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Dear Ms. Holder:

**Re:** *Conservation Authorities Act* Review Discussion Paper (EBR 012-4509)

Thank you for the opportunity to comment on the *Conservation Authorities Act* Review Discussion Paper. Conservation Ontario represents Ontario's 36 Conservation Authorities (CAs), which are local watershed management agencies, mandated to ensure the conservation, restoration and responsible management of Ontario's water, land and natural habitats through programs that balance human, environmental and economic needs.

The following comments are submitted for your consideration based upon a review by CAs. These comments are not intended to limit consideration of comments shared individually by CAs. As well, it is likely that the Province will receive numerous suggestions on specific amendments to the *Conservation Authorities Act* from individual CAs. Working with the Ministry of Natural Resources and Forestry (MNRF), Conservation Ontario would be pleased to facilitate review of these to reach a collective position for endorsement by Conservation Ontario Council.

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## GENERAL COMMENTS

In 2012, Conservation Ontario released a document entitled ***Watershed Management Futures for Ontario – Conservation Ontario Whitepaper*** (CO Whitepaper). Further to the Drummond Report, it raised the fact that there are a number of specific challenges with the existing watershed management policy and governance framework in Ontario that compromise the ability of the Province to effectively and efficiently manage its water and other natural resources for environmental, economic and social benefits. It highlighted that issues with mandate, governance [both CA and the relationship with the Province], funding and accountability are intimately intertwined and that a holistic approach was needed to address these issues. It advocated for the Province to initiate a discussion with CAs and this Discussion Paper is seen as a first step in initiating that discussion. Conservation Ontario's comments are focussed upon addressing the need for a more efficient and effective approach to environmental and resource management in Ontario to face today's challenges such as climate change and rapid urbanization.

Conservation Ontario's Goal for the *Conservation Authorities Act* Review:

Through review of and/or changes to the *Conservation Authorities Act*, the Province of Ontario will fully recognize and support the significant integrated watershed management role that CAs play in keeping Ontarians safe and keeping their communities healthy.

### Conservation Ontario Priorities in Summary

CAs are recommending four areas for discussion:

- **Confirm the current CA Mandate** as outlined in the *Conservation Authorities Act* which is to undertake watershed-based programs for the conservation, restoration, development and management of natural resources;
- **Formalize and expand the CAs working relationships across Ontario provincial ministries** in order to capitalize on the important contributions of CA programs and services, and to more widely leverage and support CA efforts in local watersheds;
- **Discuss the governance model** in relation to the funding model; and,
- **Establish a sustainable provincial funding formula** that captures and reflects the actual range of CA programs and services that support multiple provincial objectives.

These priorities are further elaborated on in the responses to the questions in the Discussion paper.

## RESPONSE TO THE CONSERVATION AUTHORITIES ACT DISCUSSION PAPER

### 6.1 Governance

#### General Comments

CAs are governed by the *Conservation Authorities Act* and by a board of directors. The province, through the Act, defines the objects to be pursued by the authority (Section 20) and the powers granted to the authority to achieve these objects (Section 21). The activities undertaken by CAs are directed by a municipally appointed board of directors. CAs must abide by provincial legislative, regulatory and policy requirements. In the past, the province played a more direct role in overseeing CAs. Today, while oversight of CAs is still shared between the province and the municipalities, changes to the Act, policy and general practice over time have resulted in less direct provincial oversight.

**Question #1: In your view, how well is the current governance model as provided in the *Conservation Authorities Act* working?**

**a) What aspects of the current governance model are working well?**

Governance is the dual process of decision-making and holding those that make decisions to account. The CA governance model is guided by the fundamental principles of local decision-making, cost sharing, and watershed jurisdictions. It is these principles that provide the foundation for CAs to be innovative, solution driven, efficient, transparent and accessible at the grass roots in relation to decision-making, which in turn, enables our governance to “work well”.

