

## MEMORANDUM

TO: Committee of the Whole

FROM: Erin Mahoney, Commissioner of Environmental Services

DATE: September 8, 2016

RE: **Response to Environmental Bill of Rights (EBR) Posting  
No. 012-7583: Discussion Paper – *Conservation Authorities  
Act, 1990* Review**

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In October 2015, Council endorsed a letter to the Ministry of Natural Resources and Forestry (the Ministry) concerning its review of the *Conservation Authorities Act, 1990* (the Act). Based on the Ministry's initial consultation, another discussion paper has been released with more defined proposed actions.

Comments are being accepted until September 9, 2016. The attached draft response, developed with input from staff across the Region, follows direction previously provided by Council in October 2015. Additional input from Committee of the Whole on September 8 will be integrated into the draft response and submitted to the Ministry by the comment deadline.

Discussion paper proposed five key priorities for updating the Act

In the latest discussion paper, the Ministry proposed five priorities for updating the Act:

- Priority 1: Strengthening oversight and accountability
- Priority 2: Increasing clarity and consistency
- Priority 3: Improving collaboration and engagement
- Priority 4: Modernizing funding mechanisms
- Priority 5: Enhancing flexibility for the Province

A number of actions are proposed by the Ministry under each priority area. Many of these key priorities and actions align with the Region's previous comments.

Ministry addressed a number of Region's comments

Overall, the most recent discussion paper has taken into account many of the Region's previous comments. For example, a key recommendation from the Region's previous

response was for the Ministry to define the core mandate for Conservation Authorities. Within the current discussion paper, the Ministry has indicated it will more clearly define Conservation Authority mandates. The Ministry is also indicating that the Act will require better delineation between mandatory and discretionary programs for funding requests and will require Conservation Authorities to develop service level standards.

The majority of comments from October 2015 Council report were addressed in the latest discussion paper

The Ministry addressed the following key issues in their latest discussion paper:

- Define core mandate for Conservation Authorities with a focus on natural hazard management, integrated watershed management, natural heritage, planning for and adapting to climate change, and education/outreach on natural environment
- Increased accountability and transparency for Conservation Authorities in the use of funding
- Incorporate mechanisms to oversee or evaluate Conservation Authorities decisions and activities similar to other provincial entities/agencies (e.g. Environmental Commissioner of Ontario)
- Require Conservation Authorities to develop service standards for scope and timelines
- Require Conservation Authorities to clearly delineate between core and discretionary funding requests
- Enforcement powers be strengthened to allow Conservation Authorities to effectively deter violations within core mandate

Two comments from Council were not addressed in the discussion paper

While many of the Region's comments were addressed, there are two items that were not addressed in the latest discussion paper:

- Ministry restore a 50-50 split for Conservation Authorities funding
- Conservation Authorities sharpen focus on climate change adaptation

These two comments are reinforced in the Region's current draft response (Attachment 1).

Proposed actions can yield beneficial results for partner municipalities if implemented effectively

Proposed Ministry actions are described at a high level with few specifics on implementation. Staff support the following proposed actions and request that the Ministry work with all stakeholders to carry out these important initiatives:

- Ministry leverage their relationship with Conservation Ontario to perform broad-based research and science

- Ministry develop an online one-window system to share information among Conservation Authorities, Ministries, municipalities and other stakeholders
- Ministry develop service standards and risk-based approvals for Conservation Authorities

Region supports many of the proposed initiatives, however resource allocation and funding concerns remain priority issues

The following comments are meant to ensure Provincial actions on the proposed Act will result in beneficial changes for all stakeholders:

- Concerns remain regarding the Ministry's engagement strategy with stakeholders in the decision-making process and how this will be addressed under the Conservation Authority funding and board structures.
- It is proposed that the Minister be provided additional flexibility under the Act to delegate tasks to Conservation Authorities, municipalities, and other stakeholders. Staff are concerned about the potential resource and financial implications for municipalities and other groups with no indication that commensurate funding will be provided.

Proposed changes to Act to be released in a later phase of consultation

At this time, the Ministry has only released a discussion paper for consideration. The Ministry is expected to consider feedback from the current consultation when developing proposed legislative changes over the next six to twelve months. As a result, the full impact of priorities and actions proposed in the discussion paper will not be fully known until proposed legislative updates are released. Staff will monitor development of proposed updates to the Act, and bring any new information as well as a summary of implications and future Council meeting.

