

Chief Executive Officer



June 26, 2021

**BY E-MAIL ONLY** ([ca.office@ontario.ca](mailto:ca.office@ontario.ca))

Liz Mikel  
Ministry of the Environment, Conservation and Parks  
Conservation and Source Protection Branch  
40 St. Clair Avenue West, Floor 10  
Peterborough, ON M4V 1M2

**RE: Regulatory proposals (Phase 1) under the Conservation Authorities Act  
(ERO #019-2986)**

Thank you for the opportunity to comment on the Ministry of Environment, Conservation and Parks (MECP) Environmental Registry of Ontario (ERO) posting on the Phase 1 Regulatory proposals under the *Conservation Authorities Act* (CA Act). The following comments were approved by Toronto and Region Conservation Authority's (TRCA) Board of Directors on June 25, 2021.

**Toronto and Region Conservation Authority**

With almost five million people living within our jurisdiction, 75% of which live within 2 km of a TRCA owned or managed property, TRCA's covers nine watersheds and over 70 km of the collective Lake Ontario Shoreline stretching from Mississauga to Ajax and across the Oak Ridges Moraine from Mono in the west to Uxbridge in the east. Some of Canada's largest and fastest growing municipalities, including Toronto, Markham, and Vaughan are located entirely within TRCA's jurisdiction which spans six upper-tier and 15 lower-tier municipalities. TRCA is the largest non-governmental landowner within the jurisdiction, owning and managing 16,860 ha which function primarily to protect residents and provide treasured public greenspace for existing and new communities.

TRCA with and on behalf of its government and agency partners advances flood infrastructure, trails and restoration projects, and works with our partner municipalities, agencies and applicants to ensure timely issuance of well over 1,000+ development and infrastructure permit approvals annually, while protecting the environment, and safeguarding our communities from the risks of flooding and erosion. We are also experts at ensuring our watersheds and the Lake Ontario shoreline are protected, restored, and made more resilient to impacts of climate change including more extreme weather events through our shoreline design and construction expertise. TRCA, its Board of Directors, and its various subcommittees of the Board, provide advice to the Province and partner municipalities on their initiatives including projects and plans. TRCA also provides advice to municipal, provincial, and federal governments on policy initiatives which has involved TRCA staff serving on government committees including CEO and senior staff involvement in the Province's CA Act Working Group.

Although TRCA is often referred to as the largest of Ontario's 36 conservation authorities, it is vital to recognize that TRCA is in a field of its own, as exemplified by the following 2020 statistics:

- TRCA's revenues of \$162M were more than five times larger than the second largest conservation authority;
- Only nine conservation authorities had revenues that exceeded \$10M and TRCA's revenues were equal to the combined revenues of the other eight; and
- The remaining 27 conservation authorities had combined revenues below \$100M, an average less than \$4M per authority.

As such, while the perspectives and recommendations reflected in TRCA's response usually align with that of Greater Golden Horseshoe conservation authorities, they may not always be consistent or similar to those of Conservation Ontario or other conservation authorities. Accordingly, the issues prevalent for our organization, due to the scale, size and pressures of our jurisdiction, can be substantially different from our counterparts.

### **Government Proposal**

MECP has posted a "REGULATORY PROPOSAL CONSULTATION GUIDE: Regulations Defining Core Mandate and Improving Governance, Oversight and Accountability of Conservation Authorities" on the ERO. The purpose of the Consultation Guide is to provide a description of the proposed regulations and solicit feedback that will be considered by the Ministry when developing the proposed regulations. The Guide does not include draft regulations. This first phase of the Ministry's process is focused on the proposed regulations related to:

- the mandatory programs and services to be delivered by conservation authorities;
- the proposed agreements that may be required with participating municipalities to fund non-mandatory programs and services through a municipal levy;
- the transition period to establish those agreements;
- the requirement to establish community advisory boards; and
- the Minister's section 29 regulation relating to conservation authority operation and management of lands owned by the authority.

