

TRCA Roles and Responsibilities under the Conservation Authorities Act

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Request from Board of Directors

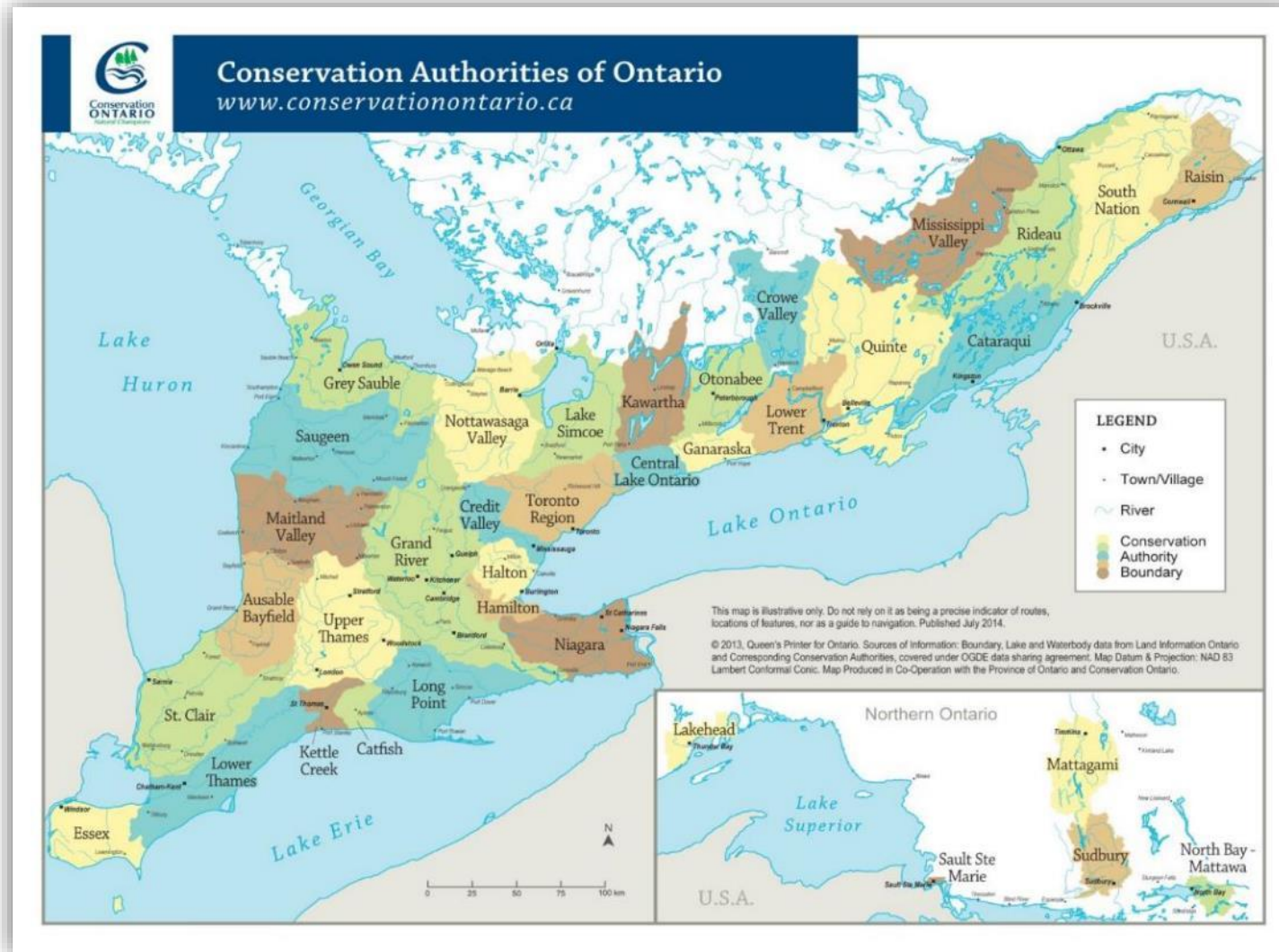
THAT staff be directed to report back to the October Executive Committee on TRCA's roles and responsibilities given the changes to the Conservation Authorities Act.

