

## ONLINE SURVEY: ONTARIO CONSERVATION AUTHORITIES

### Conservation Ontario Response to Ministry of Environment, Conservation and Parks (MECP) Survey Questions (March 2, 2020)

**Deadline to submit feedback: March 13, 2020**

#### **Background**

The Ministry of Environment, Conservation and Parks has an online survey collecting opinions about conservation authorities (CAs) as part of their consultation process for the *Conservation Authorities Act*.

These questions were initially addressed and then refined in roundtable discussions with multi-stakeholders at various locations across Ontario. The consultations are taking place from January 31, 2020 to March 5, 2020 in Barrie, Colborne, London and North Bay.

Conservation Ontario is providing the following responses to the online survey questions to assist conservation authorities, their members and anyone else who is interested in participating in the survey.

#### **MECP Survey Questions:**

##### **A: Mandatory and Non-Mandatory Programs and Services**

**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**

**Question 1: Which conservation authority 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**
- managing conservation authority-owned lands**
- protecting drinking water sources**

#### **CONSERVATION ONTARIO RESPONSE:**

Conservation Ontario and conservation authorities are promoting the following CA programs and activities to be included in the regulations to address each of the provincially mandated programs:

1. Natural Hazards (management) – CAs need to be able to assess and address flooding and erosion risks in a changing climate using the five pillars of Emergency Planning and Management. This ensures an approach that combines prevention, mitigation, preparedness, response and recovery. Plan review and permitting is a critical component to reduce risk, saving lives and property.

**Specific CA programs / activities CO recommends be included:** *Watershed-based Natural Hazard Information (e.g. studies, monitoring) and Management Actions (e.g. stewardship); 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; Water and Erosion Control Infrastructure; and, Communication, Outreach and Education.*

2. Conservation and Management of Conservation Authority Lands – CAs ensure the conservation and restoration of natural ecosystems and the protection of biodiversity and natural heritage. They protect areas of significant environmental and ecological importance. Conservation areas also provide important environmental learning venues such as Interpretive Centres as well as opportunities for environmental education and recreational opportunities which connect people to nature.

CAs need to be able to ensure the management of both natural and built assets within the conservation areas which would include for example, maintenance, restoration, monitoring and enforcement programs and activities.

**Specific CA programs / activities CO recommends be included:** *Watershed-based Conservation Land Information (e.g. studies, monitoring) and Conservation Area Management Plans and Actions (e.g. stewardship, asset management); Section 29 Regulation under the Conservation Authorities Act; Communication, Outreach and Education; and, Land Acquisition and Disposal.*

3. Drinking Water Source Protection – Conservation authorities act as source protection authorities. Their mandate is to advance and contribute to the protection of existing and future sources of drinking water for Ontarians.

CAs need to be able to ensure that watershed-based source water protection planning is carried out, to meet a key recommendation of Justice O’Conner’s Report on the Walkerton water contamination tragedy. CAs need to be able to monitor, assess and help prepare for climate change impacts on our precious drinking water sources. CAs support local, multi-stakeholder decision making, provide education and outreach, and track the progress of policy implementation.

**Specific CA programs / activities CO recommends be included:** *Watershed-based Source Water Information (e.g. studies, monitoring) and Management Actions (e.g. stewardship); 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; Policy implementation and integration; and, Communication, Outreach and Education.*

4. Protection of the Lake Simcoe Watershed – The purpose of the Lake Simcoe Protection Plan is to improve the health and quality of Lake Simcoe and its watershed for future generations.

**Specific CA programs / activities CO recommends be included:** *those which are identified by the Lake Simcoe Region Conservation Authority.*

5. A fifth mandatory program which is yet to be determined are Conservation Authorities Duties Functions and Responsibilities under an Act Prescribed by the Regulations. Conservation authorities should continue to be a public body under the *Planning Act* and the *Environmental Assessment Act*, for natural hazards and for broader watershed management knowledge.

The Province should prescribe a mandatory ‘**Conserving Natural Resources**’ program in order to reinforce the role of conservation authorities in watershed management. Including “conserving natural resources” as a mandatory program would recognize the important role that CAs play in protecting the functioning 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 impacts of a changing climate and natural resource related issues at the watershed scale which is most cost efficient.

This “Conserving Natural Resources” mandatory programs and services role would include the key elements of foundational watershed management activities which are required for effective delivery of provincially designated mandatory programs. In the absence of a ‘conserving natural resources’ mandatory program, it needs to be emphasized that foundational watershed-based activities need to be captured in regulation(s) for effective delivery for all of the currently identified mandatory programs.

