

If this information is required in an accessible format, please contact 1-800-372-1102 ext. 2564



The Regional Municipality of Durham Information Report

From: Commissioner of Planning and Economic Development
Report: #2021-INFO-82
Date: July 30, 2021

Subject:

Regulatory proposals (Phase 1) under the Conservation Authorities Act, File: L14-45

Recommendation:

Receive for information.

Report:

1. Purpose

1.1 On May 13, 2021, the Ministry of Environment, Conservation and Parks (MECP) released an Environmental Registry of Ontario (ERO) Posting [#019-2986](#) and associated [Consultation Guide](#) proposing new regulations under the *Conservation Authorities Act* (CA Act) related to the mandate of Conservation Authorities (CAs) that:

- prescribe mandatory programs and services.
- provide direction on how municipalities will fund CA programs and services.
- consolidate “Conservation Areas” regulations.
- introduce requirements for CAs to have community advisory boards.

1.2 The deadline for comments was June 27, 2021. Given the short commenting period, it was not possible to deliver Council-endorsed comments to the Ministry prior to their deadline. Therefore, on June 24, 2021, Regional comments were provided to the Ministry by way of a letter from the Commissioner of Planning and Economic Development, (see Attachment #1). The authority for the Commissioner

to comment on behalf of the Region is provided under Delegation of Authority By-law 29-2020. The Commissioner's letter concluded by stating that the comments are those of Regional staff; that we will bring the letter to Council's attention, and will advise accordingly if there are any changes as a result. A summary of the comments and recommendations provided to MECP is contained in Paragraph 1.5 of this report.

1.3 It is anticipated that in the coming months, the MECP will be consulting on the second phase of proposed regulations under the CA Act, including:

- Municipal levies for the apportionment of CA capital and operating expenses for mandatory and non-mandatory programs and services.
- Provisions pertaining to municipal appeals of CA municipal levy apportionments, including who would hear those appeals.
- Standards and requirements for the delivery of non-mandatory programs and services.

It is expected that the Region will have additional comments on this next phase of regulations and will provide staff's comments through a future report to Committee and Council, time permitting.

1.4 The letter provided to the Ministry on June 24, 2021 (Attachment #1) is consistent with former Regional positions on the CA Act. A summary of comments and recommendations is as follows:

- With regard to the preparation of mandatory transition plans by the CAs, the regulation requires that municipalities be consulted. We suggested that more emphasis be placed on including municipalities as partners in the preparation of these transition plans, not simply consulting.
- Under the new regulation, Memorandums of Understanding are required between CAs and municipalities for the delivery of services. The Region of Durham has five CAs within its jurisdiction; hence, we could have different MOUs. We suggested that the province develop a template to allow for consistency across the province.
- We suggested that the province commit to evaluating the effectiveness of the new regulatory approach within a defined time period (e.g. three years).
- Under the new regulation, MECP will have a more direct role in the activities on CAs than in the past when the Ministry of Natural Resources and Forestry

(MNRF) was the lead Ministry. We recommended in the letter that MECP and MNRF work collaboratively to oversee CAs to ensure that MNRF programs are supported by the province.

- It was reiterated that the changes being proposed by the province require a clear financial commitment from the province. We requested that the province provide appropriate transition funding to support the implementation of the new regulations.
- We recommended that the province continue to contribute funding to the drinking water source protection portfolio.
- There is a new requirement that CAs create Community Advisory Boards in addition to the established CA boards. The need for such a body is questionable in some jurisdictions and the establishment of Community Advisory Boards could increase administrative costs to CAs in relations to set up and operation. We have recommended a less prescriptive approach, one that could enable the establishment of ad-hoc advisory boards if a need exists on a specific project, for example.
- It was recommended that the Province enhance the Section 29 enforcement powers/tools to assist CAs in effectively addressing unlawful activities in conservation areas.