The watershed based governance model enables innovation to develop practical solutions to current and emerging issues (e.g. flood management, drinking water and Great Lakes water quality, climate change, rapid urbanization/growth). Effective programs focused on watershed health have been initiated and implemented due to the flexibility in the *Conservation Authorities Act*. The broad oversight by the province allows for the development of programs and services that are adaptable to fit local circumstances. The governance model facilitates the ability for CAs to establish partnerships at various levels of government and most importantly with local watershed stakeholders. The governance model based on watershed jurisdiction facilitates localized expertise and allows for local decision-making. Many CA Boards have recognized the significant contribution of a watershed management approach for integration of water quantity and water quality and green infrastructure (e.g. rural stormwater management, Low Impact Development) for greater environmental and economic benefit. The governance model provides for efficient use of local, on the ground service delivery for environmental and resource management and enables CAs to engage stakeholders and to develop processes, procedures and policies that respond to their local watershed. This governance model is integrated watershed management (see Attachment 1).

It is noted that the CA model is recognized globally as a best practice in integrated watershed management. For example, two CAs have won the prestigious Australian Thiess International Riverprize Award. With only 15 global winners of this award, since 1999, it is noteworthy that both the Grand River and Lake Simcoe Region CAs have been recognized for their success, including best practices in governance.

The *Conservation Authority Act* provides for the number of representatives that can be appointed to the Board by each municipality. This works well as it provides the municipality the flexibility to appoint who they deem appropriate to represent them whether elected or a citizen and because municipalities are the primary funders of CAs. As well, having municipal representatives as the members on a watershed Board provides an effective mechanism for municipalities to have a greater say in defining issues, and their solutions, that lie outside their municipal administrative boundary. One innovative example of this is rural stormwater management examined on a watershed (i.e. drainage basin) scale with consideration of the support provided by natural heritage systems in absorbing intense storm events both with regard to the volume of water and the sediment loadings.

Finally, the collective decision to create an Association of CAs of Ontario (i.e. Conservation Ontario) has enabled the CAs to have a single collective voice that represents the majority of CA opinions on a given issue. In terms of program design and development, having Conservation Ontario as the liaison (i.e. single voice) with the Province on the development of the source water protection program and its implementation has benefited both the CAs and the Province and more importantly, the environment and well-being of Ontarians.

**b) What aspects of the current governance model are in need of improvement?**

It is Conservation Ontario's position that any specific improvements to the CA Governance model should be discussed in the context of the funding model.

Having said that, the CO Whitepaper (2012) outlines that CAs acknowledge that there are "issues with the current CA model that need to be addressed in order to improve watershed management" (p.6). It further indicates that CAs are exploring "ways to improve their effectiveness through program improvements, streamlining operations and better collaborations among themselves" (see response to 6.3f) and that these discussions need "to expand to include the provincial government due to the number and complexity of the various relationships"(p.6).

An enhanced CA and Provincial Ministry relationship is needed. CAs undertake work that supports and benefits multiple provincial priorities (see examples in the attached document titled "Adding Value – How Conservation Authorities support provincial priorities"). Closer collaboration would be jointly beneficial.

It is suggested that a Provincial Directive/Policy is necessary and that it would mandate coordinated, multi-ministry engagement with CAs towards an integrated watershed management approach (see Attachment 1) to environmental and resource management that delivers local program needs while meeting cross-ministry science, policy, and legislative objectives. This coordination would be premised on a return to a more equitable cost sharing partnership between the province and municipalities. This provincial directive could be given

effect at the provincial level through some type of provincial watershed governance body (e.g. one ministry, or a lead agency, or a multi-ministry Secretariat or Steering Committee or even a standing agenda item for existing multi-ministry initiatives such as Ontario's Great Lakes Strategy, and Climate Change Strategies). In terms of the Provincial Body's liaison with CAs at the watershed level, Conservation Ontario proposes to represent the collective through a series of bilateral discussions with the relevant ministries (e.g. MNRF, Ministry of the Environment and Climate Change (MOECC), Ministry of Municipal Affairs and Housing (MMAH)) to take place on key priority program areas within an overall framework of a multi-Ministry/municipal/stakeholder steering committee.

The formalized relationship should result in a more efficient and effective approach to environmental and resource management in Ontario that clarifies responsibilities and recognizes the contributions CA programs make to achieving multiple provincial priorities and funds them accordingly.

