

REPORT FA 21 / 2019: To The Full Authority

FROM: Christopher Wilkinson, General Manager / Secretary-Treasurer

SUBJECT: Proposed Changes to the *Conservation Authorities Act*.

DATE: April 23, 2019

Purpose:

Provide an overview of the proposed changes to the Conservation Authorities Act and the proposed Catfish Creek Conservation Authority (CCCA) response.

Discussion:

Modernizing conservation authority operations – Conservation Authorities Act (ERO #013-5018).

The Ministry of Natural Resources and Forestry is proposing to create a regulation further defining the ability of a conservation authority to regulate prohibited development and other activities for impacts to the control of flooding and other natural hazards.

Consolidating and harmonizing the existing 36 individual conservation authority-approved regulations into 1 Minister of Natural Resources and Forestry approved regulation will help to ensure consistency in requirements across all conservation authorities while still allowing for local flexibility based on differences in risks posed by flooding and other natural hazards.

Comments:

- Catfish Creek Conservation Authority currently regulates development, interference with Wetlands and Alterations to Shorelines and Watercourses via Ontario Regulation 146/06. CCCA is supportive of a consistent approach to planning and support consolidation into one regulation. This will specifically assist our municipal partners in finding efficiencies in supporting municipal land use planning and development services across watershed boundaries.
- Catfish Creek Conservation Authority Regulations speak to lands Regulated by Section 28 of the Conservation Authorities Act and the Administrative process we follow to review applications relative to Natural Hazards. **As a result, our Regulations affect private landowner proposals for “Development” they wish to undertake on portions of their property that are impacted by Natural Hazards. This proposal will therefore mainly affect private landowners in the watershed as opposed to Local Governments or Municipal Land Use Planning decisions. As a result, please provide clarity regarding the approach to development applications across for landowners undertaking works in Regulated Areas.**

For the purposes of this regulation the Ministry is also proposing to:

- Exempt low-risk development activities from requiring a permit including certain alterations and repairs to existing municipal drains subject to the *Drainage Act* provided they are undertaken in accordance with the *Drainage Act* and *Conservation Authorities Act* Protocol;

Comments:

- CCCA exempts works under the Drainage Act by Municipalities, i.e. we do not issue “Permits” per se, however we review proposals and provide technical assistance to our Member Municipalities.
 - CCCA provides comments on impacts to Natural Hazards (and Fish Habitat in the past) through an “Authorization Letter”.
 - These letters are turned around within 2 working days. As a result, we do not see the need to amend this section.
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- Require conservation authorities to develop, consult on, make publicly available and periodically review internal policies that guide permitting decisions;

Comments:

- We need to differentiate between our Plan Review Policies which guide our review of applications under the Planning Act versus our Policies relative to Section 28 (Generic Regulations.). As a result, you may wish to remove making mapping available for Official Plans in this section and just mention that Regulation Mapping and Policies are available to the public and are adopted by CA Boards in accordance with Provincial Standards/Protocols.
 - We currently make all internal policies for plan review available for anyone to see.
 - Floodplains are dynamic in nature and are changing over time. A large storm could alter a floodplain and therefore the use of a broader screening line with specific site surveys for development seems to be a workable and cost efficient solution that maximizes public safety. Mapping that becomes out of date as soon as it is published would seem to have the opposite effect.
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- Require conservation authorities to notify the public of changes to mapped regulated areas such as floodplains or wetland boundaries; and

Comments:

- The discussion of “Mapped Regulated Areas” is concerning since the current “generic regulation” is based on site surveys and investigations for elevations. We make a screening map available online. Proponents within the screening area are asked to speak with the Catfish Creek Conservation Authority staff. Our Regulations Officers or planning staff are available for proponents to specifically discuss their Section 28 proposals.
- The planner will visit the site to determine the specific flood elevation. Currently, staff use a series of benchmarks around the flood damage areas to identify flood elevations for flood proofing, new builds and renovations.
- The planner cannot complete this exercise from a desktop as there is insufficient vertical accuracy available from the air photos due to tree cover making it difficult for the sensors to pick up elevations. Since flood plains are typically forested areas, it makes it very difficult to determine the flood elevation from a desktop exercise using air photos and an elevation model.

- Update definitions for key regulatory terms to better align with other provincial policy, including: “wetland”, “watercourse” and “pollution”;
- Defining undefined terms including: “interference” and “conservation of land” as consistent with the natural hazard management intent of the regulation;
- Reduce regulatory restrictions between 30m and 120m of a wetland and where a hydrological connection has been severed;
- Allow conservation authorities to further exempt low-risk development activities from requiring a permit provided in accordance with conservation authority policies;
- Require conservation authorities to establish, monitor and report on service delivery standards including requirements and timelines for determination of complete applications and timelines for permit decisions.

Comments:

- No Comments

Recommendations:

THAT the members receive REPORT FA 21 / 2019 for information; and further,

THAT REPORT FA 21 / 2019 be submitted to the appropriate Environmental Registry consultations.

Christopher Wilkinson,
General Manager / Secretary-Treasurer