RES.#A139/23, June 23, 2023

Conservation Authorities

- Established under the Conservation Authorities Act
- Watershed-based jurisdiction
- Mandated to prevent, eliminate, or reduce the risk to life and property from natural hazards including flood hazards and erosion hazards
- TRCA is one of 36 conservation authorities in Ontario

36 Conservation Authorities in Ontario



Conservation Authorities Act

- The purpose of the Act is to provide for the organization and delivery of programs and services that further the conservation, restoration, development and management of natural resources in watersheds in Ontario.
- The objects of an authority are to provide, in the area over which it has jurisdiction,
 - (a) mandatory programs and services;
 - (b) municipally requested programs and services; and
 - (c) any other programs or services that it determines are advisable to further the purposes of the Act.

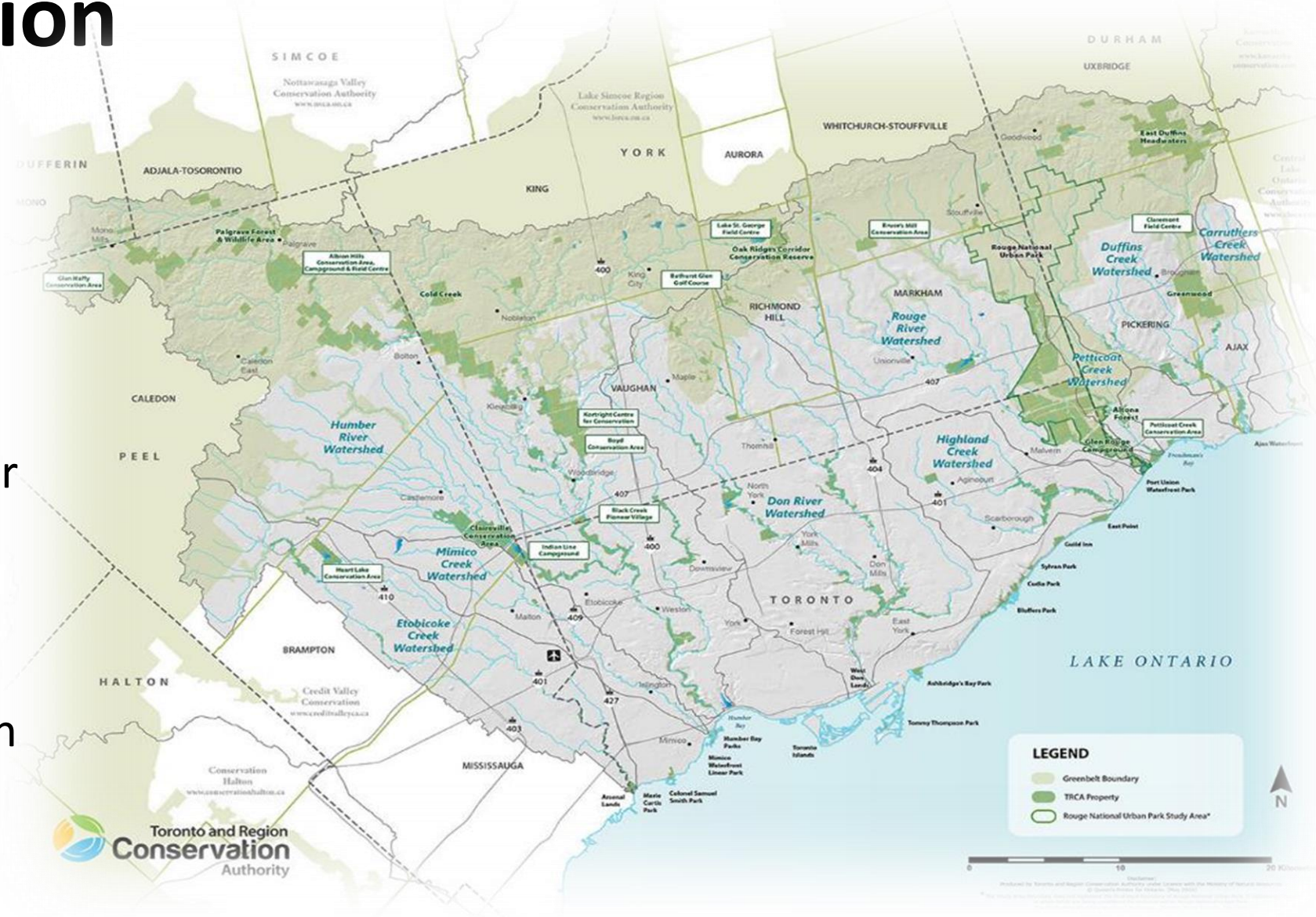
Conservation Authorities Act

The powers of a conservation authority include powers to:

