

City Planning

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RE: Proposed updates to the regulation of development for the protection of people and property from natural hazards in Ontario (ERO 019-2927)

On behalf of the City of Toronto, I am pleased to submit staff comments regarding ERO 019-2927 on the Environmental Registry of Ontario. We understand the Province is seeking feedback on a Discussion Paper proposing a regulation that outlines how conservation authorities permit development.

We share the Provincial objective within the Housing Action Plan that would create more housing for a broad spectrum of Torontonians. However, we have concerns about changes to the *Conservation Authorities Act* regulation as it relates to the Toronto and Region Conservation Authority's (TRCA) mandate to protect natural heritage in Toronto (Attachment 1).

On November 24, 2022, Toronto City Council adopted the following motion:

"City Council request the Province of Ontario to retain the existing roles and responsibilities of the regional conservation authorities." ([Item CC1.2](#))

Council's request to the Province is consistent with our submitted ERO comments on Bill 23, *More Homes Built Faster, 2022*. We have included those comments as it relates to changes made to the *Conservation Authorities Act* in Attachment 2.

TRCA: The City's Partner in Managing the Natural Environment

The TRCA plays an important role in managing Toronto's natural environment. The City values the expertise and relies upon the TRCA as a partner in the development review process. The TRCA's unique watershed perspective assists to ensure that upstream and downstream impacts of development and infrastructure are considered through the planning process. Their expertise helps to safeguard residents of the City of Toronto from flooding and other natural hazards; as well as safeguard the ecological health of the City's natural spaces by supporting regional connectivity of our natural heritage system.

The Official Plan (3.4 The Natural Environment), outlines the role the TRCA has served for decades. The TRCA:

- "safeguards, manages and restores watercourses, lakes, woodlands, wetlands and natural habitat;
- protects life and property from flooding and erosion through watershed planning, monitoring and maintenance efforts and its regulation under the Conservation Authorities Act; and
- provides educational and recreational opportunities for the public." ([OP 3.4](#))

The City urges the Province to ensure the new regulation under the *Conservation Authorities Act* enables the TRCA and the City to continue their partnership in protecting the City's valuable and limited natural environment. This should include providing an opportunity for the City and the TRCA to define a role to review and comment on development that will impact Toronto's natural heritage system. The City also urges the province to enable the City and TRCA to identify within a Memorandum of Understanding all other programs and services the TRCA can provide on behalf of the City.

City Planning staff welcome the opportunity to work with provincial staff to effectively implement the provincial policy led planning system, drawing on each of our strengths to protect essential ecological features and create sustainable, healthy complete communities.

Thank you for the opportunity to provide these comments.

A handwritten signature in blue ink, appearing to read "G. Lintern".

Gregg Lintern, MCIP, RPP
Chief Planner and Executive Director
City Planning Division

cc: Janie Romoff, General Manager, Parks, Forestry & Recreation, City of Toronto
Lou Di Gironimo, General Manager, Toronto Water, City of Toronto
Paul Johnson, City Manager, City Manager Services, City of Toronto

Attachments

Attachment 1: Detailed comments related to ERO 019-2927 (Proposed updates to the regulation of development for the protection of people and property from natural hazards in Ontario)

Attachment 2: Extracts from the comments from the City of Toronto comments on ERO 019-6141 (Legislative and regulatory proposals affecting conservation authorities to support the Housing Supply Action Plan 3.0)

Attachment 1: Detailed comments related to ERO 019-2927 (Proposed updates to the regulation of development for the protection of people and property from natural hazards in Ontario)