As noted on the ERO, in the coming months, MECP will be consulting on the second phase of proposed regulations under the CA Act, including:

- Municipal levies governing the apportionment of conservation authority capital and operating expenses for mandatory programs and services and for non-mandatory programs and services under municipal agreement. This would also set out provisions pertaining to municipal appeals of conservation authority municipal levy apportionments, including who would hear those appeals.
- Standards and requirements for the delivery of non-mandatory programs and services.

It is our understanding that there will be a future ERO posting by the Ministry of Natural Resources and Forestry (MNRF) regarding the permitting regulation under section 28 of the CA Act. We would strongly encourage the MNRF posting or consultation guide to be released shortly so these compendium pieces can be considered together prior to regulations being finalized and approved.

### **General Comments**

TRCA continues to support the provincial requirement for three types of programs and services that conservation authorities provide: (1) legislated as mandatory by the Province, (2) provided on behalf of municipalities, and (3) those that TRCA undertakes to further its objectives under the CA Act. TRCA views these in the context of the Act's purpose of, "providing for the organization and delivery of

programs and services that further the conservation, restoration, development and management of natural resources in watersheds in Ontario.” In our early discussions with partners, we note that the four categories as described in the Guide has caused some potential confusion and may not be required as both the CA and municipality must be in agreement to provide the service or program. Based on this early feedback from our municipal partners we would encourage the government to maintain only three categories in a future regulation.

### **Mandatory Programs and Services**

In June 2019, the *More Homes, More Choice Act*, 2019, amended the CA Act to identify the categories of mandatory programs and services that conservation authorities are required to provide, where applicable in their specific jurisdictions. The *Protect, Support and Recover from COVID-19 Act (Budget Measures)*, 2020, re-enacted this provision. Mandated by the Province, these programs and services may be funded by provincial grants and/or conservation authority self-generated revenue (e.g., user fees) and/or municipal levy. CAs can levy participating municipalities to fund budgeted (revenue) shortfalls. The following comments and recommendations are provided to inform the development of the regulations for the proposed scope of mandatory programs and services as set out and described in the Consultation Guide.

#### **A. Mandatory Programs and Services Related to the Risks of Natural Hazards**

It is proposed by MNRF that each conservation authority would be required to implement a program or service to help manage the risk posed by the 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. This program shall be designed 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.

Managing risks associated with natural hazards may include prevention, protection, mitigation, preparedness, and response.

The detailed list of mandatory programs and services related to the risk of natural hazards as proposed in the Consultation Guide generally aligns with current TRCA programs and services for this category. It includes the administration of permits issued under section 28.1 of the CA Act, (sections 28.1 and 28.1.2 once proclaimed) and associated enforcement activities. The delineation and mapping of regulated natural hazards (e.g., flood plain, hazardous lands and hazardous sites) and features (e.g., wetlands, river or stream valleys defined or undefined) are critical to the implementation of this program. Wetland mapping has not been captured within the list and should be included. The inclusion of wetland mapping would recognize that managing risks associated with natural hazards includes the identification and protection of natural features such as wetlands.

The section in the Guide related to the role of CAs in land use planning requires clarification and should be expanded to capture all the activities TRCA undertakes in support of our municipal, provincial, agency and industry partners. TRCA conducts itself in accordance the MNRF Procedural Manual chapter, “Policies and Procedures for Conservation Authority Plan Review and Permitting Activities.” Accordingly, TRCA is a public commenting body under the *Planning Act* and *Environmental Assessment Act*; an agency delegated the responsibility to represent the provincial interest on natural hazards under Section 3.1 of the Provincial Policy Statement (PPS); a service provider in accordance with a municipal Memorandum

of Understanding (MOU); a regulator under section 28 of the CA Act; a Source Protection Authority under the *Clean Water Act*; a resource management agency; and a landowner. In these roles, and as stated in the “Made in Ontario Environment Plan,” conservation authorities work in collaboration with municipalities and stakeholders to protect people and property from flooding and other natural hazards, and to conserve natural resources.