- Research and study the watershed to support implementation of programs and services intended to further the purposes of the Act
- Acquire by purchase, lease or otherwise any land that it may require, and dispose of lands not required
- Enter into agreements for any purposes as may be necessary to further the authority's objects
- Erect works and structures and to control the flow of surface waters to prevent floods or pollution or reduce the adverse effects thereof;
- Use lands owned or controlled by the authority for park or other recreational purposes
- Do all such acts as are necessary for the due carrying out of any project or as may be desirable to further the objects of the authority

TRCA Jurisdiction

- TRCA's jurisdiction comprises 9 watersheds including the Lake Ontario shoreline
- Area of jurisdiction established through order in council
- Regulated area within TRCA's area of jurisdiction is defined by regulation



Watershed Research and Science

Introduction
Explore the Watershed and Ecosystems Reporting Hub.

Natural Hazards
Flooding and erosion risks can be greatly reduced with proper planning and remediation.

Future Climate
The climate is changing and we need to be prepared.

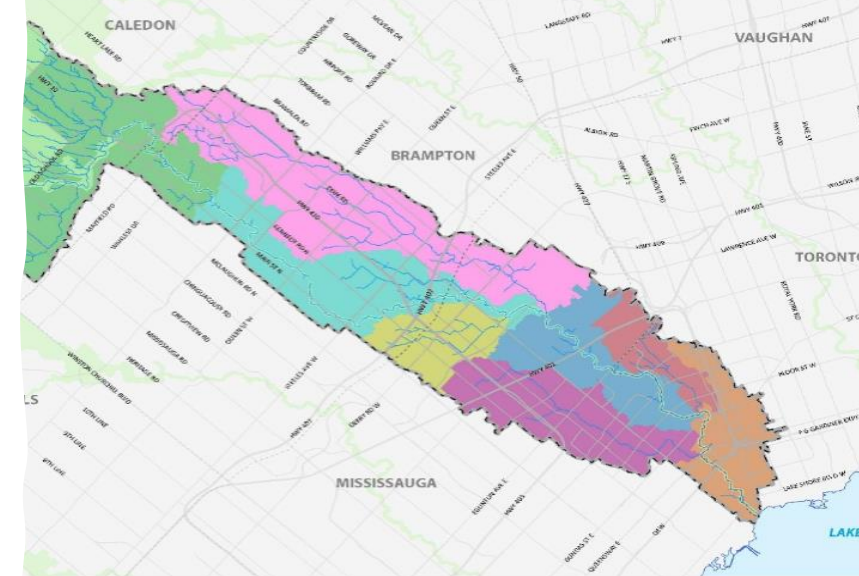
Land Use
Land is a precious resource that needs to be used wisely.

Natural Heritage System
If nature is healthy, humans are healthy.

Water Resource System
Water is one of the most important substances on earth.

Water Quality
Clean water is essential for all life.

Toronto and Region Conservation Authority
Lake Ontario Nearshore
What happens on the land affects the lake.



Etobicoke Creek Subwatersheds

Records Management
Verify sources & dates. The fee data and retains the right to further information about treatment. (416) 593-8100.

Etobicoke Creek Watershed Boundary
Municipal Boundary
Watershed
Shoreline
Greenbelt
Headwaters
The Don Lake Creek

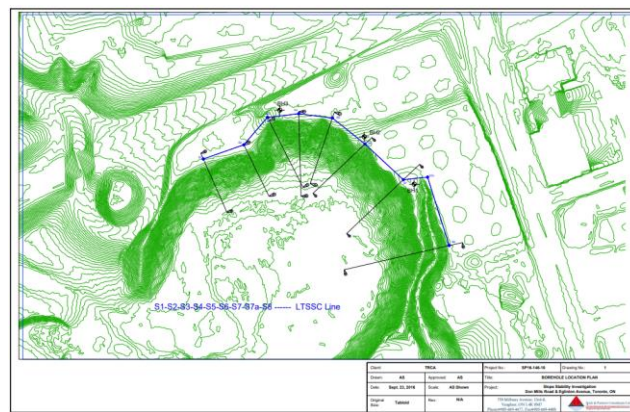
Lower Etobicoke
Main Branch
Spring Creek
Tributary 3
Tributary 4
West Branch