2. Background

- 2.1 The first CA Act was passed in 1946 in response to extensive flooding erosion, deforestation and soil loss resulting from poor land, water, and forestry management practices. 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 CA Act has been updated several times, most recently in 2019 and 2020.
- 2.2 The Act sets out the “objects” or goals of a CA to deliver prescribed and core mandatory programs and services to ensure that CAs are in the best position possible to deliver on their mandate. These objects also provide CAs with the authority to deliver non-mandatory programs and services, either on a municipality’s behalf, or that the CA determines are advisable.

3. Previous Reports and Decisions

3.1 The following Regional staff reports related to conservation authority matters have been provided to Council over the last few years:

- Bill 139, Building Better Communities and Conserving Watersheds Act, 2017, and associated supportive documents, Report [#2017-INFO-79](#).
- Proposed amendments to the Conservation Authorities Act and associated regulations, Report [#2019-P-27](#).
- Durham's Response to Bill 108, Ontario's Housing Supply Action Plan, 2019 and related Regulatory Proposal Changes, Report [#2019-A-22](#).
- Bill 229, Protect, Support and Recover from COVID-19 Act (Budget Measures) – Changes to the Conservation Authorities Act and Planning Act, Report [#2020-P-26](#).
- Bill 229, Protect, Support and Recover from COVID-19 Act (Budget Measures) – Royal Assent, Report [#2021-INFO-1](#).

4. Overview of Regulatory Proposals

4.1 The proposed regulations for consultation are focused on:

- a. mandatory programs and services to be delivered by conservation authorities.
- b. proposed agreements that may be required with participating municipalities to fund non-mandatory programs and services through a municipal levy.
- c. transition period for establishing those agreements.
- d. requirements to establish Conservation Authority Community Advisory Boards, separate from the Authority's Board of Directors.
- e. the Minister's section 29 regulation relating to conservation authority operation and management of lands owned by the authority.

4.2 For context, under the CA Act, programs and services delivered by CAs can be:

- a. **Mandatory Programs:** Mandated by the Province and may be funded by municipal levies, provincial grants and/or CA self-generated revenue (e.g. user fees). An example of a mandatory program or service is one that helps manage the risk posed by natural hazards, such as flooding.
- b. **Non-mandatory Programs and Services** that may be provided by a CA at the request of, and on behalf of one or more participating municipalities under the CA Act, if a memorandum of understanding (MOU) or other agreement has been entered into between the parties to have the program or service funded through a municipal levy or by some other funding mechanism that

may be set out in the MOU or service contract. An example of a non-mandatory program would be one related to restoration and stewardship activities.

- c. **Municipal requests of CAs to provide non-mandatory programs and services** on behalf of the municipality from 'specified' municipalities. Specified municipalities are those that are designated in an authority for the purposes of the Clean Water Act, 2006 or the Lake Simcoe Protection Act, 2008. These arrangements would also require a MOU or other agreement to have the program or service funded by municipal levy or by other funding mechanisms that may be set out in the MOU or the other agreement. An example of where a municipality might request a CA to provide a service would be stewardship activities within a Source Protection Area or Lake Simcoe watershed.
- d. **Non-mandatory programs and services that the CA determines are required** to meet the purpose of the CA Act in their jurisdiction and that require municipal funding through an agreement with the authority's participating municipalities. An example of a non-mandatory program that a CA may feel should be provided would be ecological monitoring outside of CA-owned lands.

Mandatory Programs and Services

4.3 The categories of mandatory programs and services, as defined in the CA Act are related to:

- a. Risk of natural hazards.
- b. Conservation and management of lands owned or controlled by a CA, including any interests in land registered on title.
- c. CA duties, functions, and responsibilities as a source protection authority under the Clean Water Act, 2006.
- d. Lake Simcoe Region Conservation Authority duties, functions, and responsibilities under the Lake Simcoe Protection Act, 2008 for the Lake Simcoe Region Conservation Authority.
- e. CA duties, functions and responsibilities under other legislation prescribed by regulation particularly related to on-site sewage systems approvals by North Bay-Mattawa Conservation Authority as prescribed under the Building Code Act, 1992 (not applicable in Durham).
- f. Other programs or services prescribed by the regulation within a year of the end of the transition period. These are proposed to be a core watershed-

based resource management strategy and provincial water quality and quantity monitoring.