In absence of more specific details, the reference to “Provincial One Window Planning Service protocols”, could be interpreted to limit the role of CAs and depart from the MNRF Policies and Procedures noted above, the Conservation Ontario/Ministry of Natural Resources/Ministry of Municipal Affairs and Housing Memorandum of Understanding, and current streamlined Plan Input and Plan Review services provided to our municipal partners and public agencies - much of which is embedded in existing MOUs between TRCA, partner municipalities, and neighbouring CAs. The Provincial Policy Statement (PPS) under the *Planning Act* was updated in 2020 and the following statement was added to Section 3.0: “Mitigating potential risk to public health or safety or of property damage from natural hazards, including the risks that may be associated with the impacts of a changing climate, will require the Province, planning authorities, and conservation authorities to work together.” Retaining and recognizing current practices including the ability to independently appeal decisions related to natural hazards to the Ontario Land Tribunal (OLT), (formerly LPAT) is critical to managing the risks associated with natural hazards and upholding the PPS, as well as other relevant provincial plans (e.g., A Place to Grow: Growth Plan for the GGH). We would appreciate staff reviewing the above protocols in the context of preparing both the updated MNRF and MECP regulations to ensure these well-established functions are accurately captured.

The section on operation and maintenance of water control and erosion control structures, should include acquisition or construction costs of such infrastructure. The technical studies required for rehabilitation/restoration or repair of infrastructure typically include an ecological component and given the important role of natural cover in watershed management usually include a natural heritage study component. In addition, natural heritage considerations are also a factor or information requirement in many provincial legislative or regulatory requirement approvals required to upgrade water control infrastructure, e.g., MECP *Endangered Species Act*, *Environmental Protection Act*, Environmental Compliance Approval, or MNRF *Lakes and Rivers Improvement Act* permissions. Mitigating natural hazards through both structural and non-structural measures and a recognition of the need to consider natural heritage matters as part of this work should be included in the list.

In the Consultation Guide, conservation authority input and review on municipal land use planning matters outside of natural hazard policies, such as natural heritage policies, is used as an example of a non-mandatory program and service that a municipality may request and would require a CA-Municipal MOU. Like natural hazards, the natural heritage aspects of a watershed know no political boundaries and so it would make sense, instead, for municipalities to be required to utilize CAs for natural heritage planning services (providing CA input and review on land use planning matters for natural hazards and natural heritage on the municipality’s behalf). For most of our partners, TRCA’s existing MOU or service level agreements include such a role. Based on our observations and experience of our CA partners in the GGH, there is a cost risk to the taxpayers by making natural heritage non-mandatory. For example, we have observed that it is far more costly to the municipal taxpayer for their municipality to procure private consulting natural heritage services to inform municipal initiatives than to work with their CA partners.

In most cases, once retained, private natural heritage consultants end up reaching out to CAs to obtain data and confirm findings and thus end up engaging CAs resulting in double the effort, more costs for staff time that the municipality must cover, and a resulting inefficient use of taxpayers' dollars. By working directly with a CA to leverage their existing data, a municipality is receiving a comprehensive service, the full benefit of watershed/science-based approach (and a level playing field) that has influence over the environment in its neighbouring jurisdiction just as it does with the environment in its own boundaries. In current practice in our jurisdiction, TRCA's municipal partners appreciate the watershed-based perspective and holistic environmental expertise including natural heritage expertise of TRCA in commenting on land use planning matters.

We note that ice management plans and services (preventative or remedial) should be appropriate for the circumstances of the individual CA. In TRCA's jurisdiction, our focus is on the technical advisory elements of ice management and response, while our municipal partners operationalize the response (e.g., responsible for standby equipment).

