

<b>To:</b>	Warden Hicks and Members of Grey County Council
<b>Committee Date:</b>	May 9, 2019
<b>Subject / Report No:</b>	PDR-CW-22-19
<b>Title:</b>	Conservation Authority Act Changes
<b>Prepared by:</b>	County Planning Staff
<b>Reviewed by:</b>	Randy Scherzer
<b>Lower Tier(s) Affected:</b>	All Municipalities
<b>Status:</b>	Recommendation adopted by Committee of the Whole as presented as per Resolution <i>CW104-19</i> ; Endorsed by County Council as per Resolution <i>CC41-19</i> .

## Recommendation

1. That Report PDR-CW-22-19 which provides an overview of the proposed changes to the Conservation Authorities Act, proposed changes to the permitting process related to natural hazards, and the funding reductions to conservation authorities be received; and
2. That this report be forwarded onto the Ministry of Environment, Conservation and Parks and the Ministry of Natural Resources and Forestry as the County of Grey's comments on the proposed changes posted on the Environmental Registry through postings # 013-5018 and # 013-4992; and
3. That this report be forwarded onto member municipalities, conservation authorities, the Association of Municipalities of Ontario and local MPPs within Grey for information; and
4. That staff be authorized to proceed prior to County Council approval as per Section 25.6 (b) of Procedural By-law 5003-18.

## Executive Summary

The *Conservation Authorities Act* was revised by the previous government in 2017. The County provided comments during the previous review of the Act. Further changes to the *Conservation Authorities Act* are being proposed; however, there are few details at

this stage. Funding reductions to conservation authorities are also proposed which could increase the risks associated with flooding and erosion, as well as impact the monitoring and forecasting of flood events. Given the impacts associated with changing climate and severe storm events being experienced in Grey County and across Ontario, it is recommended that the Province reconsider these funding reductions. It is also recommended that any changes to the *Conservation Authorities Act* does not limit the vital role that conservation authorities play in protecting our watersheds.

## Background and Discussion

The Ministry of Natural Resources and Forestry initiated a review of the *Conservation Authorities Act* (Act) in 2015 which included addressing roles, responsibilities, funding and governance of conservation authorities in resource management and environmental protection. The County provided initial comments on a [discussion paper](#) released by the Ministry seeking early feedback on the review of the Act. A link to the previous staff report providing initial comments to the Ministry can be found in the Attachments section of this report.

The Ministry released a further consultation document in 2016 entitled '[Conserving Our Future – Proposed Priorities for Renewal](#)' which was based on the comments received in response to the discussion paper. A staff report providing comments on this consultation document was provided to the Ministry. A link to that staff report can be found in the Attachments section as well as using the following link – [Addendum to PDR-PCD-36-15 - Conservation Authority Act Review - Second Phase](#).

Based on the comments received through the consultation, the Ministry noted that there was general agreement that the overall conservation authority model and principles upon which it is based remained relevant. Most respondents agreed that the watershed continues to serve as an ecologically appropriate scale for many resource management activities. The Ministry also noted that all stakeholder sectors 'recognized the value and public benefit of conservation authority roles in providing environmental education, landowner and broader stewardship programs, and the provision of access to natural areas and recreational opportunities provided through conservation areas. Based on the feedback received, the Province made changes to the *Conservation Authorities Act* in 2017.

## Further Proposed Changes to the Conservation Authorities Act

On April 5, 2019, the Province released an environmental registry posting (ERO 013-5018) entitled 'Modernizing conservation authority operations – Conservation Authorities Act' which proposes further changes to the *Conservation Authorities Act*. The details regarding the proposed changes are light at this stage. The Province notes that in the spring of 2019, they will develop and consult on a suite of regulatory and

policy proposals to support the proposed amendments. The following is an outline of the proposed changes to the *Conservation Authorities Act* that are identified in the environmental registry posting:

- 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 (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
- 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
- additional regulations.

## *Staff Response*

It is difficult to determine the full extent and potential impact that the proposed changes to the *Conservation Authorities Act* may have at this stage. It is recommended that the Province provide further detail about the proposed changes for municipalities, conservation authorities, and others to provide further comments.

Grey County and local municipalities rely on the programs and services provided by conservation authorities.

In terms of the current outline of the proposed changes, it is unclear as to why there is a proposed transition period for conservation authorities and municipalities to enter into agreements for the delivery of non-mandatory programs and services. Many municipalities have entered into agreements with conservation authorities to provide non-mandatory programs and services such as natural heritage review for planning applications. Grey County has an agreement with Grey Sauble Conservation Authority to help manage the County Forests and County Trails. Conservation authorities offer a number of non-mandatory programs and services to municipalities and the community at large including education programs, stewardship programs, and natural heritage commenting/planning. If the proposed changes to the Conservation Authority Act affect the ability for conservation authorities to levy municipalities for these programs, it could impact the ability for conservation authorities to leverage additional funds to help support the programs and services that are currently offered. It is recommended that whatever changes are proposed, that flexibility is still provided for conservation authorities and municipalities to enter into service agreements in order to raise sufficient funds to support the current programs and services, including providing comments on natural heritage matters, and supporting education and stewardship programs.

The services that conservation authorities provide are very important to municipalities and the community. Therefore, it is important for conservation authorities to continue to offer these programs and services at a watershed level in order to protect and preserve the health of our ecosystems and watersheds.