- 4.4 As prescribed by the CA Act, CAs are required to provide mandatory programs and services related to Source Protection Authority Responsibilities under the Clean Water Act, 2006, such as:
- a. Administration of the source protection committee and administrative support to source protection committees.
 - b. Preparing amendments to assessment reports and source protection plans
 - c. Implementing source protection plan policies.
 - d. Tracking and reporting on the progress of source protection plan.
 - e. Maintaining and providing access to source protection data and information.
- 4.5 Under the Lake Simcoe Protection Act, the Lake Simcoe Region Conservation Authority (LSRCA) is under an obligation to ensure that its CA Act s.28 permit decisions conform to the applicable designated policies in the Lake Simcoe Protection Plan (LSPP) and have regard to other certain specified policies. The LSPP sets out which policies are implemented through LSRCA's Section 28 permit process¹
- 4.6 The Regulatory Consultation Guides sets out the mandatory programs and services related to the LSRCA's duties, functions and responsibilities under the LSPP and lists the relevant policies.
- 4.7 Responsibilities **may** be assigned to CAs through other legislation, outside of the CA Act, Clean Water Act, 2006 or Lake Simcoe Protection Act. Responsibilities under other legislation are proposed to be prescribed by regulation under the CA Act.

Other Programs and Services

- 4.8 The CA Act also allows 'other' programs and services not listed in previous mandatory categories to be prescribed by regulation. These 'other' programs and

¹ Section 28 of the Conservation Authorities Act is known as "Development, Interference with Wetlands and Alterations to Shorelines and Watercourses (Existing Ontario Regulation 157/06)". This regulation allows CAs to ensure that proposed development and other activities have regard for natural hazard features in order to: prevent loss of life; minimize property damage and social disruptions; reduce public and private expenditures related to emergency operations, evacuations and restoration; and minimize the hazards associated with development in flood plains and areas that are susceptible to erosion, which may require expensive protective measures in future years. CAs issue permits under Section 28 for works in or near watercourses, valleys, wetlands, or shorelines, when required.

services would need to be prescribed within a year after the end of the transition period (by January 1, 2024). These include:

- a. Developing a Core Watershed-based Resource Management Strategy
- b. Undertaking Provincial Water Quality and Quantity Monitoring Programs, including:
 - Provincial stream monitoring program
 - Provincial groundwater monitoring program

4.9 Depending on the circumstances of a CA, the resource management strategy could be extended to cover a broader range of natural resource areas than the core mandate, and include ongoing expenses that enable the CA to function effectively as an organization in delivering public programs and services and ensuring they can best meet the needs of their local communities.

Natural Hazards

4.10 The Consultation Guide proposes that the Ministry of Natural Resources and Forestry (MNRF) require each CA 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, 2020 (PPS, 2020) and low water/drought as part of Ontario's Low Water response.

4.11 Each CA will be required to implement mandatory programs and services related to the conservation and management of lands owned or controlled by the CA, including any interests in land registered on title, within their jurisdiction:

- a. Administration of the section 29 Minister's regulation of 'Conservation Areas' or land owned by CAs including the setting out of fees, permits and enforcement activities.
- b. Development and implementation of a management strategy for all CA owned or controlled lands.
- c. Development and approval of a policy regarding the securement/acquisition and disposition of land owned or controlled by the CA.
- d. Development of a CA management plan for each property owned or controlled by the authority.