Carruthers Creek WATERSHED PLAN 2021-2031

DON RIVER WATERSHED PLAN Implementation Guide 2009

Conservation Authority
the Don
Conservation for the Greater City

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8



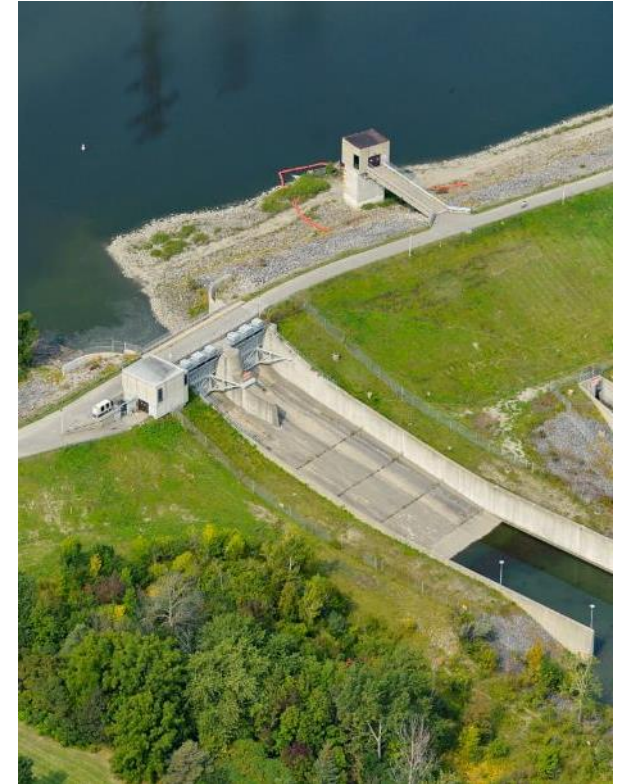
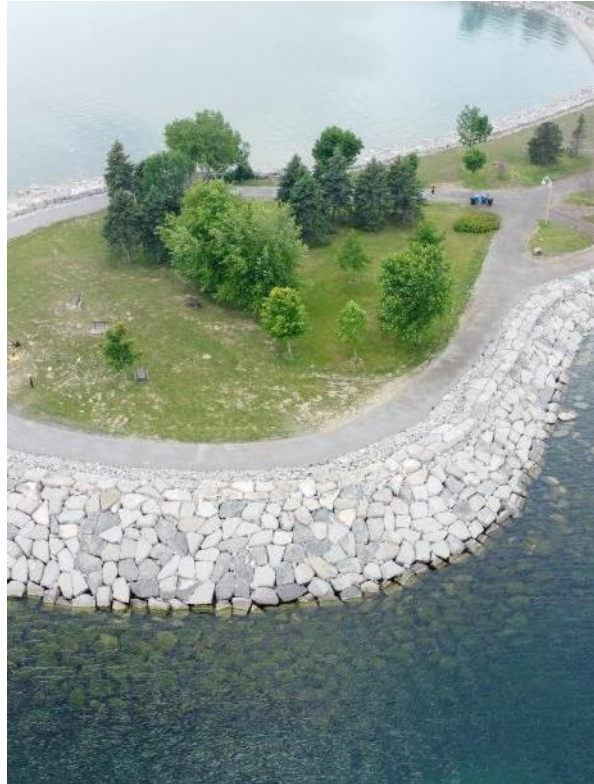
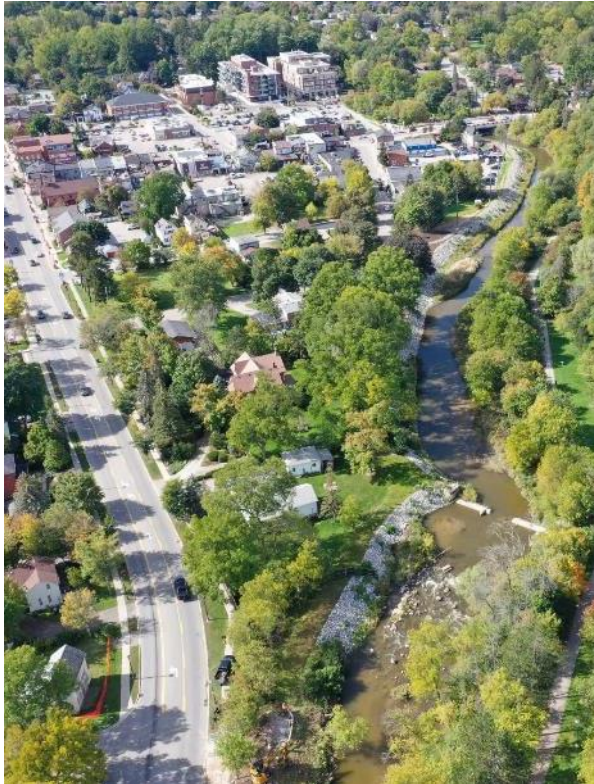
Natural Hazards