## Proposed Changes to the Natural Hazards Permitting Process

The Ministry of Natural Resources and Forestry is also consulting on a proposal to streamline and focus conservation authority's development permitting and role in municipal plan review (ERO 013-4992). The following are the proposed changes to the permitting process as outlined in the Environmental Registry posting:

- Consolidating and harmonizing the existing 36 individual conservation authority-approved regulations into one Minister of Natural Resources and Forestry approved regulation will help to ensure consistency in requirements across all conservation authorities 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;
- 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.

## *Staff Response*

County staff generally have no concerns with the proposed changes to the permitting process as highlighted above. Consolidating the 36 individual conservation authority regulations into one will help to provide clarity and consistency across the different conservation authorities which will make it easier for municipalities and developers. With respect to the reduction in regulatory restrictions between 30 metres and 120 metres of a wetland, County staff generally have no objections with potential reductions in regulatory restrictions if the reductions can be supported from a technical and/or science-based perspective. There are certain circumstances where conservation authorities reduce the setbacks from a regulatory restriction. It is important however that these reductions be looked at on a case-by-case basis and that the reductions can be supported from a science-based perspective.

Exempting low-risk development activities from requiring a permit may be beneficial for municipalities and landowners, especially as it relates to municipal drains. If certain activities are exempted, it may be beneficial to have conservation authorities provide education material including best practices for undertaking these low-risk activities to ensure that any potential impacts are mitigated.

Staff see merit in notifying the public of mapping changes, provided they are not duplicative of municipal processes and provided that this does not limit the ability of

conservation authorities in making changes to regulation mapping when further review is conducted (i.e. if new information is provided as part of a planning application process or through detailed site review). If a municipality is updating their zoning by-law and the hazard land boundaries are changing as part of the by-law, then the municipality and conservation authority should not both be required to give separate notice. Instead, the municipality can give notice in accordance with the *Planning Act*, and the conservation authority can play a supportive role in the municipal public consultation (i.e. to help explain the mapping changes).

## Funding Reductions to Conservation Authorities

In addition to the proposed changes to the *Conservation Authorities Act* and the permitting process, the Province also announced funding reductions to conservation authorities. Based on information received from Grey Sauble Conservation Authority, the following are areas of funding that have been reduced by the Province:

- 50% reduction to funding for warning people about flooding and protecting property from damage
- The provincial 50 Million Tree planting subsidy has been eliminated.
- Summer staff funding eliminated which was used to assist with water quality monitoring and stewardship
- Provincial funding which supported looking at the health of south Georgian Bay shorelines has been eliminated.

## *Staff Response*

Flooding and erosion can be very costly and are a risk to our communities. Conservation authorities provide necessary programs and services that help to reduce the risk of flooding and erosion and help to provide information to the municipalities and the public about flood risks, etc. Climate change threats, including the risk from severe weather events, are increasing year by year. Therefore, it is extremely important for conservation authorities to continue programs and services to help reduce the risks of flooding and erosion, to monitor and forecast flooding, and to provide necessary data and information to help municipalities to plan for infrastructure upgrades and to prepare and manage an emergency event. The funding reductions could also cause a financial impact to municipalities as they may need to fund the deficit in order to continue with the various programs and services offered by conservation authorities. Therefore, it is recommended that the Province reconsider the funding reductions to conservation authorities and to consult with conservation authorities and municipalities to see if there are other opportunities.

## General Comments

Based on the nature of the changes being proposed, and the potential for both positive and negative impacts, the Province should consider a more robust consultation on these proposed changes. The current Environmental Registry posting was posted on April 21<sup>st</sup> and comments are due by May 20<sup>th</sup> and May 21<sup>st</sup>, respectively. This short timeframe does not give municipalities, conservation authorities and other stakeholders much time to (a) respond, (b) ask questions, or (c) consult. It is recommended that when the consultation begins on the detailed suite of regulatory and policy proposals to be released this spring that a minimum of a 90-day consultation period is provided.

## Legal and Legislated Requirements

*Conservation Authorities Act*

Planning Act

## Financial and Resource Implications

The funding reductions to conservation authorities could cause a financial impact to municipalities as municipalities may need to fund the deficit in order to continue these programs. This could also cause other conservation authority programs to be discontinued or reduced as conservation authorities may need to look for ways to offset or reallocate funds based on these reductions.

Depending on the proposed changes to the *Conservation Authorities Act*, this could also impact what services conservation authorities are able to provide to municipalities and residents. For example, if municipalities were not able to enter into agreements with conservation authorities to provide natural heritage comments then municipalities will need to hire consultants and/or staff to address this gap. This could increase costs for municipalities and developers and result in duplication as conservation authorities will be reviewing natural hazard matters related to a development application and the municipal staff/consultant will be reviewing natural heritage matters, which in some cases will be the same features and functions being reviewed.

## Relevant Consultation

- Internal (Transportation Services, Planning)
- External (Conservation Authorities, Municipalities)

## Appendices and Attachments

[\*PDR-PCD-36-15 - Conservation Authority Act Review\*](#)

[\*Addendum to PDR-PCD-36-15 - Conservation Authority Act Review - Second Phase\*](#)

[\*Environmental Registry of Ontario Posting – ERO 013-5018\*](#)

[\*Environmental Registry of Ontario Posting – ERO 013-4992\*](#)