Funding of CAs and Memorandums of Understanding (MOUs)

- 4.12 Ongoing organizational costs such as administrative, operating and capital costs which are not directly related to the delivery of any specific program or service, but are overhead and support costs of a CA, such as governance costs, accounting and payroll, asset management planning will be funded by the participating municipalities annually.
- 4.13 The Consultation Guide proposes implementing an un-proclaimed provision in the CA Act from Bill 229 that enables an authority to establish a fixed minimal amount as the portion of the CA's operating expenses that a participating municipality is required to pay each year. However, this proposal will be consulted on in phase 2 of the ministry's regulatory development along with a proposed levy regulation.
- 4.14 Un-proclaimed amendments to the CA Act from Bill 229 would require CAs 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.
- 4.15 Non-mandatory programs and services can be delivered by a CA on behalf of a municipality and funded by municipal levy. For example, a CA may be asked to provide input on a municipal land use planning matter outside of a natural hazard area, such as natural heritage policies to ensure protection of significant wetlands, fish habitat, significant woodlands, significant wildlife habitat and the habitat of endangered and threatened species.
- 4.16 A CA may also determine whether it would be advisable to implement some non-mandatory programs and services with funding by municipal levy. The CA would then be required to have agreements with each of the participating municipalities for the municipal funding. Municipalities can then decide whether to fund these programs and services by entering into time limited agreements with the CA.
- 4.17 The Consultation Guide includes a provision that CAs could continue to provide non-mandatory programs and services, without any municipal agreement, if the programs and services are funded by revenue that is not from a municipal levy. For example, this could include authority self-generated revenue such as from resource development, conservation area access fees, through contracts with others (government, environmental organizations, etc.) or through government grants.
- 4.18 The proposed changes would not limit the province from continuing to fund CAs for non-mandatory programs and services (e.g. area-specific initiatives) or assigning

CAs with additional non-mandatory programs and services in the future, subject to funding and compliance with the CA Act.

Transition Plans

4.19 The proposed regulation would require each CA to develop and implement a transition plan by the end of 2021 that includes:

- A workplan and timeline outlining the steps the CA plans to take to develop and enter into agreements with its participating municipalities.
- The preparation of an inventory of all of the authority's programs and services, with clear indication for each program and service which of the three categories it fits into (mandatory programs and services where municipal levy could be used without any agreement; non-mandatory programs and services at the request of a municipality with municipal funding through a MOU; non-mandatory programs and services an authority determines are advisable), and how they are funded (e.g., provincial, federal, municipal funding, municipal levy, and self generated revenue).
- The consultation process with participating municipalities on the inventory.
- A list of any new mandatory programs and services the authority will need to provide to meet the requirements of the mandatory program and services regulation.
- A list of non-mandatory programs and services for which the authority will seek municipal agreement to fund via municipal levies, including estimated amounts requested/required from the participating municipalities to do so.
- A list of non-mandatory programs and services that do not require municipal agreements (if the programs and services are funded by revenue that is not from a municipal levy).
- Steps taken and/or to be taken to enter into these agreements.

4.20 During the period of developing and finalizing the conservation authority/municipal agreements, the government is proposing that conservation authorities be required to report quarterly to the government and public on the progress of obtaining these agreements. This approach would allow for clear determination on the status of progress in the transition to the new funding structure.

Municipal Agreements

- 4.21 In order to effect these changes, MECP is proposing to proclaim the sections of the CA Act that remain unproclaimed and develop one Minister's regulation ("Municipal Agreements and Transition Period" Regulation) that would establish standards and requirements for entering into agreements for municipal funding of conservation authority initiated non-mandatory programs and services and provided regulatory authority for a transition period/plan.
- 4.22 MECP has proposed January 1, 2023 as the prescribed date by which agreements must be in place for CAs to use or continue to use the levy powers under the CA Act for their participating municipalities to fund non-mandatory programs and services the authority determines are advisable. This prescribed date would bring the new proposed financial structure for CAs into practice for the authority and municipal fiscal year of 2023.