With regard to provincial oversight for the water related natural hazard (e.g. flood, regional control, wetlands) prevention and management programs, there are legislative (Conservation Ontario Council endorsed proposed amendments to Section 28 – see response to 6.3e), policy and technical guideline and tool support that is necessary from the MNRF for consistency and modernization. The need for these improvements has been identified by Conservation Ontario over the past several years and it is our belief that implementation would lead to more efficiencies in delivery. It is noted that this requires a renewed commitment within the MNRF to provide this policy support (leveraging CA expertise) to the modernized delivery of this program, and, other provincial partners are key such as the Ministry of Economic Development, Employment and Infrastructure (MEDEI) for infrastructure management, MMAH for land use planning policies to prevent development in hazard lands, Emergency Management Ontario/Ministry of Community Safety and Correctional Services (EMO/MCSCS) for flood emergency management and, MOECC for green infrastructure/Low Impact Development approaches to stormwater management.

Finally, there are a few legislative amendments related to governance that have been endorsed by Conservation Ontario over the past several years. Conservation Ontario endorsed in 2006 an amendment to Section 14 (4) of the *Conservation Authorities Act* to adjust members' appointments from 'no more than 3 years' to reflect municipal councillor's terms of 4 years. As well, in 2001, Conservation Ontario endorsed that Section 37 be amended to remove the requirement for Ontario Municipal Board approval for Board members' salaries, expenses and allowances since little to no provincial money is used to compensate CA Board members' expenses. As well, it is noted that there is a need to clarify the inconsistencies that exist between the *Conservation Authorities Act* and the proposed *Ontario Not-for-Profit Corporations Act*.

**c) In terms of governance, what should be expected of:**

**a. The board and its members?**

- Meet current best practices of and requirements for any not-for-profit corporation Board (e.g. Governance policy handbook including roles of Members and Staff, Codes of conduct)

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- Voting should be done in accordance with the best interest of the watershed which may not always be the same as the individual municipal interest
- Regular report backs to the municipality they represent
- Adhere to Municipal Conflict of Interest legislation, *Municipal Freedom of Information and Protection of Privacy Act*, policies, and protocols
- Direct and undertake performance review of the General Manager or Chief Administrative Officer; recruit, hire, dismiss same
- Set strategic direction and operational policies
- Ensure fiscal stability and approval of budgets and auditor's statements
- Uphold CA regulatory responsibilities and serve as a Hearings Board for Section 28 regulations

**b. The general manager or chief administrative officer?**

- Oversight of day to day operational needs in accordance with approved policies and applicable legislation and contractual commitments;
- Manages staff and programs;
- Engages municipalities in the CA budget development and approval process;
- Implements Board resolutions;
- Acts as spokesperson for the Authority in the absence of the Chair and Vice Chair of the Board
- Makes regular reports/updates to and liaison with all municipalities in the watershed

**c. Municipalities?**

- Appoint members with an interest in representing their interests and watershed interests and taking responsibility to keep their municipality informed
- Engage CAs in the municipal budget development and approval process
- Identify environment and natural resource issues that require the CA's attention
- Engage and collaborate with CAs in the development and implementation of strategic initiatives (eg. Municipal Climate Adaptation strategies, water/watershed management strategies) that support environmental sustainability
- Partner in projects with common goals and objectives

**d. The Ministry of Natural Resources and Forestry?**

- Lead the modernization/update of the provincial policy, science and standards that guide the natural hazards program (including wetlands) in Ontario to address current environmental issues
- Provide consistent technical and financial support to CAs to implement and defend CA regulatory responsibilities
- Advocate for the appropriate support for CAs through the budget process to ensure that they can deliver on this delegated program responsibility

- Participate on a provincial watershed governance body (see response to 6.1b for examples) to ensure coordination of delivery of cross-ministry science, policy, and legislative objectives
- Further to the previous bullet, proactively fund programs supporting provincial environmental sustainability
- Partner in projects with common goals and objectives

**e. Other provincial ministries?**

- Participate on a provincial watershed governance body (see response to 6.1b for examples) to ensure coordination of delivery of cross-ministry science, policy, and legislative objectives
- Further to the first bullet, proactively fund programs supporting provincial environmental sustainability
- Partner in projects with common goals and objectives
- MOECC to advocate for the appropriate support for CAs through the budget process to ensure that they can deliver on this delegated program responsibility i.e. source water protection under the *Clean Water Act*