#### **Recommendations:**

- **That CAs retain the ability to represent the provincial interest related to section 2 of the *Planning Act* and the Natural Hazards policies of the PPS for all applications under the *Planning Act*, input into the review of applications for new and amended Special Policy Areas, and to independently appeal decisions related to natural hazards to the OLT when appropriate to ensure that the provincial interest is met.**
- **That the Province ensure provincial standards, as referenced in this section of the Guide, are current to ensure consistency amongst CAs. More specifically, the MNRF Hazard Technical Guides for natural hazards (flooding, erosion, Great Lakes) and Special Policy Area Procedures need to be updated to reflect current science, technology and best management practices, the urban context (e.g., redevelopment, infill, community revitalization, etc.), address gaps or deficiencies, and provide guidance on incorporating climate change in natural hazard management.**
- **That wetland mapping be added to the list of information needed to support CAs in the implementation of s. 28 permitting responsibilities.**
- **That the ecological components identified in a study to manage natural hazards (e.g., rehabilitation/restoration or repair of infrastructure) be included.**
- **That the ecological and hydrological components (natural heritage aspects) to prevent new hazards from being created and existing hazards from being aggravated, and to avoid adverse environmental impacts, also be included (conservation authority input and review on municipal land use planning matters outside of natural hazards, specifically natural heritage policies).**

## **B. Mandatory Programs and Services Related to the Management of Conservation Authority Land**

The mandatory programs and services related to the conservation and management of lands owned or controlled by a conservation authority, including any interests in land registered on title, relate to the conservation authority as the owner of its land and also to land owned by others where the conservation authority has an “interest” or right related to that other person’s property, as granted by the property owner (e.g., “conservation easements” that may protect a natural heritage feature or ‘access easements’ that may enable a conservation authority to develop trails that cross another landowner’s property).

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.

Generally, the scope of activities in the Consultation Guide related to the conservation and management of conservation authority land are supported and align with current TRCA programs and services. It should be clarified throughout the Guide that while CA land is considered private, it benefits the public at large. Often, these acquired lands are contiguous river and stream systems that form essential corridors and connections through communities that protect natural heritage, as well as natural hazards and provide economic value through a myriad of ecosystem services. Further, through public access, these lands provide base level open space for passive use, such as trails. The provision of services and infrastructure to accommodate public access is currently not identified as a mandatory activity and TRCA sees this as an important required clarification, especially in our jurisdiction where our system of lands, trails, and amenities often provide important active transportation and regional scale linkages for larger networks (e.g., The Great Lakes Waterfront Trail, the Humber River Trail, segments of the Trans Canada Trail, etc.).

The administration of the s. 29 Minister’s Regulation of “Conservation Areas” is included within the scope of this category. TRCA’s detailed comments and recommendations are provided in a separate section below related to the proposed s. 29 Regulation.

### **Recommendation:**

- **That maintenance of conservation parks and lands for safe public access and use be included as a mandatory activity provided by CAs as through the provision of safe access, we are ensuring public infrastructure is accessible and emergency routes through conservation lands are provided.**

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

Under the *Clean Water Act*, 2006 conservation authorities 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.

The scope of mandatory programs and services related to source protection appears to be consistent with the current responsibilities of the Toronto and Region Source Protection Authority for the Credit Valley-Toronto and Region-Central Lake Ontario (CTC) Source Protection Region. The Province has funded this program since its inception. It will be important to understand MECP’s intent with respect to

continued financial support for this program so that municipalities are informed of any potential budget implications.