The watershed approach allows conservation authorities to identify and address problems early, before they become more expensive or even impossible to manage. CAs are able to link what activities are happening across the watershed that threaten or impact important natural resources such as water.

**Specific CA programs / activities CO recommends be included:**

- watershed-scale data collection, management and modelling;
- watershed-based technical studies, plans, assessments and strategies;
- watershed-wide activities including water and land-based stewardship, restoration and rehabilitation activities (e.g. green infrastructure) and outreach, education and communications activities.

This would capture 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.

Those multiple objectives could include 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, 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.

## **Question 2: What programs and services provided by conservation authorities should be non-mandatory?**

### **CONSERVATION ONTARIO RESPONSE:**

Non-mandatory programs and services are not specifically defined by the Province but it is assumed it is everything that is not prescribed in regulation as mandatory. The *Conservation Authorities Act* enables two types of “non-mandatory” programs and services that should continue to be eligible for CA delivery including:

1) *Municipal programs and services provided to individual municipalities*; they require two willing partners (municipalities and CAs) to sign an MOU or agreement and it is a local municipal decision; and,

2) *CA Board programs and services that the Board determines are a priority for the local watershed's shared natural resources*. It's a local decision.

With regard to non-mandatory programs and services, CAs must be able to charge fees, and derive revenue from their facilities, programs and services as appropriate to reduce the burden to the tax levy. 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.

## **B: The Existing Conservation Authority Model**

### **Question 1: What is working well with the existing conservation authority model?**

#### **CONSERVATION ONTARIO RESPONSE:**

Conservation authorities are community-based organizations and this is one of their strengths. Because they are located in watersheds across the province and encompass 95% of Ontario's population, they also have provincially designated roles and responsibilities around hazard management, drinking water source protection, as well as planning and permitting.

The CA watershed-based model enables significant cost and program efficiencies which reduces risk and liability as well as helps to avoid significant additional costs from poor water quality and supply, as well as flooding and erosion - all of which can threaten municipal and provincial budgets. Examples of efficiencies include:

- Municipalities and others can take advantage of the CAs' local watershed knowledge, experience and expertise particularly around local watershed science, natural hazard management, source protection, natural heritage, environmental education, stewardship, climate change adaptation and many other program areas.
- CAs are able to facilitate and leverage funding, expertise and partnerships in order to provide a wider reach for benefits and reduce costs for partner municipalities, agencies and others.
- CAs help to inform sustainable land-use planning and development.

**Question 2: What could be improved in the existing conservation authority model?**

CONSERVATION ONTARIO RESPONSE:

Additional improvements could be made if the Province did two things:

- a) Provided the technical and provincial policy support through clear regulations with definitions and standards and updated technical guidance. As well, provincial policy needs to ensure that it supports and incorporates the watershed approach
- b) Additional and consistent provincial funding for provincial mandatory programs would also have a significant impact on increasing consistency and capacity across all CAs.

**Question 3: How can conservation authority operations be more consistent, transparent and efficient?**

CONSERVATION ONTARIO RESPONSE:

Conservation Ontario supports the Province moving as expeditiously as possible to finalize the Section 28 regulation and to enact Part VII (Enforcement and Offences). Additionally, provincial policy, technical guideline and training support for the natural hazards program would assist in more consistency.

Conservation authorities acknowledge that they have heard criticisms about a lack of consistency, transparency, accountability and timeliness to review and approve permit applications. As a result, Conservation Ontario and CAs have worked with the municipal, development and other sectors to improve their permitting process and are currently implementing changes across CAs.

Through Conservation Ontario's [\*Client Service and Streamlining Initiative\*](#) targeted to high growth areas, conservation authorities are improving client service and accountability; increasing the speed of review and approvals; and reducing red tape and regulatory burden.

Additional improvements could be made if the Province provided updated technical and policy support as well as additional and consistent provincial funding for provincial mandatory programs and services.

**Question 4: How do you feel about the current roles and responsibilities to plan and issue permits?**

CONSERVATION ONTARIO RESPONSE:

The current CA roles and responsibilities to plan and issue permits are appropriate because they keep people and property safe. A focus on prevention has been demonstrated to be more effective in reducing the impacts of natural hazards and was lauded by a recent report commissioned by the Province: *Independent Review of the 2019 Flood Events in Ontario*.