Timing for Transition Plans and Municipal Agreements

- 4.23 The timing for the transition plans and municipal agreements is proposed as follows:
- a. By December 31, 2021:
 - Completion of transition plans.
 - b. Through the course of the municipal and conservation authority fiscal year 2022:
 - Quarterly reports by conservation authorities on the status of progress made in attaining agreements with municipalities, provided to the Minister, and made public.
 - The Province could develop a reporting template for the authorities to follow for consistency and clarity.
 - c. By December 31, 2022:
 - All required conservation authority/municipal agreements would need to be in place, and the transition to the new funding model for conservation authorities and municipalities would be reflected in authority budgets for 2023.

Extensions to the Transition Period

- 4.24 MECP 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 municipality in the authority, submits a written request for the extension to MECP at least 90 days before the end date in the transition period regulation.
- 4.25 The regulation could set out broad circumstances when the Minister would be authorized to grant an extension to provide flexibility to authorities and municipalities in the transition to the new levy system. An extension may be required to accommodate the approval of municipal budgets following the 2022 municipal election.

Conservation Authority Community Advisory Boards

- 4.26 The CA Act and associated regulatory proposal requires CAs to establish Community Advisory Boards, separate from the Conservation Authority Board of Directors. These Boards are intended to provide members of the public with an avenue to provide advice to the authority. The province is proposing through the Consultation Guide that the Community Advisory Board be guided by a Terms of Reference that would provide specific details related to the composition, activities, functions, duties of the community advisory board.
- 4.27 The regulatory proposal includes prescription of the composition of community advisory boards, including:
- Requiring that members reside in the authority's jurisdiction.
 - Permitting membership from members of the public.
 - Setting a minimum number of members at 5.
 - Ensuring, where possible, members represent the geographic range of the authority's jurisdiction.
 - Ensuring that a variety of members are sought, including youth and indigenous representatives.
 - Enabling the appointment process of members by public notification and application.
 - Setting a minimum of one authority member (and an alternate) be appointed to the community advisory board and a maximum authority representation of 15%.

- Requiring that administrative support to community advisory boards be provided by the CA.

4.28 The Terms of Reference for a community advisory board is also expected to outline specific functions and activities of the community advisory board scoped to the Authority's needs, and at a minimum enable community advisory board members to:

- Provide advice and recommendations to the authority on the CA's strategic priorities and associated policies, programs, and services.
- Discuss opportunities to co-ordinate with other environmental initiatives in the CA's jurisdiction (e.g. municipal).
- Identify opportunities for community engagement.
- Suggest potential community outreach opportunities.
- Carry out any other functions as identified in the Terms of Reference.

4.29 The province also intends to prescribe the matters related to the accountability and reporting mechanisms for community advisory boards.

5. Relationship to Strategic Plan

5.1 This report aligns with/addresses the following strategic goals and priorities in the Durham Region Strategic Plan:

- a. Under the goal of Environmental Sustainability, Priority 1.3: to protect, preserve and restore the natural environment, including greenspaces, waterways, parks, trails, and farmlands.
- b. Under the goal of Environmental Sustainability, Priority 1.4: demonstrate leadership in sustainability and addressing climate change.

5.2 This report also aligns with/addresses the Durham Community Climate Adaptation Plan, which focuses on building resilience to climate change impacts.

6. Conclusion

6.1 It is the conservation authorities' responsibility to prepare transition plans and consult with their respective municipalities to move towards the establishment of MOUs/service level agreements between now and 2023, in accordance with the regulatory proposal. Regional staff will facilitate discussions with the Region's five conservation authorities and will keep Council apprised of progress.

6.2 In the coming months, the Province is expected to consult 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.

6.3 The timeframe for release of these regulations will greatly impact the development of MOUs and ability to meet process timelines outlined in the Guide.

6.4 The regulatory proposals provide detailed direction for the implementation of the CA Act. Significant staff time will be required over the next two years to work alongside the CAs to achieve the requisite MOUs/agreements. Regional staff have a close working relationship with each of the five CAs within Durham. The Region has an existing Partnership Memorandum with the CAs to discharge our responsibilities with respect to natural heritage and hazard land protection. The Partnership Memorandum will be revisited through transition period. CAs also play key role in the implementation of source protection planning in partnership with the Region that supplies drinking water to reduce risks to human health.