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Erin Mahoney, M. Eng  
Commissioner, Environmental Services

DS/BM

Attachment

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September 9, 2016

Alex McLeod  
Policy Officer  
Ministry of Natural Resources and Forestry  
Policy Division  
Natural Resources Conservation Policy Branch  
Water Resources Section  
300 Water St.  
Peterborough Ontario, K9J 8M5

Dear Mr. McLeod:

**RE: York Region Comments – Conserving our Future: Proposed Priorities for  
Renewal (*Conservation Authorities Act, 1990*) – EBR Number 012-7583**

York Region staff thank the Ministry of Natural Resources and Forestry (the Ministry) for the opportunity to comment on the proposed Priorities for Renewal of the *Conservation Authorities Act* (the Act). While this response incorporates feedback received from Committee of the Whole at its meeting September 8, the comments have not been formerly endorsed by Council. Formal endorsement of this response is anticipated at the next Council meeting scheduled on September 22, 2016 at which time there may be additional comments. Any additional feedback received from Council will be forwarded to the Province for consideration.

Municipalities partner with Conservation Authorities to deliver important services within the watershed and provide the majority of funding to Conservation Authorities. York Region is on the border of two watersheds and works collaboratively with both the Toronto and Region Conservation Authority (TRCA) and the Lake Simcoe Region Conservation Authority (LSRCA).

Defining core mandate of Conservation Authorities will provide clarity for all stakeholders

Providing clarity and consistency in the Act is crucial to ensuring that Conservation Authorities, municipalities, and the Ministry can collaboratively address watershed issues. Defining the core mandate of Conservation Authorities was a key recommendation from the Region's previous submission on the discussion paper issued in October 2015. Staff thank the Ministry for considering and acting upon these comments.

Providing clear direction in the Act on roles and responsibilities will help simplify aspects of the relationship between municipalities and Conservation Authorities to effectively protect watersheds. Watershed planning, protection and natural hazard management are anticipated to become increasingly important as weather events continue to intensify; setting a strong mandate for Conservation Authorities in this area will be beneficial to help mitigate and adapt to the effects of climate change.

Mandatory and discretionary programming should not overlap with mandated responsibilities

It is recommended that mandatory programs be prescribed in the Act to ensure that programs and activities clearly fall within either the mandatory or discretionary sphere of Conservation Authority responsibilities. This will provide clarity for all stakeholders and will help simplify the budget prioritization process. Sources of funding for mandatory and discretionary programs have not been defined under the discussion paper, which has the potential to result in increased funding requests from municipal budgets already under pressure. Consideration should be given to ensuring that mandatory programs for Conservation Authorities do not overlap with regulated responsibilities of other stakeholders. In addition, mandatory programs should be fully funded prior to any consideration of discretionary programs.

Collaboration and information sharing between Ministry and Conservation Ontario likely to result in reduced costs and greater efficiency

York Region is in agreement that timely and meaningful stakeholder engagement will be beneficial to help meet the goals of Conservation Authorities. Leveraging the relationship between the Ministry and Conservation Ontario will help improve the consistency of program delivery between authorities. Increased collaboration to develop and share science/research initiatives and outcomes among Conservation Authorities will help ensure that all authorities in Ontario are effectively equipped to address watershed challenges, while having potential to address some issues related to funding disparities between large and small authorities. It is recommended that this broad-based research performed by Conservation Ontario be funded by the Province. This has potential to reduce costs through economies of scale and ensure that research is applicable to the majority of Conservation Authorities across Ontario supporting Provincial policy on climate change and other Provincial areas of interest.

One-window system should be structured in an intuitive manner to support and enhance watershed planning

Region staff support establishing a one-window system as a resource for all those responsible for watershed planning. For this tool to be successful, it should be developed with a primary focus on ensuring high-quality data with a user-friendly interface and structured to fit the watershed scale. Past Ministry efforts to address items at a watershed scale have resulted in planning and implementing resource

management at larger “zone” scales that encompass many smaller ecological units. If proceeding with a one-window system, it is recommended that the Ministry ensure that it does not jeopardize the expertise and momentum that Conservation Authorities have in watershed planning and that programs continue to be administered at an ecologically appropriate scale.

Consistent funding and accountability crucial to ensuring effective service delivery

Consistent and dependable funding for Conservation Authorities and accountability for how these funds are used is crucial to ensuring that Authorities effectively deliver services. It is recommended that the review of accountability and funding mechanisms under this proposed priority be transparent and focused on effectiveness and efficiency rather than only focusing on reducing costs. Similar to defining the core mandate, modernizing funding mechanisms for clarity, consistency, and accountability will help ensure that Conservation Authorities are able to optimize funding to meet their core mandate.

