

Ministry of the Environment Conservation and Parks
900 Bay St, Toronto ON
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June 24, 2021

**Re: Appendix I - Draft Letter ROP's Response to Provincial Consultation on the Phase 1
Regulatory Proposals under the CA Act.docx (ERO 019-2986)**

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Thank you for the opportunity to review and comment on the above noted Environmental Registry of Ontario posting. The following comments are provided by Region of Peel staff as input to the Ministry to consider regarding Consultation on the Phase 1 Regulatory Proposals under the *Conservation Authorities Act*.

The regulatory proposals are informative and provide a clear and reasonable structure that will support implementation of the new provisions in the Act. Although comprehensive, comments are provided below regarding the need for broader scope of mandatory programs to address climate change beyond impacts relating to natural hazards; sustained provincial funding of mandatory programs and services; and prioritization of the provisions granting CAs stronger enforcement authority and tools.

The Region encourages the Province to expedite consultation on Section 28 (permitting) regulatory proposals and the enactment of all Section 30 provisions including Stop Orders to deal with enforcement matters such as large scale filling and development activities in highly sensitive and risk regulated areas.

Mandatory Program and Services Related to the Risk of Natural Hazards

The Ministry of Natural Resources and Forestry (MNRF) proposes that Conservation Authorities (CAs) would be required to implement a program or service to help manage the risk posed by natural hazards within their jurisdiction, including flooding, erosion, dynamic beaches, hazardous sites as defined in the Provincial Policy Statement (PPS), 2020 and low water/drought as part of Ontario's Low Water response. Under the proposed regulation, programs will need to:

- identify natural hazards;
- assess risks associated with natural hazards including impacts of climate change;
- manage risks associated with natural hazards; and
- promote public awareness of natural hazards.

Region of Peel's Comment

Regional staff is supportive of the mandatory programs and services related to the risk of natural hazards. It is appropriately recognized that the management of natural hazards will continue to be an important mandatory role carried out by the

conservation authorities. The risk and impact posed from these natural hazards are influenced by the health of local natural heritage systems. It is important that planning for and monitoring the health of natural heritage systems along with water resources be listed as a mandatory program and service. This could possibly be better captured through the mandatory resource management strategy.

The guidance should also provide greater clarity and detail on how climate change will be integrated into all mandatory programs of the CAs and go beyond just addressing the associated impacts to natural hazards, though this remains critical. Climate change will affect all aspects of watershed health and the ability for ecosystems to respond and provide natural solutions that municipalities will need to rely on as an integrated response to climate change and adaptation and, to an extent, mitigate emissions (e.g. carbon sequestration).

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Mandatory Programs and Services Related to the Management of Conservation Authority Lands

Each conservation authority will be required to implement the mandatory programs and services as set out in the Consultation Guide related to the conservation and management of lands owned or controlled by the authority, including any interests in land registered on title, within their jurisdiction.

Region of Peel's Comment

Regional staff is supportive of the mandatory programs and services related to the conservation and management of land owned or controlled by CAs. However, it is important to point out that excluded from the list of mandatory programs and services are any recreational uses of these lands such as walking trails, that are often provided free of charge to the public. Since this would now fall in the category of a non-mandatory activity and would have to be supported by a municipality or municipalities through a MOU or through user fees charged by the CAs, it is important for the Province to recognize this critical aspect of properly managing land owned and controlled by the CAs.

Mandatory Programs and Services Related to Source Protection Authority responsibilities under the Clean Water Act, 2006

Under the *Clean Water Act, 2006* CAs are required to exercise and perform the powers and duties of a drinking water source protection authority. Each conservation authority therefore would be required to implement programs and services related to those responsibilities as source protection authorities under the *Clean Water Act, 2006*.

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Region of Peel's Comment

Regional staff is supportive of the mandatory programs and services related to source protection, which is one of the components of the Water Resources Policies in the Region of Peel Official Plan which is currently being amended. In addition to the programs and services noted in the consultation document, the Conservation Authority provides additional support such as organizing training sessions for staff and reviewing and commenting on the Regional Official Plan proposed draft policies. A level of flexibility is needed to ensure that these additional tasks that support municipalities can be completed without them being considered as a non-mandatory activity.

Of special note is the fact that since its inception the Province has funded the Source Water Protection Program in its entirety (100%). The fact that it is now deemed a mandatory activity will require funding from municipal sources. The Province should provide sustainable funding to the CAs and/or municipalities to continue to support this important program.

Mandatory Programs and Services Prescribed in Regulation (Within the Year after the Transition Period for Municipal Funding Agreements for Non-Mandatory Programs and Services)

a) Core Watershed-based Resource Management Strategy

The ministry is proposing that each CA be required to develop a core watershed-based resource management strategy that documents the current state of the relevant resources (principally water resources) within their jurisdictions as a prescribed mandatory program and service.

Region of Peel's Comment

Regional staff is supportive of this management strategy as it is consistent with collaborative efforts being done currently between the CAs and the Region of Peel with respect to protecting people and property from flooding and other natural hazards and conserving natural resources.