**f. Others?**

- Various watershed stakeholders to provide input to CA Boards and participate in development and implementation of local projects (eg. Wetland restoration projects, Rural Clean water programs)

**d) How should the responsibility for oversight of conservation authorities be shared between the province and municipalities?**

Oversight of CAs must rest with the *Conservation Authorities Act*. However, in order to improve oversight the Province should establish a provincial watershed governance body (see response to 6.1b for examples). Such a body would ensure coordination of delivery of cross-ministry science, policy, and legislative objectives and a return to a more equitable cost sharing partnership between the province and municipalities. It would create better efficiencies between programs and avoid duplication of efforts in on-the-ground delivery with complimentary environmental benefits.

Oversight on permit decisions by the CA Board under Ontario Regulation are appropriately adjudicated (on appeal) by the Mining and Lands Commissioner as delegated by the MNR. This must remain a provincial responsibility, separate from the Ontario Municipal Board, to ensure the integrity of the natural hazards management program in Ontario.

As well, municipalities provide oversight through the appointment of municipal representative(s) to the Board with each member having a vote. The Board is responsible to carry Directors and Officers Liability Insurance for their decisions around the programs delivered (including permits) and the budget. Finally, it is noted that CAs are accountable to municipalities in their request for levy through the annual CA and municipal budget processes and through the Section 25(2) ability for municipal councils to make an appeal. It is these processes that, in part, prevent duplication between CA and municipal services as well as up to date Memorandum of Understandings that outline the municipal/CA technical service agreements in support of municipal decision-making under the *Planning Act*.

**e) Are there other governance practices or tools that could be used to enhance the existing governance model?**

Improvements from the proposed *Ontario Not for Profit Corporations Act* and other legislation that institute best practices (e.g. *Municipal Conflict of Interest Act*) should be integrated into the *Conservation Authorities Act* and the language used should be modernized (e.g. Directors instead of Members on the Boards). Further, the Section 30 Administrative regulations should be amended accordingly. Overall, greater consistency in our policies, procedures and practices across the CAs would be beneficial (see more details in response to 6.3f).

A Provincial Directive and enhanced provincial policy supporting integrated watershed management with the establishment of some type of provincial watershed governance body\* would strengthen the ability to provide local environmental and natural resource management programs for greater public benefit.

\*see response to 6.1b for examples

## **6.2 Funding Mechanisms**

### General Comments

The *Conservation Authorities Act* establishes a number of mechanisms which CAs can use to fund programs. The Act allows the MNRF to provide CAs with funding to support Ministry approved programs. A CA may also apply for funding from the province to deliver programs on its behalf. Local resource management programs and services can be funded through municipal levies. CAs can generate revenue through service and user fees, resource development and fundraising. CA funding needs vary depending on watershed size, population levels, and watershed characteristics (such as the amount of hazard land and the potential for flood, drought, etc.). The number of water and erosion control structures owned or operated by a CA has a significant impact on its budget requirements.



**Question #2: In your view, how are the programs and services delivered by conservation authorities best financed?**

**a. How well are the existing funding mechanisms outlined within the Act working?**

Philosophy behind Funding

One of the foundational principles of the CA model is cost sharing; by the municipalities within the watershed jurisdiction and the provincial government. With the decline of provincial funding, CAs' budgets are largely dependent on the size of the watershed and the available municipal tax base. CA programs and services are both locally and regionally beneficial, and as a result, it is appropriate for the funding of watershed-based programs to be derived from the local tax base (the municipal levy). Equally, as much of the benefits are in the broader public interest and therefore require provincial leadership and financial support, it is appropriate for the funding to be derived from the provincial tax base.

As well, it should be noted that Section 4 of the Discussion Paper illustrates the wide diversity of CAs' Revenue, Area, population, and the ability to locally fund programs and services. In the past, local ability to pay was addressed through equalization payments from the Province and today remains unaddressed leading to issues of capacity.