**Recommendation:**

- **That TRCA supports the inclusion of programs and services related to source protection. Sustained and adequate funding is required to enable CAs and municipalities to carry out the legislated duties under the *Clean Water Act*.**

**D. Lake Simcoe Region Conservation Authority duties, functions, and responsibilities under the Lake Simcoe Protection Act, 2008 – Not applicable to TRCA**

**E. Mandatory Programs and Services Related to Conservation Authority Responsibilities Under an Act Prescribed by Regulation – Not applicable to TRCA**

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

The CA Act also allows for the prescribing of ‘other’ programs and services not listed in previous mandatory categories. These ‘other’ programs and services must be prescribed within a year after the end of the transition period for municipal funding agreements for non-mandatory programs and services. The Ministry is proposing to prescribe the following as mandatory programs and services:

1. Core Watershed-based Resource Management Strategies
2. Provincial Water Quality and Quantity Monitoring, including:
  - a. Provincial stream monitoring program
  - b. Provincial groundwater monitoring program

**Core Watershed-based Resource Management Strategies**

To capture the value of the broader watershed and resource management perspective that CAs have, MECP is proposing that each conservation authority be required to develop a core watershed-based resource management strategy that documents the current state of the relevant resources within their jurisdictions in the context of the mandatory programs and services described in the Guide. This strategy can provide a means to develop an improved integrated process with a longer-term perspective and inform an adaptive management approach to address issues or threats such as mitigating the risks from the impacts of natural hazards. A successful strategy should also help ensure effective and efficient use of funding, especially of the municipal levy. The ministry provides examples, using three tables in the Guide, of how mandatory programs and services would be incorporated in the strategy, as well how non-mandatory programs and services could be incorporated, subject to an MOU/agreement.

The value and addition of core watershed-based resource management as a prescribed mandatory program and services is a very positive aspect of the Ministry’s proposal and aligns with the collaborative work of CAs, partner municipalities and stakeholders, as stated in the Made-In-Ontario Environment Plan, to focus and deliver on the CA “core mandate of protecting people and property from flooding and other natural hazards and conserving natural resources.” While the Guide indicates the strategy would principally focus on water resources, equally important in the management of natural hazards is protecting, restoring, and enhancing the natural environment. Water resources and natural heritage systems are intrinsically linked in watershed management and recognized as such in provincial policy and plans, as well as municipal and CA policies.

By assisting our municipal partners in the growth management planning process, TRCA advocates for sub-watershed planning and updated watershed plans to protect resources, address downstream risks, and facilitate integrated infrastructure and development planning to accommodate approved growth in designated settlement areas in our jurisdiction as part of this Core Watershed-based Resource Management Strategy. This implementation piece for these Strategies is missing from the Consultation Guide. Based on our experience of successfully working with industry, stakeholders and government agencies, greater certainty for all stakeholders involved in the growth planning process can be achieved through the completion of science-based watershed and subwatershed studies. TRCA's recently released [Watershed and Ecosystem Reporting Hub](#) identifies the current conditions and explains the importance of different environmental indicators for understanding watershed and ecosystem health within the watersheds and the waterfront in TRCA's jurisdiction. TRCA's [Carruthers Creek Watershed Plan](#) approved by Durham Region Council on June 23, 2021, is our most recent plan to help guide future decision-making for this watershed by the Region of Durham, City of Pickering, Town of Ajax, TRCA, and watershed residents and other stakeholders. These are two examples that demonstrate the integration of mandatory and non-mandatory activities related to core-watershed resource management.

#### **Recommendations:**

- **That TRCA supports the addition of Core-watershed Resource Management Strategies as prescribed mandatory programs and services.**
- **That it be recognized that water resources systems and natural heritage systems are intrinsically linked in watershed management, as per provincial policies and plans.**
- **That it be recognized that these Strategies can be used to inform municipal growth planning to achieve shared municipal-CA goals in watershed management.**
- **That provincial staff review recently completed TRCA and partner supported projects including the Watershed and Ecosystem Reporting Hub and the Carruthers Creek Watershed Plan to inform any future guidance and work on regulations.**
- **That it be clarified that the three tables provided in the Consultation Guide (pages 18-20) are examples of programs and/or activities and potential funding mechanisms and will not be included in the regulation. The lists are not complete, nor do they recognize all potential funding arrangements.**

#### **Provincial Water Quality and Quantity Monitoring**

At this time, 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 CA Act.