Types of Regulated Areas



Flood and Erosion Control Infrastructure



Conservation Lands and Parks



Organization by Service Area



**Watershed
Studies and
Strategies**



**Water Risk
Management**



**Regional
Biodiversity**



**Greenspace
Securement
and
Management**



**Tourism and
Recreation**



**Planning and
Development
Review**



**Education and
Outreach**



**Sustainable
Communities**



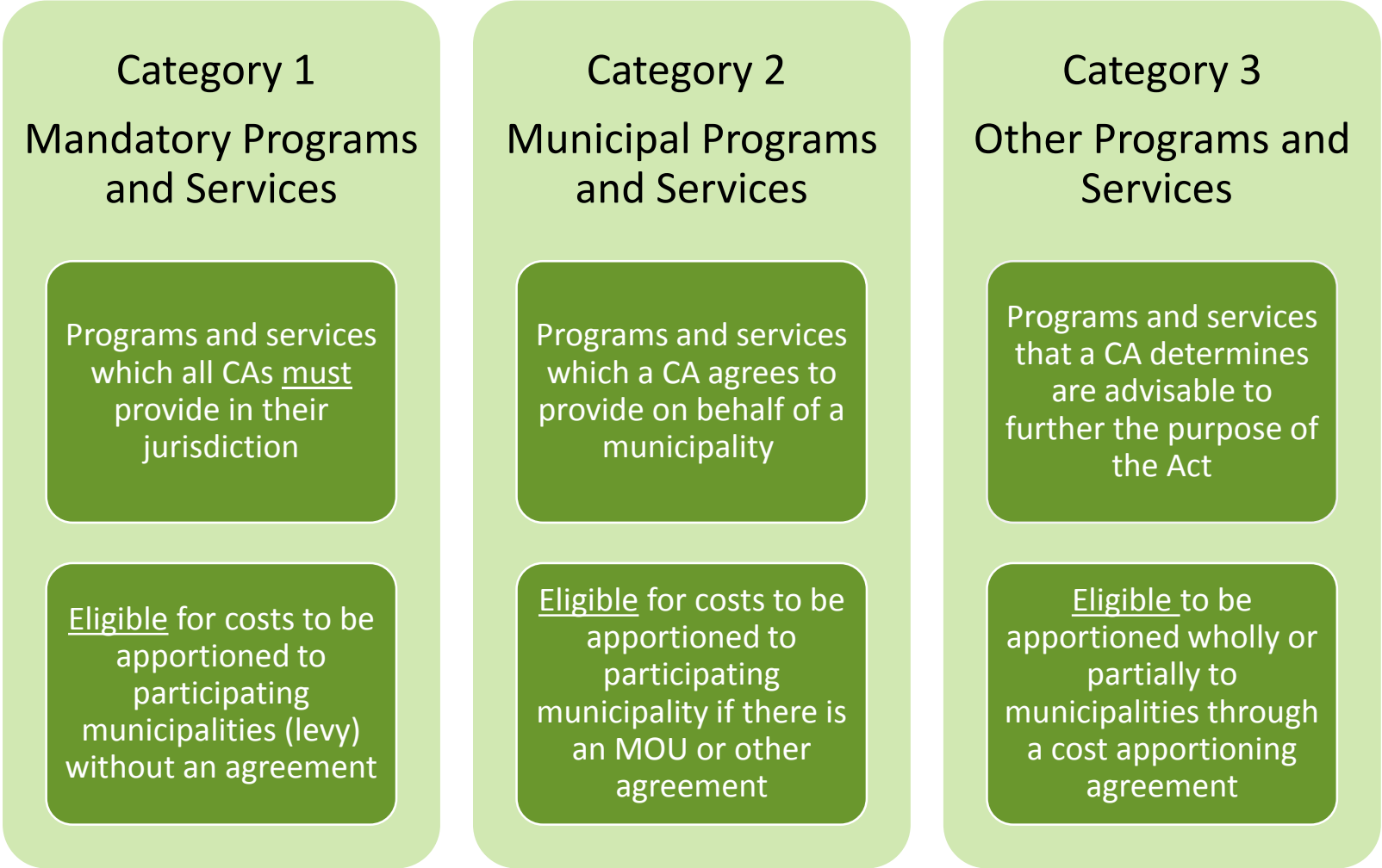
**Corporate
Services**

- TRCA business streams are organized according to Service Areas, which are further broken down into Program Areas and Product Activities.
- This ensures TRCA's financial planning remains **comparable and consistent** over time