Municipal Funding Support

The funding partnership between the Province and Municipalities has undergone many changes over time. It has gravitated from a 50/50 partnership to a point where, today, many of the CAs derive the majority of their budgets from local municipalities through the levy process defined in Ontario Regulation 670/00 and enabled through Section 27(16). Funding for CAs is derived from a variety of sources, but on the average 48% is provided through municipal levies; 40% comes from self-generated revenues; 10% comes from the Province [i.e. flood management (s.39 of *Conservation Authorities Act*) and source water protection (*Clean Water Act*) programs] and 2% is provided by federal grants or contracts (2013 Conservation Ontario Survey). The reduction in provincial contributions to a cost sharing philosophy has resulted in municipal criticisms of provincial downloading which would diminish if the province returned to at least 50:50 cost sharing and considered inflation and the local ability to pay.

Enabling the CA through legislation to levy the municipalities within the watershed is consistent with the recognition that management of the natural resources is most effectively done on a watershed basis. There are accountabilities in the municipal budget process which are respected and make this arrangement work through municipal appointees to a CA Board. For example, based on the CA's draft budget, municipalities are provided with notification of their projected levy amounts for their use in development of the municipal budget, and, CAs present and defend their budget at committee and Council as requested. As well, there is a 30 day appeal after the CA's budget vote [see details *Conservation Authorities Act*, S.25(2)] if the municipal council is dissatisfied.

### Provincial Funding Support

Since the mid-1990s, MNRF has only approved provincial funding for the water related natural hazard prevention and management role of CAs which includes flood and erosion control. Funding for this program area has been cut since the mid-1990s with no inflationary increases let alone increases to address the increasing demands in managing the current and future impacts of more frequent flood events. Currently there is a significant shortfall in provincial transfer payments for the operation of the flood management program under the *Conservation Authorities Act* estimated to be approximately \$5.1 million annually in Conservation Ontario's 2013 Flood Management Business Case.

In 2015, Conservation Ontario requested an interim amount of \$5.9 million to address the shortfall and to enable CAs to improve floodplain mapping, conduct strategic asset management planning, and improve delivery of cost effective flood programs that warn residents and prevent flooding. This funding would have complemented current provincial annual investments: Water and Erosion Control Infrastructure (\$5 million) and Provincial transfer payment of \$7.4 million towards flood operations for use by all CAs.

It is noted that in the delivery of this program, other provincial partners are key such as MEDEI for infrastructure management, MMAH for land use planning policies to prevent development in hazard lands, EMO/MCSCS for flood emergency management and, MOECC for green infrastructure/Low Impact Development approaches to stormwater management thus reinforcing the need for the transfer payment for this program area to be more than an MNRF responsibility. Other notable co-benefits include provincial priorities around climate risk and resilience, and Great Lakes water quality.

In addition to an updated understanding of what's needed for an effective natural hazards program in Ontario, other CA programming initiatives should be reviewed in the context of an updated funding formula. For example, CAs provide services beyond flood management for MNRF, such as those related to natural heritage and species at risk; these may tie to addressing the Provincial (planning) Policy Statement or meeting targets under stewardship/biodiversity strategies thus reinforcing the need to potentially expand the transfer payment for other programs within MNRF. Notably, natural heritage systems are a component of green infrastructure referenced in the previous point.

As well, provincial recognition of the role that CAs play in areas of outdoor education, recreation and quality of life that contribute significantly to the health and well-being of our residents and visitors thereby reducing provincial health care costs would be of benefit. Many CAs provide extensive facilities and land base for recreational trails tied to existing communities and new growth areas. Similar discussions should involve the Ministry of Tourism, Culture and Sport (MTCS) for greenspace and recreational trail planning, and MMAH, MTCS, and Ministry of Aboriginal Affairs for aboriginal engagement with respect to conservation land management.

With regard to MOECC *Clean Water Act* funding, the Discussion Paper indicates that “Future levels of funding are expected to move to a steady state once current source protection plans are approved” (p.16 Discussion Paper). The Province is encouraged to ensure a minimum level of capacity at the CA level to support implementation by municipalities and various organizations and agencies and the success of the program. With a \$220 million provincial investment it is imperative to keep the knowledge up to date and the expertise maintained. The ongoing CA local policy interpretation, technical, communications, and administrative support function for implementation of this program is critical. The science and policies under this program also inform and integrate easily with other provincial mandates including climate change studies and protection of the Great Lakes. This further underscores the co-benefits of an integrated watershed management approach with provincial mandate.