ERO 019-2927 Area of Attention	Issue	Staff Comments
Development of a single regulation under the <i>Conservation Authorities Act</i> (CA Act).	The Ministry of Natural Resources and Forestry (MNR) is proposing to update the regulations under the <i>Conservation Authorities Act</i> and replace individual regulations for each Conservation Authority (CA) with a single, new regulation.	Staff support in principle the updates of the Conservation Authorities Act from having 37 regulations to one for all individual CAs.
Proposal to narrow the scope of Conservation Authority's (CA) role in review of development for "conservation of land" and "pollution".	<p>This change will effectively eliminate a CA's review of natural heritage impacts related to a development application.</p> <p>The loss of the TRCA's expertise in planning decisions related to ecology, terrestrial and aquatic habitat management, and natural heritage systems protection can lead to a "death by a thousand cuts" to Toronto's natural heritage system.</p> <p>In Toronto, the TRCA's comments on Natural Heritage Impact Statements and Environmental Assessments are fundamental to achieving the Official Plan's policies under section 3.4 The Natural Environment.</p>	In the development of a new regulation, include a provision for a municipality to include within an MOU a role for the CA to review and comment on natural heritage impacts through the development review process.
Limiting the site-specific conditions a CA may attach to a permit to matters dealing with natural hazards and public safety.	This proposal as outlined in section 2.2, of the Discussion Paper eliminates the provisions: "conservation of land" and "pollution" from a CA's permitting mandate. This significantly narrows the scope of the TRCA's current mandate, which extends	In the development of a new regulation, include an acknowledgement that while making a permitting decision a CA must consider the connection between: maintaining natural heritage and ecological function; with the

	<p>to protecting natural heritage features and their functions.</p> <p>Consistent with the point made above, the TRCA's permitting authority and ability to include conditions on permits has been fundamental to protecting and enhancing the City's natural heritage system.</p>	<p>control of flooding and other natural hazards, and the protection of people and property.</p>
<p>Updating the definition of watercourse</p>	<p>The Discussion Paper proposes an update in the definition of a watercourse from an identifiable depression to a defined channel having a bed, and banks or side.</p> <p>This change will have particular impact to the protection and management of headwater drainage features, including ephemeral and intermittent streams. These are important headwater features that have a major influence on downstream communities.</p>	<p>Maintain the existing definition for watercourse as: "An identifiable depression in the ground in which a flow of water regularly or continuously occurs".</p>
<p>Proposed streamlining approvals for "low-risk" activities.</p>	<p>The Discussion Paper includes a list of activities proposed for streamlined approvals. While these uses are typically approved by the TRCA in Toronto, those approvals require an expert review to identify the extent of hazardous lands.</p> <p>The Discussion Paper also outlines a proposed service delivery of CAs to "provide maps depicting the areas where permitting requirements apply". The TRCA already provides this mapping, but also conducts field visits to assess these dynamic conditions to confirm extent of mapped limits.</p>	<p>In the development of a new regulation ensure that the activities proposed for streamlined approvals will still require on-site and expert review by CAs to determine the extent of the hazard lands.</p>

	<p>The TRCA evaluates these applications and defines the extent of the hazard limit with sight visits. This is done in partnership with Urban Forestry who defines the drip lime of natural features. These proposals would still require this level of on-sight study in order to ensure development will not be sighted within hazardous lands.</p>	
<p>Changes within Bill 23 provide the ability to exempt development authorized under the Planning Act from requiring a permit under the Conservation Authority Act.</p>	<p>Permits will not be required within regulated areas (including wetlands) for activity that is part of a development authorized under the <i>Planning Act</i>.</p> <p>The expertise of conservation authorities in the areas of wetland and watercourse protection is essential to protect Toronto's natural heritage and water resource systems, which play a critical role in addressing climate change and building resilience to the shocks and stresses of a changing climate.</p> <p>This change could result in development encroaching upon and placing a strain on the many natural function of wetlands, as well as hazardous lands and watercourses.</p>	<p>In the development of a new regulation, ensure CAs will be provided the opportunity to review, comments on and recommend conditions of approval on any Planning Act decision.</p> <p>In the development of a new regulation, ensure that CAs will have the authority to place conditions on permits that have received Planning Act approval, or as part of Planning Act approval especially where development impacts could interfere with the hydrologic function of a wetland, with hazardous lands, or with watercourses. At a minimum, permits should be required in all provincially significant areas (otherwise the PPS policies 2.1.4 and 2.1.5 to "avoid adverse impacts" will not be met).</p>

Attachment 2: Extracts from the comments from the City of Toronto comments on ERO 019-6141 (Legislative and regulatory proposals affecting conservation authorities to support the Housing Supply Action Plan 3.0)