Greater consistency in developing the budget of Conservation Authorities will lead to more effective planning and priority setting

Clarifying the role of municipalities in overseeing Conservation Authorities’ budget development and allocation, along with standardizing the budget development process, will help simplify this activity for all parties. For example, providing a template for the budget process could facilitate more consistent comparisons between authorities. If a template is developed, it is recommended that it include a section for asset management funding. This will help ensure Conservation Authorities are effectively planning to maintain their assets in the long-term.

Risk-based approval processes allows for greater flexibility and reduced schedule impacts during infrastructure project delivery

Some municipalities, including York Region, have Service Level Agreements (SLAs) with Conservation Authorities to expedite and guarantee turnaround times for certain permitting activities. York Region pays nearly \$1 million per year for additional staff support and service standards to sustain the Region’s capital infrastructure programs.

York Region strongly encourages the development of risk-based approval processes to allow for greater flexibility and reduced schedule impacts during infrastructure project delivery and implementation. However, this approach can also result in greater effort, resources, and increased liability for proponents tasked with self-screening, self-registering, and compliance monitoring. It is recommended that any risk-based approval process be developed by the Ministry, through Regulation under the Act, to ensure consistency and standardization across all Conservation Authorities. Service level agreements identified above would provide a good template for the Ministry to set service standards for Conservation Authority activities.

More detail required on stakeholder engagement during decision-making process and funding priorities

The consultation document indicates that increased decision-making power over Conservation Authority actions will be provided to a wider array of stakeholders. This change in the decision-making process has potential to result in increased resource requirements for Conservation Authorities, which could result in requests for increased funding from municipal budgets already under pressure. Further, it is unclear how this broadened decision-making will be accomplished. York Region's submission on the Act discussion paper supported the current board structure based on the principle that sources of funding were generally represented in a proportional manner on the board of Conservation Authorities.

Re-examine Ministry funding level to ensure it meets the needs of Conservation Authorities

Funding is a significant challenge for many Conservation Authorities and it varies based on population levels. Municipalities provide significant funding to Conservation Authorities. In 2015, the Region provided Lake Simcoe Region Conservation Authority \$5.7 million in funding and \$12.2 million to the Toronto and Region Conservation Authority.

While the Province continues to provide funding to Conservation Authorities, the total dollar value of funding remained static for many years and in recent years has been marginally reduced. Since Ministry funding has not been adjusted for inflation or the changing needs of Conservation Authorities, funding levels currently do not meet the original commitment of a 50-50 ratio for those activities defined as eligible for provincial funding (e.g. eligible operational activities related to flood management). This has resulted in pressure on the municipal tax levy to meet the needs of Conservation Authorities. It is recommended that the Province adjust funding to reflect inflation and attempt to meet the 50-50 funding ratio with municipalities for the mandatory programs identified in the Province's 1997 Policy and Procedures Manual.

Ministry delegation authority could result in additional resource pressures for municipalities and Conservation Authorities

In general, staff support the concept of enhancing flexibility in the Act to delegate delivery of services, however there are concerns related to the scope of this flexibility. The proposed delegation of authority is very broad and does not specify what services could be delegated to other groups or whether these groups have sufficient resources or capabilities to perform the services. As identified above, resourcing pressures are very real for both municipalities and Conservation Authorities, therefore, it is recommended that the Act be structured in a way that permits this flexibility with strong consultation requirements. Any decision on delegating services should be preceded by focused consultation with impacted groups, which includes consideration of the ability for the group to effectively deliver the service. This delegation should also clearly

identify when Provincial funding is appropriate. The delegated group should also have a role in program development to support program delivery.

Updated Act should consider changes to watershed management legislative framework

Since the Act was last reviewed, a number of acts, regulations, and guidelines have been enacted and developed, which impact watershed management such as the *Great Lakes Protection Act, 2015*, an updated Provincial Policy Statement, along with reviews of Provincial Plans and the *Municipal Act, 2001*. It will be important for the updated Act to consider watershed and land use management from a holistic perspective to ensure these legislative tools do not result in conflicting requirements. Further, it is recommended that the Ministry develop clear and defined action plans to ensure consistent and successful implementation of Provincial priorities across multiple ministries.

Staff would like to thank the Ministry for considering Region staff comments on the Provincial discussion paper for review of the *Conservation Authorities Act, 1990*. Staff look forward to an opportunity for continued consultation as the Province moves forward with updates to this legislation. If you have any questions regarding this response, please contact David Szeptycki, Head of Strategy, Liaison, and Policy Implementation at [David.Szeptycki@york.ca](mailto:David.Szeptycki@york.ca).

Yours truly,

*Original Signed*

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Commissioner  
Environmental Services  
Regional Municipality of York

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