

Section I – Items for the Information of the Regional Watershed Alliance

TO: Chair and Members of the Regional Watershed Alliance
Meeting #2/19, Wednesday, May 22, 2019

FROM: Laurie Nelson, Director, Policy Planning

RE: **TRCA COMMENTS TO ENVIRONMENTAL REGISTRY OF ONTARIO
Modernizing conservation authority operations – Conservation Authorities
Act (ERO #013-5018); Focusing conservation authority development
permits on the protection of people and property (ERO #013-4992)**

KEY ISSUE

To brief the Regional Watershed Alliance on Toronto and Region Conservation Authority's (TRCA) response to the Government of Ontario's proposed amendments to the Conservation Authorities Act, 2017 and proposal for a regulation that outlines how conservation authorities permit development and other activities for impacts to natural hazards and public safety.

RECOMMENDATION

WHEREAS the Province of Ontario has posted the proposed amendments to the Conservation Authorities Act, 2017 (ERO #013-5018), as well as a proposal for a regulation that outlines how conservation authorities permit development and other activities for impacts to natural hazards and public safety (ERO #013-4992), for public comment on the Environmental Registry of Ontario (ERO);

THEREFORE, LET IT BE RESOLVED THAT the Regional Watershed Alliance be advised of Toronto and Region Conservation Authority's responses to these ERO postings through this report.

AND THAT staff circulate TRCA comments on Bill 108 once they are submitted to the Province.

BACKGROUND

Conservation Authorities Act (ERO #013-5018)

On April 5, 2019, the Ministry of the Environment, Conservation and Parks (MECP) released a [proposed amendment to the Conservation Authorities Act](#), 2017, on the Environmental Registry of Ontario (ERO), due May 20, 2019. This request for comments is further to a comprehensive review of the legislation undertaken by the Province between 2015 and 2017. The ERO posting did not include the proposed written amendments to the Act or its associated regulations.

The Province has stated that the proposed amendments to the *Conservation Authorities Act* (CA Act) are to help CAs focus and deliver on their core mandate and to improve governance. If passed, the amendments would:

- Clearly define the core mandatory programs and services provided by conservation authorities to be, natural hazard protection and management, conservation and management of conservation authority lands, drinking water source protection (as prescribed under the Clean Water Act), and protection of the Lake Simcoe watershed

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- (as prescribed under the Lake Simcoe Protection Act);
- Increase transparency in how conservation authorities levy municipalities for mandatory and non-mandatory programs and services. Update the Conservation Authorities Act, an Act introduced in 1946, to conform with modern transparency standards by ensuring that municipalities and conservation authorities review levies for non-core programs after a certain period of time (e.g., 4 to 8 years);
- Establish a transition period (e.g. 18 to 24 months) and process for conservation authorities and municipalities to enter into agreements for the delivery of non-mandatory programs and services and meet these transparency standards;
- Enable the Minister to appoint an investigator to investigate or undertake an audit and report on a conservation authority; and
- Clarify that the duty of conservation authority board members is to act in the best interest of the conservation authority, similar to not-for profit organizations.

The Province is also proposing to proclaim un-proclaimed provisions of the Conservation Authorities Act related to:

- Fees for programs and services;
- Transparency and accountability;
- Approval of projects with provincial grants;
- Recovery of capital costs and operating expenses from municipalities (municipal levies);
- Regulation of areas over which conservation authorities have jurisdiction (e.g., development permitting);
- Enforcement and offences; and
- Additional regulations.

Conservation Authority Development Permits (ERO #013-4992)

On April 5, 2019, the Ministry of Natural Resources and Forestry (MNR) also released for public comment on the Environmental Registry of Ontario (ERO), [a proposal](#) for a regulation that outlines how conservation authorities permit development and other activities for impacts to natural hazards and public safety. The Province's 46-day commenting period for this ERO posting ends May 21, 2019. The ERO posting did not include a proposed written regulation.

The government's proposal is to create a regulation to replace the current Ontario Regulation 97/04 that governs the content of individual conservation authority regulations pursuant to section 28 of the *Conservation Authorities Act*. The government's intention is to further define the ability of a conservation authority (CA) to regulate prohibited development and other activities for impacts to the control of flooding and other natural hazards. The existing 36 individual conservation authority-approved regulations would be consolidated and harmonized into a single Minister of Natural Resources and Forestry-approved regulation. The Province has stated this measure will help to ensure consistency in requirements across all CAs, while still allowing for local flexibility based on differences in risks posed by flooding and other natural hazards.

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

- 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;

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- Reduce regulatory restrictions between 30m and 120m of a wetland and where a hydrological connection has been severed;
- 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;
- 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 develop, consult on, make publicly available and periodically review internal policies that guide permitting decisions;
- Require conservation authorities to notify the public of changes to mapped regulated areas such as floodplains or wetland boundaries; and
- 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.

Once the Regulation is established, the Province is also proposing to bring into force unproclaimed sections of the *Conservation Authorities Act* associated with conservation authority permitting decisions and regulatory enforcement.

RATIONALE

At Meeting #04/19, on April 26, 2019, the Board of Directors received a staff report and draft comment letter on each of the above ERO postings ([available here, see pages 64-99](#)). TRCA formally submitted comments to the ERO on May 8, 2019, (refer to Attachments 1 and 2).

On May 2, 2019, the Province introduced [Bill 108](#) entitled the "[More Homes, More Choice Act](#)", as part of its Housing Supply Action Plan. [Schedule 2](#) of this omnibus bill contains proposed wording of the amendments to the *Conservation Authorities Act* along with changes to several other Acts that are relevant to TRCA's mandate. As such, TRCA staff are reviewing this new information and will provide additional comments to the Province by separate cover.

Relationship to Building the Living City, the TRCA 2013-2022 Strategic Plan

This report supports the following strategies set forth in the TRCA 2013-2022 Strategic Plan:

Strategy 2 – Manage our regional water resources for current and future generations

Strategy 4 – Create complete communities that integrate nature and the built environment

Strategy 9 – Measure performance

Strategy 12 – Facilitate a region-wide approach to sustainability

FINANCIAL DETAILS

There are no costs associated with this report

DETAILS OF WORK TO BE DONE

Staff will continue to circulate the Regional Watershed Alliance on TRCA comments on provincial legislative, regulatory or policy changes.

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Attachments: 2

Attachment 1: TRCA Response to Proposed CA Act Amendments

Attachment 2: TRCA Response to Proposed Development Permit Regulation