6.5 A copy of this report will be provided to the Area Municipalities and conservation authorities for their information.

7. Attachments

Attachment #1: Letter dated June 24, 2021 to the Ministry of Environment, Conservation and Parks, Regulatory proposals (Phase 1) under the Conservation Authorities Act

Respectfully submitted,

Original signed by

Brian Bridgeman, MCIP, RPP
Commissioner of Planning and
Economic Development



June 24, 2021

**The Regional Municipality
of Durham**

**Planning and Economic
Development Department**

Planning Division

605 Rossland Road East
Level 4
PO Box 623
Whitby, ON L1N 6A3
Canada

905-668-7711
1-800-372-1102
Fax: 905-666-6208
Email: planning@durham.ca

durham.ca

Brian Bridgeman, MCIP, RPP
Commissioner of Planning and
Economic Development

Liz Mikel
Conservation and Source Protection Branch
Ministry of Environment, Conservation and Parks
40 St Clair Ave W, 14th Flr
Toronto, ON M4V 1M2

Dear Ms. Mikel,

**RE: Regulatory proposals (Phase 1) under the
Conservation Authorities Act, ERO Number 019-2986,
Our File Number D07-60-00**

On May 13, 2021, the Ministry of Environment, Conservation and Parks (MECP) released ERO Posting #019-2986 proposing new regulations under the Conservation Authorities Act (CA Act) related to the core mandate of conservation authorities (CAs).

The proposed regulations for consultation are focused on:

- 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.
- the Minister's section 29 regulation relating to conservation authority operation and management of lands owned by the authority.

Thank you for the opportunity to provide comments on the CA Act Regulatory Proposals. Regional staff have been very involved in past consultations, and Regional Council has provided comments to the Province over the past few years.

We understand that in the coming months, the MECP will be consulting on the second phase of proposed regulations under the CA Act, including:

- Municipal levies for the apportionment of CA capital and operating expenses for mandatory and non-mandatory programs and services.
- Provisions pertaining to municipal appeals of CA municipal levy apportionments, including who would hear those appeals.
- Standards and requirements for the delivery of non-mandatory programs and services.

It is expected that Durham Region will have additional comments on this next phase of regulations. The timeframe for release of these next phase of regulations will greatly impact the development of memorandums of understanding, as required by the province, and the ability to meet process timelines outlined in the Guide. It is requested that the province release the next phase of regulations at the earliest opportunity.

Background

There are five CAs within Durham Region, including:

- Toronto and Region (TRCA) – Pickering, the majority of Ajax and a portion of Uxbridge.
- Central Lake Ontario (CLOCA) – Whitby, Oshawa, portions of Ajax and Pickering, and the western portion of Clarington.
- Ganaraska Region (GRCA) – the eastern portion of Clarington.
- Kawartha Region (KRCA) – the majority of Scugog, portions of Brock and a small portion of Uxbridge.
- Lake Simcoe Region (LSRCA) – the majority of Brock and Uxbridge, and the western portion of Scugog.

The Region has a close working relationship with each of the five CAs within Durham. In 1996, the province delegated the Provincial Plan Review function to Durham through a Memorandum of Understanding. To carry out these responsibilities, the Region subsequently entered into a Partnership Memorandum with its five CAs to coordinate the discharge of their responsibilities with respect to natural heritage and hazard land protection through the land use planning process. The Partnership Memorandum has been updated and renewed twice since 1996.

CAs also play key role in the implementation of source protection planning in partnership with municipalities that supply water to reduce risks to drinking water. These roles were established in the Clean Water Act in 2006. All five CAs in Durham are very engaged in their roles as a Source Protection Authority.

The following provides a summary of the key comments and concerns raised regarding the Regulatory Proposal.

Details of the Regulation

The Regulatory Proposal Consultation Guide provides an “intent” to draft a regulation but does not provide the detailed wording that would be included in a final regulation. It would be helpful in future consultations for the province to provide draft regulatory wording for review.