7. Jeopardizes the Health of the Natural Heritage System

Bill 23 Proposal	Issue	Staff Comments
<p>ERO 019-6141 Narrowing the Scope of Conservation Authority role in review of development. Restrictions are proposed on what conservation authorities are able to review and comment on.</p>	<p>Changes to the <i>Conservation Authority (CA) Act</i> would limit the development review-related services from the TRCA that the City relies upon (and is outlined in our 2001 Memorandum of Understanding). Will prohibit the TRCA from reviewing and commenting on Natural Heritage Impact Statements. Will result in a loss of the TRCA's expertise from development review and hinder the City's ability to implement natural heritage policies of the Official Plan.</p> <p>Given the inextricable links between the natural environment, and natural hazards and climate change, the expertise of conservation authority technical staff is essential to the municipality's decision making in these areas.</p>	<p>Do not support Recommend: Add to the end of proposed 21.1.1 & 21.1.2 of <i>CA Act</i>: "...except where there is a Memorandum of Understanding between the municipality and the conservation authority." Limit the scope of "prescribed Acts" to a schedule attached to the CA Act to avoid unintended consequences (e.g., where the conservation authority is acting for the municipality on an environmental assessment).</p> <p>This recommendation supports the TRCA's position and is consistent with the TRCA proposed revision.</p>

<p>ERO 019-6141 Removal of "pollution" and "conservation of land" as: 1) tests for the issuance of a conservation authority permit; and 2) areas where conditions can be placed on permits</p>	<p>Conservation authorities would no longer be able to withhold a permit or attach conditions based on "conservation of land" and "pollution". Would result in a loss of a core element of the TRCA's mandate, as the "conservation of land", has been interpreted to consider the ecological function of the region's natural heritage system. A systems-thinking approach to natural heritage protection is linked to reducing natural hazards. While "pollution" has been replaced with "unstable soil and bedrock", it is not clear if this will include the impacts of sedimentation, which is often considered through this provision.</p>	<p>Do not support Recommend: In both 28.1(1)(a) & 28.0.1(6) of CA Act: retain "conservation of land" as part of the test to be applied in a permit decision. This is consistent with TRCA proposed revision. Replace references to "pollution" with "sedimentation" (or clarify interpretation of "unstable soil and bedrock"). This is consistent with TRCA proposed revision.</p>
<p>ERO 019-6141 Planning Act approval exempting from CA Act permit</p>	<p>Permits will not be required within regulated areas (including wetlands) for activity that is part of a development authorized under the <i>Planning Act</i></p> <p>The expertise of conservation authorities in the areas of wetland and watercourse protection is essential to protect Toronto's natural heritage and water resource systems, which play a critical role in addressing climate change and building resilience to the shocks and stresses of a changing climate.</p>	<p>Do not support in the absence of additional information This change may remove the TRCA's ability to prohibit or regulate development authorized under the <i>Planning Act</i> in areas that could interfere with the hydrologic function of a wetland, with hazardous lands, or with watercourses (subject to a forthcoming regulation).</p> <p>Changes could result in development encroaching upon and placing strain on the many natural function of wetlands, as well as hazardous lands and watercourses.</p> <p>More information related to the conditions that will be set out in the regulation is required in order to evaluate the impact of this change.</p> <p>Recommend: Add the following to the new clause of section 28 (4.1) of the</p>

		<p>CA Act: “(a) the activity is part of development authorized under the <i>Planning Act</i> provided the conservation authority is provided sufficient opportunity to review, comment on and recommend conditions of approval to the approval authority for the development”</p> <p>This is consistent with TRCA proposed revision.</p>
<p>ERO 019-6141 Freeze Conservation Authority Fees</p>	<p>Would enable the Minister to freeze fees that conservation authorities can charge to current levels.</p>	<p>Do not support in the absence of additional information</p> <p>Could result in a reduction of capacity and services available. This supports TRCA comments.</p>
<p>ERO 019-6141 Disposal of conservation authority lands for housing Amend regulation to require CA land inventories to identify lands that could support housing development (Mandatory Programs and Services regulation).</p>	<p>Would make legislative amendments to streamline processes for CAs to dispose (sell, easements, lease) of CA owned land originally purchased using provincial funding.</p>	<p>Do not support in the absence of additional information</p> <p>A review of the appropriate land use designations should be coordinated with municipalities for any land identified by conservation authorities, should they be disposed of for housing.</p>