.

Municipalities have successfully relied on the benefits of long-standing conservation authority local watershed science to guide decision-making. The proposed changes to delegate CA regulatory responsibility to individual municipalities are contrary to the core mandate of conservation authorities and may put additional people - and their homes - at more risk. The ability of conservation authorities to regulate development in all hazardous areas is critical for successful emergency preparedness and to prevent the worst outcomes.

Key Deadlines: Conservation authorities and others are able to comment on these proposed changes in two ways:

- a) Appear before, or make a submission to the Standing Committee reviewing Bill 23. Submissions are due by 7:00 PM on November 17, 2022. Instructions for participating in the Standing Committee by making submission: <https://www.ola.org/en/get-involved/participate-committees> . Conservation Ontario's submission can be found here: <https://conservationontario.ca/policy-priorities/planning-and-regulations>
- b) Submissions can also be made to the [Environmental Registry of Ontario](#) posting. The deadline is November 24. To submit a comment: <https://ero.ontario.ca/notice/019-6196>

DETAILS ON PRIORITY POSITIONING FOR CONSERVATION AUTHORITIES

1. Allow municipalities to enter into agreements with conservation authorities for review and comment on development applications such as natural heritage and water resources plan review.
 - Many municipalities choose to contract a conservation authority to undertake certain aspects of plan review services due to the efficiency that it brings to their review.
 - Conservation authorities are not a barrier to growth; timely reviews are provided and service enhancements and improvements continued throughout the CA Act review dialogue.
 - Conservation authorities have developed and are implementing a streamlined approach to plan review and approvals. In 2021, 91% of all permits issued by high

growth CAs met provincial timelines. A total of 93% of all permits issued by non-high growth CAs met provincial timelines. In 2022, conservation authorities also identified the need to include performance standards in voluntary agreements between CAs and municipalities for plan review advisory services. These performance standards were to ensure that recently legislated municipal timelines would be delivered upon.

- Using conservation authority long-standing watershed technical knowledge provides context for science-based decision making and offers value for money as well as certainty and predictability in the development review process.
- Development plan reviewing and commenting advice provided by conservation authorities enables the connections to be made between flood control, wetlands and other green infrastructure or natural cover, thus ensuring safe development.
- Prohibiting CAs from undertaking this work will lead to longer and more costly application review processes and will not contribute to the Province's goal of "more homes built faster".
- From 2021-2022, the Ministry of Environment, Conservation and Parks led a multi-stakeholder Conservation Authority Working Group (CAWG) to guide the implementation of earlier legislative changes to conservation authority business. This group included representatives from conservation authorities, municipalities, development sector and agriculture.
- Stemming from the work of the CAWG, specific regulations were developed for municipalities to enter into voluntary Memorandums of Agreement (MOUs) with conservation authorities for a wide variety of work. The new legislative proposals create a significant change in direction to these regulations.
- Specifically, conservation authorities **will not** be able to perform a review and commenting role on development applications as a 'municipal' or 'other' program or service for prescribed Acts. The Acts, proposed to be prescribed in the regulation include:
 - *The Aggregate Resources Act*
 - *The Condominium Act*
 - *The Drainage Act*
 - *The Endangered Species Act*
 - *The Environmental Assessment Act*
 - *The Environmental Protection Act*
 - *The Niagara Escarpment Planning and Development Act*
 - *The Ontario Heritage Act*
 - *The Ontario Water Resources Act*
 - *The Planning Act*

These services include natural heritage systems management programs and policies that have exceptionally consequential impacts on conservation authorities' ability to achieve their core mandates including the protection of people and property from flood hazards as well as sources of drinking water.

- Development subject to *Planning Act* authorizations should not be exempt from requiring a conservation authority permit and conservation authority regulations should not be delegated to municipalities. The ability of conservation authorities to regulate

development in all hazardous areas is critical for successful emergency preparedness and to prevent the worst outcomes.

- The planning process is insufficient to ensure natural hazard concerns are addressed through design and construction. This places additional responsibility, and liability, on municipalities.
- Over the last two years, the province has worked to clarify the CAs' mandate and responsibilities ensuring their focus on protecting people and property from natural hazards such as flooding and erosion.
- This exemption is contrary to the core mandate of conservation authorities and may put additional people - and their homes at risk.
- Natural hazard permitting is essential to ensuring safe communities and is a key tool used to prevent and reduce the risks of flooding and erosion. Conservation authorities were given these responsibilities following Hurricane Hazel when 81 people were killed by flooding and erosion conditions.
- The proposed changes could create a two-tier approach to the protection of people and property. Not using a watershed approach to reviewing new development ultimately puts residents of upstream and/or downstream municipalities at risk. Natural hazards need to be considered both at site-specific and watershed levels to ensure public safety.

3. The Multi-stakeholder Conservation Authority Working Group needs to continue working with the Province to implement changes.

- The work of the multi-stakeholder Conservation Authority Working Group established in January 2021 to guide the province's implementation of previous changes to the *Conservation Authorities Act* is not complete.
- The Province needs to re-establish the multi-stakeholder Working Group.

4. Development needs to pay for development. Putting a freeze on CA development fees will create larger issues in the future.

- Conservation authority plan review and permitting fees are based on cost recovery and currently there is no mechanism being proposed to make up for the accumulating shortfall in the future.
- Not enabling cost recovery means that the municipal taxpayer will have to subsidize development.

5. Careful consideration is required when identifying CA lands to support housing development.

- Conservation authority lands protect against flooding and erosion, contribute to public well-being as well as protect important sources of drinking water and biodiversity. They also contribute to climate change adaptation measures by capturing emissions, cooling temperatures and protecting water quality.
- CA lands are often acquired through a wide variety of means, some of which result after complex negotiations with private or other public funders or donors.

- Regardless of the source of funding for the lands, clear policies are needed to protect these locally significant conservation lands and land use should only be considered for housing in exceptional circumstances.
- Special considerations related to zoning, natural heritage, integration of provincial and municipal owned land or publicly accessible lands and trails are also included. Process improvements are proposed to enable CAs to sever and dispose of land that does not meet their requirements for ownership.

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