The ‘delegated’ programs and other partnership agreements with the Province generally provide more services than recognized and financially supported by the Province. Funding for ongoing operation of programs has diminished significantly and also does not adequately reflect the diversity, complexity and range in CA capacity. The Province is encouraged to review basic operational activities/programs of CAs that support multiple provincial priorities and provide a broader public benefit with a view to providing long term funding to CAs and increasing the efficiency of environmental and resource management in Ontario. The Province should consider ‘operational costs’ in the delivery of all locally based programs to protect taxpayer investment. The previously referenced provincial watershed governance body (see response to 6.1b for examples) is necessary to assist in addressing this issue.

Finally, Section 4 of the Discussion Paper illustrates the wide diversity of CAs’ Revenue, Area, population and the ability to locally fund programs and services. Developing a more equitable means of allocating provincial funding to CAs based on an analysis of the aforementioned factors should be considered a high priority.

#### Self-generated revenue

On average, 40% of the CAs’ budgets come from self-generated revenues. The ability to charge fees, to enter into partnerships and to fundraise has made the difference in the ability of many of the CAs to operate effectively. However, self-generated revenue has limitations (e.g. low number of staff to generate opportunities and deliver on transfer payment programs) and is not a consistent revenue source and as such should not be considered a sustainable source for ongoing operations and stable capacity for consistent program delivery. As well, it is acknowledged that charging fees has disadvantages in that it limits access to conservation areas for some and creates a fair amount of animosity among the users.

#### **b. What changes to existing funding mechanisms would you like to see if any?**

An inter-ministry approach to transfer payments in support of the water related natural hazard prevention and management (which includes flood and erosion control and wetlands) program transfer payment from MNRF (see more details in answer to 2a Provincial Funding Support).

As well, CAs provide a tremendous amount of work and value for the province which remains unfunded. A thorough review of provincial responsibilities versus funding should be initiated. To achieve the greatest environmental and economic benefit for the residents of Ontario, the Province should develop a sustainable multi-ministry (e.g. MNR, MOECC, MMAH, MEDEI, Ministry of Agriculture, Food and Rural Affairs, MTCS) funding formula for basic operational activities of CAs that support multiple provincial priorities. Without this investment, there will continue to be varying capacity to deliver on existing and any additional Provincial priorities. This is one of the most critical changes necessary to level the playing field and enable an equitable and effective program. This should be the immediate priority of the Province (see more details in answer to 2a Provincial Funding Support).

CAs are very good at leveraging revenue for projects that support watershed health. However, too much reliance is put on one time financial grants/donations to fund projects. Without a sustainable funding source these one-time funded projects result in short term benefits, create expectations for ongoing efforts within the watersheds, and fall short of their potential for positive impacts to watershed health.

Finally, it would be beneficial to CAs and municipalities to have the province provide specific language to clarify variances in interpretations between the Act (Section 27(16)) and the Levy Regulation (Ontario Regulation 670/00). Additionally, Section 1 of the Act should be updated to define the types of costs (e.g. administration, maintenance, operating (for both projects and programs), and capital) that could be included in Levies and then, the Act, or Regulations under the Act, should direct how the levies are to be apportioned. Apportionment would occur through either a Watershed Levy where the entire watershed benefits from the project or program and allocation is based on Modified Current Value Assessment; or through a Special benefitting levy where allocation of costs is based on project or program benefits to individual municipalities.

**c. Which funding mechanisms, or combination of funding mechanisms, are best able to support the long term sustainability of conservation authorities?**

The existing municipal levy funding tool is essential for CA survival. Its use is time tested and effective and when used with discretion and full communications, it is well received and supported by municipalities. Levy is the only secure form of funding available to CAs.

There must be continued municipal and provincial funding support for the basic operating capacity of CAs to meet today's environmental challenges. The cost-sharing formula should include at least 50% provincial funding (unless Federal funding reduces each level of government's share) and must take into account inflation and the local ability to pay.

Carbon pricing revenues should be used as a potential new source of provincial revenue that could be used to support growth planning and climate change mitigation and adaptation activities of CAs.

**d. Are there other revenue generation tools that should be considered?**

Recognizing the provincial deficit and the likely need for a new source of provincial revenue, consideration should be given to use of carbon pricing revenues to support growth planning and climate change mitigation and adaptation activities of CAs.