All 36 conservation authorities currently participate in the Provincial Water Quality Monitoring Network (stream water quality) and in the Provincial Groundwater Monitoring Network (groundwater levels and chemistry). The Ministry manages the water monitoring programs by providing technical leadership, coordination, guidance, data administration, laboratory analysis, instrumentation, and training to



support the conservation authority role in this work. Conservation authorities install and maintain equipment, collect samples/data, and send samples to the Ministry laboratory for chemical analysis.

**Recommendation:**

- **That TRCA supports the addition of the provincial water quality and groundwater monitoring programs as prescribed mandatory programs and services.**

**Non-Mandatory Conservation Authority Programs and Services**

Conservation authorities will be required 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 programs and services to be delivered on behalf of, and at the request, of a municipality, through a funding mechanism chosen by the municipality. Within our jurisdiction TRCA has MOU or other agreements in place with most of its municipal and agency partners regarding the services we deliver and undertakes regular pre-budget meetings to confirm funding and priorities. However, TRCA is supportive of the intent of the province to ensure updated agreements are in place between CAs and municipal partners to further clarify funding for programs and services.

**Regulation for Municipal Agreements and Transition Period**

MECP is proposing to proclaim sections 21.1.1, 21.1.2 and 21.1.4 of the CA Act and develop one Minister's regulation that would establish standards and requirements for entering into agreements for municipal funding of non-mandatory programs and services, including municipal programs and services under section 21.1.1 funded by revenue that is not from a municipal levy, and other programs and services under section 21.1.2 funded through a municipal levy.

The regulation would also govern the matters to be addressed in each authority's transition plan. Conservation authorities would be required to submit copies of their transition plan to the Minister for information purposes (not approval) by a date to be set out in the proposed regulation, and to its participating municipalities and to make the plans available to the public online (e.g., on a conservation authority's website).

MECP is proposing January 1, 2023, as the prescribed date by which municipal agreements must be in place for authorities to use or continue to use the levy powers to fund non-mandatory programs and services. To achieve this timeline and process, MECP is proposing that: the transition plan be completed by December 31, 2021; quarterly reporting during the fiscal year 2022 on the status and progress made in attaining agreements; and all CA/municipal agreements in place and funding reflected in authority budgets for 2023.

The Ministry is proposing to authorize the granting of extensions to the prescribed date for completing municipal agreements where an authority, with the support of one or more participating municipalities in the authority, submits a written request for the extension to the timeline/prescribed date.

Through engagement with our partner municipalities on non-mandatory programs and services as directed by the Board, TRCA is at the forefront of meeting what is envisioned in the Consultation Guide, as we continue to establish comprehensive, updated MOUs and to refine existing municipal-CA agreements, where required. Staff regularly report to the TRCA Board of Directors on the status and progress being made on this work. However, to meet the budgeting process for 2023, it will be critical for TRCA, with the support of its municipal partners, to advance the completion of this work as early in 2022 as possible to provide certainty in meeting shared municipal-TRCA objectives and avoid the need

to request an extension. This will include ensuring that MOUs are considered in a timely way by municipal partners at relevant committee and Council meetings in 2021 and early 2022 at the latest.

**Recommendations:**

- **That the proposed regulation contain high-level direction and principles for developing MOUs that provide CAs and municipalities with the flexibility and latitude to negotiate mutually beneficial agreements.**
- **That the Ministry proclaim the regulation in a timely manner for CAs to meet the prescribed timelines for the transition plan and execution of municipal agreements.**
- **That the Ministry encourage municipal Council consideration of the updated MOUs and SLAs at the earliest opportunity to ensure the prescribed timelines can be achieved.**

**Regulation to Require “Community” Advisory Boards**

The Province is proposing to proclaim a provision of the CA Act related to advisory boards and to develop a Lieutenant Governor in Council (LGIC) regulation to require conservation authorities to establish community advisory boards, that can include members of the public, to provide advice to the authority. The government is also proposing to make a Minister’s regulation to provide greater clarity that conservation authority by-laws are applicable to the community advisory boards.