The work of conservation authorities helps to avoid many of the higher costs associated with additional damages and business disruptions from the result of extreme weather events. It also helps to ensure healthy and sustainable natural resources which support many different economic sectors within Ontario. The recently released Provincial Policy Statement (2020) acknowledges the important role that CAs play in mitigating potential risk to public health and safety and property damage from natural hazards and directs the Province, planning authorities and conservation authorities to work together.

In particular, the province should move forward on these two related recommendations from the *Independent Review of the 2019 Flood Events in Ontario* ([2019 Flood Advisor's report](#)):

**Recommendation #17:** That the Province support municipalities and conservation authorities to ensure the conservation, restoration and creation of natural green infrastructure (i.e. wetlands, forest cover, pervious surfaces) during land use planning to reduce runoff and mitigate the impacts of flooding

**Recommendation #1:** That the MNRF proceed as expeditiously as possible to finalize its proposed regulation under the *Conservation Authorities Act* and submit it to Cabinet for approval.

Additionally, we should be reminded that the 2010 Ministry of Natural Resources and Forestry (MNRF) Policy and Procedure which outlines “CA Roles and Responsibilities in Plan Review and Permitting” still remains relevant today. This outlines the conservation authorities’ role as a public commenting body under the *Planning Act* and the *Environmental Assessment Act*. This allows them to identify concerns arising from their role as a watershed management agency and to provide advice and/or opinions on the implications of the application for the local natural resources.

**Question 5: How do you feel about the way conservation authorities currently issue permits?**

CONSERVATION ONTARIO RESPONSE:

The Section 28 Regulations are a critical component of Ontario’s approach to reducing risks posed by flooding and other natural hazards and strengthening Ontario’s resiliency to extreme

weather events. Conservation Ontario and the CAs have worked with the development sector, agricultural partners, as well as with municipalities and the Province to determine where improvements can be made to the CA permitting process. As a result, Conservation Ontario has developed an initiative which is already being implemented by conservation authorities in high growth areas:

#### CO Client Service & Streamlining Initiative

Conservation authorities are working to improving client service, transparency and accountability through the Conservation Ontario's Client Service & Streamlining Initiative.

There are already a number of outcomes from this initiative:

- client service training for CA frontline staff,
- template guidelines (client service standards, fee administration policies, and timeline reporting),
- reduced timelines for approvals under Section 28 as well as application guidelines and checklists for clients.

Improvements to both CA plan review and permitting were worked on in 2019 and further work is occurring in 2020 including pre-consultation guidelines.

Recently, Conservation Ontario also worked closely with the agricultural and drainage communities in the creation of the "Guideline for Development of a Guide to CA Permits on Agricultural Lands" and the Drainage Act and Conservation Authorities Act Protocol (DART).

We feel that additional significant improvements to how CAs issue permits can be achieved by finalizing the Section 28 regulation and enacting the associated Part VII (Enforcement and Offences) in the *Conservation Authorities Act*. Additionally, provincial policy, technical guideline and training support for the natural hazards program would assist in more consistency.

#### **Question 6: How can the oversight of conservation authorities be improved? Should there be oversight of CA operations (for example, by the province or municipalities?) Why or why not?**

##### CONSERVATION ONTARIO RESPONSE:

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 other appointed representatives.

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 as a best practice. These reports and annual financial audits are available to the public.

Regulations require CAs to provide its member municipalities with information on the budget and levy and how these were determined in advance of any vote by a Board to approve them. As well, a municipality has the ability to appeal a levy to the Mining and Lands Tribunal (per Section 27).

Directors hold a fiduciary duty to the CA which requires them to make decisions in the best interest of the conservation authority. 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*.

### Provincial Oversight

Overall, conservation authorities 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 to conduct an investigation of a CA’s operations, including the programs and services it provides. It also provides the Minister with the powers to obtain information about a CA’s operations.

Additionally, as referenced above, the Province through Bill 108 specifies the Duty of Members in Section 14.

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 are compliant with Section 19 and therefore consistent. They ensure a number of common best practices for Boards are in place such as Codes of Conduct and Conflict of Interest guidelines.

CAs are required to have their accounts audited annually and copies of the auditor’s report are to be provided to the Minister and member municipalities as per Section 38 of the *Conservation Authorities Act*. These are available to the public as per the CA Administrative By-law.

Oversight of conservation authorities can be improved through enactment of Section 14 (Duty of Members) and 23.1 (4) (Appointment of Investigator).