Organization Chart w/ Service Area Categorization



Conservation Authority Programs and Services



Category 1
Mandatory Programs & Services
Section 21.1, CA Act
Ontario Regulation 686/21

Watershed-based Resource Management Strategy

Section 12 (O. Reg. 686/21)

An authority shall provide programs and services to support the authority's functions and responsibilities related to the development and implementation of a Watershed-based Resource Management Strategy:

- Must include guiding principles, objectives and a summary of existing technical studies, monitoring programs and other information on the natural resources the authority relies on within its area of jurisdiction or in specific watersheds that directly informs and supports the delivery of programs and services
- Must involve a review of the Authority's programs and services including:
 - determining if mandatory programs and services comply with regulations
 - identifying and analyzing issues/risks that limit effectiveness of delivery of these programs and services, and
 - identifying actions to address the issues/mitigate the risks, and providing a cost estimate for the implementation of those actions
- May include non-mandatory programs and services; if funded by levy, the apportionment must be pursuant to MOU
- Must involve consultation and provide for periodic updates
- To be completed by December 31, 2024

Risk of Natural Hazards

Sections 1 & 2 (O. Reg. 686/21)

An authority shall provide programs and services related to certain natural hazards (dynamic beach, erosion, flooding, hazardous lands, hazardous sites, low water or drought conditions) including:

- Developing an awareness of areas within the authority's jurisdiction that are important for the management of natural hazards including wetlands, river or stream valleys, areas adjacent or close to the Great Lake and unstable soils or bedrock
- Understanding how the risks related to natural hazards may be affected by climate change
- Managing risks through preventing and mitigating risks; promoting public awareness of risks related to natural hazards
- Collection, provision and management of information related to natural hazards; public awareness, education and outreach

Flood Forecasting, Hydrology, Ice Management

Sections 2, 3, 4, 12(2) & 12(3) (O. Reg. 686/21)

An authority shall provide programs and services related to:

- Flood forecasting and warning, and drought or low water response forecasting and warning, including maintaining information on surface water hydrology and hydraulics; monitoring stream flow, weather, climate and water level; and supporting emergency operations during a flood event and a drought or low water event
- Ice management, where the authority determines it necessary, including development of an ice management plan where required

An authority shall provide programs and services to support the authority's function and responsibilities related to the implementation and enhancement of the provincial groundwater monitoring and stream monitoring programs

Infrastructure and Asset Management

Section 5 (O. Reg. 686/21)

An authority shall provide programs and services that support the operation, maintenance, repair and decommissioning of infrastructure the authority owns or manages:

- Any water control infrastructure, the purpose of which is to mitigate risks to life and damage to property resulting from flooding or to assist in flow augmentation
- Any erosion control infrastructure
- Development and implementation of associated operational and asset management plans

Permitting and Enforcement

Section 8 (O. Reg. 686/21)

An authority shall provide programs and services to ensure that the authority carries out its duties, functions and responsibilities to administer and enforce the permitting provisions of the Act and any related regulations made under those provisions.

- Currently, those provisions under the Act are:
Section 28, 28.0.1 & 30.1, with the regulation applicable to TRCA being O. Reg. 166/06
- When pending amendments to the Act come into force, those provisions under the Act are: **Section 28, Section 28.1, Section 28.1.2 & 30.1 – 30.4, with the applicable regulation being new province-wide permitting regulation that has not yet been issued**

Current Section 28 and TRCA Regulation O. Reg. 166/06

- Section 28 of the Conservation Authorities Act sets out a framework for regulations to prohibit and require permission for certain activities within the regulated area, as well as providing for enforcement of the prohibitions and permissions.
- The Section 28 regulation for TRCA's jurisdiction is O. Reg. 166/06: Toronto and Region Conservation Authority: Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses.
- The current tests for the issuance of a permit under O. Reg. 166/06 (known as "the 5 tests"):

The Authority may grant permission for development in the regulated area if, in its opinion, the control of flooding, erosion, dynamic beaches, pollution or the conservation of land will not be affected by the development.

New Sections 28 and 28.1 and Province-wide Regulation

- The amended Section 28 and new Section 28.1 carry forward existing provisions, as well as providing for non-decision appeals (90 days) and exemptions that may be prescribed by regulation including exemption from the requirement for a permit for certain activities or areas, or where there are certain approvals granted under the *Planning Act*.
- The amendments set out a revised test for issuance of a permit, within the new Section 28.1:

An authority may issue a permit to a person to engage in an activity that would otherwise be prohibited by section 28, if, in the opinion of the authority,

- a) the activity is not likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock, or**
- b) the activity is not likely to create conditions or circumstances that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in damage or destruction of property**

- The new province-wide regulation is anticipated to address matters related to the regulated area and administration of the issuance of permits.