In recognition of the variation in the circumstances of individual conservation authorities, the government is considering an approach to structure the conservation authority community advisory boards with minimal prescribed requirements applied to all the boards, while enabling local flexibility of some aspects of the community advisory board to reflect a conservation authority’s circumstances and to accommodate a conservation authority’s preferences for their use of the community advisory board. The government would defer other specific details related to the composition, activities, functions, duties, and procedures of the community advisory board to a Terms of Reference document, which would be developed and approved by each authority and reiterated in the authority’s by-laws. This Terms of Reference could be amended over time, to ensure the most relevant issues and solutions are considered by the community advisory board and that the membership of the board has the necessary skills to carry out those tasks.

Under the current provisions of the CA Act, TRCA currently has two advisory boards: Partners in Project Green (PPG) and the Regional Watershed Alliance (RWA). Each of these advisory boards have a comprehensive Terms of Reference, which are incorporated into TRCA’s Administrative By-law. The role, composition, and function of the existing RWA closely aligns with the description in the Guide of the government’s proposal to create a ‘community’ advisory committee. TRCA’s Board of Directors also recently approved the establishment of a multi-stakeholder Natural Science and Education Committee and associated Terms of Reference.

**Recommendations:**

- **That the general functions of a community advisory board shall be to provide advice to the conservation authority on the authority’s strategic plans and community-oriented programs and services.**

- **That the requirements for the process to establish an advisory board acknowledge/recognize that where existing CA advisory boards or committees involving members of the public already perform such functions, a CA is not required to establish a new community advisory provided the substantive requirements of the regulation are met.**

### **Section 29 Minister's Regulation (CA Landholdings)**

Once the new section 29 of the *Conservation Authorities Act* is proclaimed, a Minister's regulation is proposed to consolidate the current individual authority section 29 'Conservation Areas' regulations regarding activities on lands owned by conservation authorities into one regulation. MECP is intending for the Minister's regulation to be broadly consistent with the policy principles and provincial content that has been used in the past. The current regulations will continue until such time as the new Minister's regulation replaces them.

Current section 29 regulations manage activities on all authority owned land including the use by the public of the lands and services available; the prohibition of certain activities; setting fees for access and use of lands including recreational facilities; administering permits for certain land uses; and protecting against property damage and for public safety.

The administration of section 29 is included as a mandatory program and service related to the management of land owned by CAs. Throughout the review of the CA Act, TRCA requested the Province to enhance the section 29 regulatory enforcement and compliance provisions to be consistent with the protections afforded under the *Provincial Parks and Conservation Reserves Act* to adequately protect our 16,860 ha, (owned and managed), public landholdings. There is no indication in the Consultation Guide that any substantial changes to the section 29 regulation are being proposed and as such, this aspect of the Ministry's proposal remains a concern to TRCA.

As urbanization pressures increase and the population expands within our communities, municipal by-law and police forces are strained resulting in a growing responsibility on CAs to preserve, protect and manage use of valuable greenspaces and regulated areas. These pressures occurred prior to, but have increased during the COVID-19 pandemic. Currently, TRCA participates on various committees comprised of municipal and enforcement related agencies to coordinate enforcement and compliance efforts to leverage their enforcement tools (e.g., municipal by-laws, etc.) where feasible given the limitations under the CA Act. However, a long-term solution and modernization of the s. 29 enforcement provisions are urgently needed to improve compliance, ensure public and CA officer safety, and effectively deter undesirable activities and behaviours on TRCA landholdings. The following examples demonstrate some of the enforcement provisions required within the s. 29 regulation.