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

### CONSERVATION ONTARIO RESPONSE:

It is a municipal decision as to who to appoint to the local conservation authority board of directors. Municipalities appoint either elected or non-elected officials to CA boards. The majority of the CAs’ 429 board members are elected municipal councilors (385) and the rest are members of the public.

Currently, most CA board members serve a four year term which coincides with the municipal election cycle. This is the result of a recent amendment to the *Conservation Authorities Act* and it is supported.

## **C: Partners and Collaborations**

**Conservation authorities collaborate with a variety of stakeholders. If you are a member of an organization that is involved with conservation authorities, please tell us more about key partnerships and/or collaborations.**

**Question 1: Please describe key collaborations between conservation authorities and partners that your organization is involved in (for example, provide funding; share staff or other resources; work together on specific projects; provide volunteers)**

CONSERVATION ONTARIO RESPONSE:

Conservation authorities partner with many other organizations and agencies at all levels (local, provincial and federal) to plan and deliver programs which ensure healthy Great Lakes and St. Lawrence River, support farmers and other rural /urban residents, protect biodiversity, and ensure safe and sustainable drinking water. CAs are able to leverage funding and build collaborations for broader outcomes locally, regionally and across the province.

Each CA can provide their own local examples but broadly, these collaborations include such activities as:

- Planting trees, protecting water quality, promoting healthy soils
- Protecting drinking water sources and helping to manage stormwater runoff
- Providing technical expertise and financial support for landowner stewardship
- Protecting important natural landscape features such as the Great Lakes / St. Lawrence River, Oak Ridges Moraine, Niagara Escarpment and other special environmental areas
- Rehabilitating / restoring biodiversity such as wetlands, forests, grasslands, birds, fish and wildlife
- Connecting people with nature and providing environmental education opportunities
- Providing planning advisory services to municipalities

**Question 2: How long has this collaboration / partnership been in place?**

CONSERVATION ONTARIO RESPONSE:

Conservation authorities have been collaborating with landowners, all levels of government, other agencies, business and community groups since they were established. These partnerships are key to their success.

**Question 3: What about your partnerships is working well and what needs improvement?**

CONSERVATION ONTARIO RESPONSE:

Conservation authority programs such as stewardship, monitoring, watershed planning, restoration activities, green infrastructure and agricultural best management practices need to

be continued to be supported as mandatory programs and services in order for conservation authorities to continue to work with partners to achieve successful outcomes.

## **D: Additional Feedback**

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

CONSERVATION ONTARIO RESPONSE:

**The watershed approach of conservation authorities (CAs) must be preserved.** CAs are organized and operate at the watershed scale, providing a much-valued bridge across jurisdictional boundaries to understand and address environmental concerns.

Conservation authorities conduct watershed-scale monitoring, data collection, modelling and assessments. Watershed-scale monitoring programs are necessary for delivery of mandatory programs regarding flood mitigation, natural hazards, land conservation, and drinking water source protection. Monitoring is also critical for delivering broader environmental protections including biodiversity conservation, water quality protection, and ecological restoration. For monitoring programs to adequately advise decision-making, it requires adequate data management support and oftentimes modelling.

As well, Conservation authorities work with local stakeholders and other agencies to develop watershed strategies and to encourage decision-making at that scale. They support watershed-wide activities including urban and rural stewardship, communication, outreach and education.

**The role of CAs in plan review and permitting must be maintained.** The CAs' role in planning decisions under the *Planning Act*, the *Environmental Assessment Act* and the *Niagara Escarpment Planning and Development Act* ensure that developments do not result in changes to the floodplain and natural heritage (e.g. wetlands) that would put communities at risk from flooding. The [2019 Flood Advisor's report](#) showed strong support for the conservation authority model in protecting Ontario from the impacts of climate change. This model only works if CAs have the power to intervene in planning decisions and development applications.

Equally important is the CA commenting role as a watershed management agency whereby CAs provide advice on the implications of the development application on the broader natural resources (including for example, water and natural heritage) within its watershed.

**CAs should continue to play a key role in delivering community projects in partnership with municipalities and local organizations, providing on-the-ground expertise.** CAs partner with many local environmental and conservation groups, farmers, and their communities to deliver regionally significant projects including rehabilitating natural heritage, implementing agricultural best practices, and restoring or creating wetlands. They often provide matching funding, in addition to on-the-ground expertise.