Prescribed Date for Completing Municipal Agreements and Transition Period

It is understood that the effective date for municipal agreements is now intended to be January 1, 2023. When Bill 229 was passed in 2020, it was understood that the regulations would come into effect on January 1, 2022. The introduction of a one-year transition period is welcomed, as it allows additional time to implement the new model of funding and municipal-CA relationships, particularly since Phase 2 of the regulations have not yet been released.

Un-proclaimed provisions in the CA Act, once proclaimed, would establish a requirement for a transition plan for CA/municipal agreements to be in place, with the ability to prescribe other additional matters in regulation.

The proposed regulation would require each CA to develop and implement a transition plan that includes:

- A workplan and timeline outlining the steps the CA plans to take to develop and enter into agreements with its participating municipalities.
- The preparation of an inventory of all of the CA’s programs and services, detailing the category of the program or service, and how they are funded (e.g., provincial, federal, municipal funding, municipal levy, and self generated revenue).
- The consultation process with participating municipalities on the inventory.

- A list of any new mandatory programs and services the authority will need to provide to meet the requirements of the mandatory program and services regulation.
- A list of non-mandatory programs and services for which the authority will seek municipal agreement to fund via municipal levies, including estimated amounts requested/required from the participating municipalities to do so.
- A list of non-mandatory programs and services that do not require municipal agreements (if the programs and services are funded by revenue that is not from a municipal levy).
- Steps taken and/or to be taken to enter into these agreements.

CAs would be required to submit copies of their transition plans to the Minister of the Environment, Conservation and Parks 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 the conservation authority's website).

We would like to work more closely alongside the CAs in the preparation of these transition plans, as a key partner, rather than to be simply consulted, and suggest emphasis in the regulation be placed the importance of municipalities in the development of the transition plans.

Memoranda of Understanding

There is an opportunity in the development of the memoranda of understanding for non-mandatory programs and services to create a base level of consistency amongst the Region's five CAs with respect to delivery of programs/services across mandatory and non-mandatory programs and services.

The un-proclaimed amendments to the CA Act provide requirements for the agreements between CAs and participating municipalities for the use of municipal levies to finance in whole or in part the non- mandatory programs and services that the authority has determined are advisable to further the purposes of the Act.

Certain time periods may be specified for the purposes of reviewing and renewing any such agreements that are reached, including regular review intervals to align with municipal elections and CA Board appointments, for example. The regulatory proposal to have flexible agreement arrangements is supported to allow for efficiencies and expedition of the agreements.

However, without a template or preferred approach, the Region of Durham could conceivably have five different MOUs (one per CA in our jurisdiction), or one MOU that covers everything between CAs and the Region. It was requested that the province work with Conservation Ontario to expand upon the template MOUs developed in 2019 to allow for consistency across the province on elements of the MOUs.

Effectiveness of Implementation

A commitment by the province to evaluate the effectiveness of the new regulatory approach after a defined time period (e.g. 3 years) has not been identified in the Regulatory Proposal Consultation Guide. Such an evaluation would be important to allow an understanding of whether the changes support the objectives of streamlining services, focus on mandatory programs and servicing, costs savings or other considerations, such as public access to important CA lands. It is recommended that a program evaluation be considered in the context of the regulations.

Ministry Relationships with CAs

With the recent changes to the CA Act over the past two years, the MECP is now responsible for overseeing CAs and the transition of the CA mandate over the coming years. However, most programs such as natural hazards and flooding are under the purview of the Ministry of Natural Resources and Forestry (MNRF). It is unclear if this will improve the CA working relationship with the province, or whether it would serve to confuse areas of responsibility. It is recommended that the MECP and MNRF collaboratively oversee CAs to ensure that MNRF programs are supported by the province.

Financial Funding/Commitments

The changes proposed by the province to the framework of municipal-CA operations requires a **clear financial commitment** from the province, particularly in the form of transition funding, to support new service level agreements and memoranda of understanding for service delivery over the next two years. It is requested that the province provide appropriate transition funding to support the implementation of the new regulations.