Types of Regulated Areas



Regulation Mapping

Regulation Text

- Prescribes the areas to be regulated
- Approved by MNRF
- **Prevails in case of conflict between the text and mapping**



Regulation Mapping

- Visual representation of regulated areas
- Screening tool for implementation
- May not capture all regulated features and hazards



Current Enforcement Provisions

- Section 10 of O. Reg. 166/06 provides that the Authority may appoint officers to enforce the Section 28 regulation.
- Section 28(20) allows for an enforcement officer to enter private property, other than a dwelling or building, without the consent of the owner or occupier and without a warrant, if,
 - the entry is for the purpose related to a permit application; or
 - the entry is for the purpose of enforcing the regulation and there are reasonable grounds to believe that a contravention of the regulation is causing or is likely to cause significant environmental damage and that the entry is required to prevent or reduce the damage.
- Otherwise, pursuant to Section 30.1, there must be consent or a warrant.

New Enforcement Provisions

- The revised Section 30.1 provides that an Authority may appoint officers for the purposes of ensuring compliance with the Act and the regulations.
- The new Section 30.2 carries forward with additional requirements, two types of entry to land (not buildings) without a warrant:
 - for purposes related to a permit application where reasonable notice is provided to the owner or occupier; or
 - to ensure compliance with a permit and the regulations, where there are reasonable grounds the contravention is causing or likely to cause significant damage; the damage affects or is likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock, or to create conditions or circumstances that might jeopardize the health and safety of persons or result in damage or destruction of property; and there are reasonable grounds that entry is required to prevent or reduce those effects or risks.

New Enforcement Provisions

- The new Section 30.3 provides for search with a warrant, and search without a warrant in limited circumstances:
 - Search with warrant – may occur in respect of an offence under the Act;
 - Search without warrant – may occur only if there are reasonable grounds that something on the land will afford evidence of an offence under the Act, and where obtaining a warrant would lead to the loss, removal or destruction of the evidence, but may not occur within buildings on the land
- The new Section 30.4 provides for Stop Work Orders requiring a person to stop an activity if there are reasonable grounds to believe that the activity will contravene the Act or regulations; there are reasonable grounds to believe that a contravention of the regulation is causing or is likely to cause significant damage; and the order will prevent or reduce the damage
- The new Section 30.5 provides for increased monetary penalties, including increased fines by the amount of monetary benefit from committing the offence; and the new Section 30.7 carries forward existing provisions for rehabilitation orders to repair damage resulting from the offence.

Permits where there are Zoning Orders

No substantive change for Minister's Zoning Order (MZO) or Community Infrastructure and Housing Accelerator Order (CIHAO) development authorized under the *Planning Act*, outside of the Greenbelt:

- CA shall issue a permit and may only impose conditions, including to mitigate (the tests):
 - any effects the development project is likely to have on the **control of flooding, erosion, dynamic beaches or unstable soil or bedrock**;
 - any conditions or circumstances created by the development project that, in the event of a natural hazard, might **jeopardize the health or safety of persons** or result in the **damage or destruction of property**
- CA permits must have an agreement with permittee
- Agreement shall set out actions that the holder of the permission must complete or satisfy to protect and/or compensate for ecological impacts (where applicable) and any other impacts that may result from the development
- Agreement must be executed before works commence on the site

Planning Act Review and Comment

Section 7 (O. Reg. 686/21)

An authority shall provide programs and services to ensure that approvals under the Planning Act are: (a) consistent with the natural hazards policies in the Provincial Policy Statement; and (b) where applicable, conform with any natural hazards policies included in a provincial plan.

Including but not limited to the following mandatory functions and responsibilities:

- Reviewing applications or other matters under the Planning Act and providing comments and technical support to the approval authority, or the Ministry of Municipal Affairs and Housing (MMAH) where requested;
- Apprising MMAH of any applications where the authority is of the opinion that it should be brought to their attention;
- Providing technical input into and participating in provincial review for approval of a “Special Policy Area”;
- Undertaking an appeal to the Ontario Land Tribunal of a decision under the Planning Act as a public body in accordance with that Act if the appeal relates to consistency with the PPS or conformity with a provincial plan

** Note: Restriction on non-mandatory commenting per 21.1.1(1.1) and restriction on Planning Act appeals and Party Status requests*

Infrastructure Review and Comment

Section 6 (O. Reg. 686/21)

An authority shall provide programs and services to enable the authority to review proposals made under the following Acts, for the purpose of commenting on the risks related to natural hazards arising from the proposal where the authority considers it advisable:

1. The Aggregate Resources Act.
2. The Drainage Act.
3. The Environmental Assessment Act.
4. The Niagara Escarpment Planning and Development Act.