#### Vehicle operator to stop

The lawful ability to stop vehicles involved in the commission of vehicle related offences on CA-owned lands is an effective public and staff safety and compliance tool. Current CA regulations do not fully encompass the range of moving vehicle violations occurring on our lands (i.e., excessive speeds, unsecured passengers, unlawful operation of ATVs and snow machines, and in extreme circumstances, intoxicated driving). The addition of this provision within the CA Act will allow CA officers to effectively address these undesired activities and public safety issues.

#### Searches and Seizures

The addition of both search and seizure provisions is necessary for CA officers to properly protect and conserve the ecological integrity of CA-owned lands. Offenders involved with illegal hunting and the

commercial harvesting of flora (i.e., American Ginseng, Fiddleheads, Leeks) from these protected areas is increasing, and CA officers have no current ability to, upon reasonable grounds, search and seize items gained in the commission of these offences. The lack of these provisions allows offenders to leave these lands with their illegal harvests and return to re-engage in the activity with the knowledge that CA officers are unable to effectively stop the continuation of an offence and secure the required evidence pertaining to the offence. Without these provisions, it further incentivizes offenders to return to the lands to re-engage without appropriate consequences for their actions.

#### Require Identification

The ability to require an individual to identify themselves involved in the commission of an offence will enable officers to lawfully obtain the appropriate information and hold offenders accountable for their actions or behaviours on our lands. It will assist with investigations and reduce individuals from evading appropriate enforcement actions for public safety and/or ecological destruction of CA landholdings. In addition, the un-proclaimed s. 30 enforcement and compliance provisions (e.g., stop orders, etc.) associated with s. 28 of the CA Act should be expedited and proclaimed.

#### S.28 Stop Orders

This provision needs to be enacted to provide TRCA officers the ability to stop activities in a timely manner and reduce the significant impacts of flooding, erosion, and other natural hazards that may jeopardize the health and safety of persons and the destruction of property. It will also provide officers with the necessary tools and ability to protect sensitive features and reduce the devastating effects associated with unlawful destruction of our Provincially Significant Wetlands and other ecologically sensitive features. It also holds parties accountable for failure to comply with a stop order through significant penalties. In numerous instances, including in a recent example within the Natural Heritage System of the Greenbelt Plan, TRCA enforcement officers were unable to stop the destruction of a Provincially Significant Wetland due to the lack of powers as compared to MECP provincial officers.

#### **Recommendations:**

- **That the Ministry convene a working group with staff from the Province, Association of Municipalities of Ontario (AMO)/municipalities, CAs and enforcement agencies to identify a long term, sustainable strategy that will enable CAs to fulfill their obligations to monitoring and enforcement action on CA-owned lands or managed lands where applicable, as established under s. 29 of the CA Act. Compliance and enforcement tools must be available to CAs to protect and manage CA-owned lands, safeguard the health and safety of the public and CA officers, protect the environment, and reduce/avoid the potential for a devastating occurrence that would cause harm to life and property.**
- **That if amendments to the CA Act, as opposed to the regulation, are required to facilitate enhancements to s. 29, the Ministry enable such amendments in a timely manner through all available legislative mechanisms including future bills on the CA Act or related legislation.**
- **That, while not part of this ERO posting, the Province 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.**

Thank you once again for the opportunity to provide comments on the “REGULATORY PROPOSAL CONSULTATION GUIDE: Regulations Defining Core Mandate and Improving Governance, Oversight and Accountability of Conservation Authorities.” Should you have any questions, require clarification on any of the above, or wish to meet to discuss our remarks, please contact the undersigned at 416.667.6290 or at [john.mackenzie@trca.ca](mailto:john.mackenzie@trca.ca).

Sincerely,

<Original Signed by>

John MacKenzie, M.Sc.(PI) MCIP, RPP  
Chief Executive Officer