To **deliver on the objectives of the provincial flooding strategy** (i.e. mandatory programs), the province has been requested through previous Council positions, to commit funding and resources to key partners, including municipalities and CAs. This is especially important regarding floodplain mapping (and studies related to natural hazards management) as it is largely an unmet need yet is critical to meeting Provincial objectives for managing flooding. The province's Protecting People And Property: Ontario's Flooding Strategy Priority #1 Understand Flood Risks – states that "Ontario's Flooding Strategy seeks to advance and enhance flood mapping in Ontario by creating an integrated, sustainable and systematic provincial flood mapping program designed in partnership with municipalities and conservation authorities. Through implementation of the following activities, sound local decisions will be able to be made based on current data and mapping."

CAs are an important delivery agent of drinking water source protection. The implementation of source protection was heavily supported by the province for several years. With the implementation of the new CA Act clauses and regulations, the support for source protection falls directly to the municipal levy. It is recommended that the Province **continue to contribute funding to the drinking water source protection** portfolio.

Community Advisory Boards

We understand that through the Consultation Guide, the province is considering the proclamation of sections of the CA Act that will require CAs to establish Community Advisory Boards, separate from the Conservation Authority Board of Directors to "provide advice to the authority". The composition of these advisory boards will vary depending on their purpose; could be sector-based (development, agriculture) and generally include conservation authority members, key stakeholders, subject matter experts, and members of the general public, and could include Indigenous members.

The establishment of Community Advisory Boards could increase administrative costs to CAs related to the set up and operation of these Boards, particularly for smaller CAs. Durham's CAs already include robust consultation programs to support policy projects, which is particularly evidenced in recent watershed plan updates across Durham. The funding of the Community Advisory Boards will fall to municipalities, as the primary funding partner to our CAs.

The proposed regulations related to Community Advisory Boards are very prescriptive and, if implemented, would restrict a CA's ability to determine at what time an advisory function would best suit the needs of their jurisdiction. It is recommended that a less prescriptive approach that would allow for flexibility of establishing ad-hoc advisory boards, focussed on specific project and plans, may be more appropriate.

Consistent with comments raised by raised by some of our CA partners, there is no test of "equivalency" built into the regulatory proposal related to Community Advisory Boards. For example, some CAs have already set up other types of advisory committees, and these may not be directly applicable to serving the purpose of Community Advisory Boards, resulting in overlap and duplication, and increased cost.

Management of Conservation Areas

The Consultation Guide identifies enforcement in conservation areas and addressing illegal activity as a mandated activity for CAs. In Durham, our CAs have seen ongoing abuse by a small number of users of local conservation areas that end up degrading the ecological integrity of the lands and introduce a threat to public enjoyment and safety.

Section 29 of the CA Act and the associated regulations currently do not provide sufficient enforcement powers and tools to effectively deal with ongoing enforcement issues. Section 29 enforcement officers have less enforcement powers and tools than local municipal by-law enforcement staff and officers appointed under the Provincial Parks and Conservation Reserve Act. The lack of enforcement powers for things such as off-road vehicles, illegal camping and campfires, often results in increased call volumes to the Durham Regional Police Service, that comes with a much higher cost to the municipality than the time and effort of CA enforcement officers.

It is recommended that the Province enhance the Section 29 enforcement powers/tools to assist CAs in effectively addressing unlawful activities in conservation areas, so that CAs can fulfill their mandated activities related to the management of conservation authority owned lands.

Thank you for the opportunity to provide input to the regulatory proposals under the CA Act. We look forward to future regulatory proposals and our continued work with the Region's five partner conservation authorities. Given the short commenting period and the summer Council recess, we wish to remind that these comments are those of Regional staff. We will bring this letter to Council's attention at the earliest opportunity and if there are any changes as a result, we will let you know.

Sincerely,

Brian Bridgeman

Brian Bridgeman, MCIP, RPP
Commissioner of Planning and Economic Development