** Note: Restriction on non-mandatory commenting per 21.1.1(1.1), 21.1.2(1.1) of CA Act*

Clean Water Act

Section 13 (O. Reg. 686/21)

An authority shall provide programs and services to carry out duties, functions and responsibilities as a source protection authority under the provisions of the Clean Water Act, 2006, including:

- Serving (TRCA Board) as members of the Toronto and Region Source Protection Authority (TRSPA)
- Fulfilling the obligations of the (Credit Valley-Toronto and Region- Central Lake Ontario) source protection region agreement
- Assisting in the review of source protection plans and preparation of amendments (e.g., updates to Toronto and Region Assessment Report and the CTC Source Protection Plan)
- Preparation of annual progress reports
- Where the authority considers it advisable, reviewing and commenting on any proposal made under another Act that is circulated to the authority (e.g., advisory comments on *Planning Act* applications)

Land Management

Sections 9, 10 & 11 (O. Reg. 686/21)

An Authority shall provide programs and services related to the conservation and management of lands owned or controlled by the authority, including:

- Fencing, signage, patrolling and other measures to prevent unlawful entry and to protect from liability, and to administer the regulation pertaining to rules of conduct in conservation areas.
- To maintain facilities, trails or other amenities that support public access and recreational activities in conservation areas and that can be provided without the direct support or supervision of staff.
- To make applications for its lands and comment on Planning Act matters impacting its lands.
- To conserve, protect, rehabilitate, establish, and manage natural heritage located within the lands, and to plant trees.

An Authority shall complete a Conservation Area Strategy and Land Inventory, including:

- Objectives established by the authority that will inform the authority's decision-making related to the lands it owns and controls.
- Identifying and categorizing the lands owned or controlled by the authority, including whether or not the parcel or a portion of the parcel is suitable for the purposes of housing and housing infrastructure development.

Category 2
Municipal Programs and Services
Section 21.1.1, CA Act

Municipally Requested Programs and Services

Some examples of Category 2 programs and services include:

- erosion control and restoration planning and works
- trail planning, design, construction and maintenance of infrastructure
- forest management, invasive species and wildlife management
- in-water and near-water construction
- watershed and subwatershed planning
- biodiversity and ecosystem monitoring
- Sustainable Neighbourhood Action Plan development and implementation
- climate science, environmental audits, impact studies, environmental assessments
- archaeological studies, research and interpretation
- events and nature-based programs

Category 3
Other Programs and Services
Section 21.1.2, CA Act

Other Programs and Services

Some examples of Category 3 non-mandatory programs and services to further the purpose of the Act include:

- Tourism and Recreation: indoor and outdoor accessible community event spaces for a variety of public events and festivals, delivered by TRCA or by public or private partners at Conservation Parks, Village on Black Creek
- Education and Outreach: environmental education school programs tailored for classroom, community and TRCA field trip locations and facilities

Summary of Conservation Authority Roles and Recent Changes

Permits:

- Until the new Section 28 and 28.1 provisions of the CA Act come into force and Ontario Regulation 166/06 is repealed, it is business as usual for permitting
- When the provisions come into force, the tests of “pollution” and “conservation of land” for issuance of a permit will be replaced with “unstable soil and bedrock”
- New subsections 28(3) and 29(4)0 enable exemption of prescribed activities or areas from the requirement for a permit, and subsection 28 (4.1) to exemption for prescribed regulated areas in certain municipalities where there are certain *Planning Act* approvals, are not yet in force and will not be operative until such regulation or regulations are prescribed
- New non-decision appeal provisions for permits not yet in force
- New enforcement provisions not yet in-effect (stop work orders, etc.)

Planning and development:

- New restriction on commenting in force since January 1, 2023
- New restriction on appeals and party status requests in force since January 1, 2023
- New clarity on mandatory Planning Act commenting in force since October

Summary of Conservation Authority Roles and Recent Changes

- TRCA will continue to deliver mandatory programs and services in accordance with Section 21.1 of the CA Act and O. Reg. 686/21
- TRCA will continue to meet all legislative and regulatory requirements related to the annual budget and municipal levy apportionment process, including entering into MOU agreements to fund and deliver non-mandatory programs and services