A comprehensive and integrated systems approach to the preparation of watershed resource management strategies is valuable in helping ensure that inter-related systems within a watershed are not overlooked. If the intention is to provide a broad strategic watershed planning perspective, the requirements should not overlook other critical management program areas such as natural heritage system planning, restoration and management.

While some CAs may have already incorporated climate change into the various studies and assessments listed in the guidance document, it would be concerning if this had not yet happened and a CA was not resourced to update their programs and service planning with a climate change lens given that this is critical information

needed for sound decision making regarding resource management, development and informing growth. CAs in Peel are in a better position than many other CAs but gaps in climate change for watershed planning, are yet to be addressed by the Toronto and Region Conservation Authority (TRCA) and Credit Valley Conservation (CVC). The proposed scope of the regulatory proposal should address this requirement.

It is unclear whether this program includes subwatershed planning and updating of watershed plans but these would be a critical addition to this program given the efforts now being made by the Region to establish settlement area boundaries as it strives to accommodate Provincial approved growth targets.

Finally, the Ministry should consider prescribing this requirement at the same time as the mandatory program and services regulation and not within a year after the end of the transition period, possibly delaying the preparation of strategies to 2024. It would make sense that strategies should be prepared early in the implementation process.

b) Provincial Water Quality and Quantity Monitoring

The ministry is proposing mandatory programs and services for conservation authorities related to water quality and groundwater quantity monitoring to be prescribed in this category with the possibility of additional programs and services prescribed later within the timeframe enabled by the *Conservation Authorities Act*.

Region of Peel's Comment

Regional staff is supportive of the mandatory programs and services related to water quality and quantity monitoring, as data obtained from the CAs derived from this activity is relevant to understanding watershed conditions and undertaking watershed planning, monitoring and reporting.

Conservation Authority costs not related to delivery of programs and services

The Province has recognized in the regulatory proposals that there are on-going organizational costs including administrative, operating and capital costs which are not directly related to the delivery of any specific program or service, but are the overhead and support costs of the CA.

Region of Peel's Comment

Regional staff supports the inclusion of these costs in the regulation. The province proposes to consult on this as part of the phase 2 levy regulations

Non-Mandatory Conservation Authority Programs and Services

Un-proclaimed amendments to the *Conservation Authorities Act* in 2019 would, once proclaimed, require conservation authorities to have mutually agreed upon Memorandums of Understanding (MOUs) or other such agreements (service contracts) with their participating municipalities for the funding of non-mandatory

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programs and services to be delivered on behalf of, and at the request, of a municipality, through a funding mechanism chosen by the municipality.

Region of Peel's Comment

An important consideration in the listing of non-mandatory programs and services is the potential that programs may be underfunded, such as invasive species management, that will have a greater impact as the effects of climate change continue to become further established. The Region of Peel has provided substantive funding to support CA management of the impact of Emerald Ash Borer in Peel and is currently experiencing a *Lymantria dispar dispar* (European gypsy moth) infestation that is a concern to local municipalities.

Other non-mandatory programs such as watershed planning and science that integrates natural systems and climate change considerations beyond those related to natural hazards are critical programs provided by CAs. These programs require coordination and shared funding across municipal boundaries to be successful.

Inconsistent funding across municipalities that form part of CAs watershed may affect their delivery in the future. It is recommended that the addition of watershed planning and science be considered as a mandatory program and service as this activity closely relates to managing the risk of natural hazards so that the work can be consistently funded across municipalities.

There is likely to be additional expense in resources required to draw up and agree on MOUs e.g. administrative and legal expenses. The process steps and transition planning requirements in the regulation should provide flexibility and avoid unnecessary requirements and administrative reporting to the Ministry that add little value.

The Region is concerned that the Province has provided no reassurances that existing levels of funding will be provided to support CAs in addition to the levy from participating municipalities.

Community Advisory Boards

Un-proclaimed provisions in the CA Act enable a Lieutenant Governor in Council (LGIC) regulation to set out matters that would govern the establishment of advisory boards, including the ability to require conservation authorities to establish one or more advisory boards and prescribe related requirements with respect to composition, functions, powers, duties, activities, and procedures.

Region of Peel's Comment

Regional staff would note that some CAs may find establishing of advisory boards somewhat duplicative and the administrative support that is required somewhat burdensome given their staffing complement. The Ministry should consider

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providing flexibility in the regulations to provide CAs with the option of establishing an advisory board rather than making this mandatory.

Additional Comments

Enforcement and Compliance Provisions

Local municipalities have highlighted problems they were encountering with illegal fill placement and the disparity in regulatory powers which the Conservation Authorities have when compared to those that municipalities have with respect to regulating and managing fill.

The Section 28 (permitting) regulatory proposal is still pending and the Region encourages the Province to expedite the enactment of all Section 30 provisions, including Stop Orders to deal with enforcement matters such as large scale filling and development activity in highly sensitive and risk regulated areas such as wetlands, flood plain, and erosion hazard.

Conclusion

We trust that these comments are of assistance to the Province. Regional staff would be pleased to provide any clarifications or further comments.

Sincerely,



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