There also needs to be recognition of the financial value of the ecological services that CAs provide. These ecological services help support clean water and mitigate infrastructure costs. Accordingly, other sources of revenue that could be facilitated through legislative amendment or policy for CA eligibility include: *Development Charges Act*, enactment of the *Sustainable Water and Sewage System Act* (i.e. recoverable cost from water rates), stormwater fees/rates (e.g. City of Mississauga in 2016; Kitchener), Trillium Foundation, Infrastructure funding for recreational / outdoor education facilities, etc.

It should be noted that these 'other sources of revenue' would not be universally beneficial across the province and hence there remains the need to address the need for funding mechanisms that support the long-term sustainability of all CAs. When considering other forms of revenue generation, the administrative effort and efficiencies in securing and managing those revenue sources must be considered.

### **6.3 Roles and Responsibilities**

#### General Comments

The *Conservation Authorities Act* enables CAs to undertake a wide range of activities on behalf of provincial, municipal and other interests. CAs are the only resource management agencies in Ontario that are organized on a watershed basis. The Act provides CAs with the power to develop their own programs and services tailored to the local needs and interests they serve. This flexibility allows CAs, and the municipalities that fund them, to focus their resources on areas of greatest need to the local population. It also results in variability in the scale and range of programs and services delivered by any individual CA. Recent years have seen an increased interest in reviewing CA roles in resource management in Ontario. The Commission on the Reform of Ontario's Public Service in particular called on the province to undertake a review of the programs and services delivered by both the MNR and CAs to clarify responsibilities and eliminate any duplication. In 2007 the provincial government created a CA Liaison Committee with representatives from the building industry, province, municipalities, CAs, Conservation Ontario and environmental organizations. MNR approved the 2010 'Policies and Procedures for Conservation Authority Plan Review and Permitting Activities' developed by the committee that clarifies the role of CAs in the municipal planning process, and in issuing CA permits.

#### **Question #3: In your view, what should be the role of conservation authorities in Ontario?**

**a. What resource management programs and activities may be best delivered at the watershed scale?**

Under the *Conservation Authorities Act*, the watershed boundary was chosen for CA jurisdictions as an important ecosystem boundary to manage natural resources and particularly, water. It should remain the boundary for program delivery.

From a science perspective the watershed unit is the appropriate scale for the management of water for all uses and inputs to the Great Lakes and for modeling watershed responses to various land use and climate change scenarios. It is also a meaningful context to assess cumulative impacts, not just for the water resource system but also for the natural heritage system. Ontarians are most interested in the quality and quantity of water and natural areas in their watersheds where they live, locate their businesses and enjoy recreation. CAs use this frame of reference to engage their local watershed residents in support for watershed management. They provide science-based advice and deliver services within their watersheds including: watershed/sub-watershed planning, water quality/quantity modeling, natural hazards management and regulation, natural heritage systems, forestry, source protection, environmental monitoring and reporting, watershed stewardship and restoration, technical input and review for municipal land use planning and development, as well as, outdoor education and recreation. This consultative and science-based approach is called integrated watershed management (see Attachment 1 for details).

The *Conservation Authorities Act* serves to define CAs as watershed management bodies that are separate from the land use planning process, yet grants them the ability to administer a regulation which affects planning matters (including infrastructure and servicing). This is consistent with other environment and natural resource management legislation that issues permits. CAs as public commenting bodies under the planning and environmental assessment processes, play a significant role in managing the local natural resources of watersheds for the benefit of the municipalities that fall within them and for broader public benefit. The issues that CAs raise in the development review process are integral to environmental sustainability. Additionally, accountabilities are in place as per the 2010 'Policies and Procedures for Conservation Authority Plan Review and Permitting Activities', which indicate the provincial expectation that "CAs should give public notice and undertake public and stakeholder consultation prior to submission for CA Board approval of all proposed policies, watershed and subwatershed plans, guidelines or strategies that are intended to be used by the CA to comment on future land use and land use planning and inform CA review of applications made pursuant to the *Planning Act*."

CAs have forged many successful working relationships with their participating municipalities, which appreciate the efficiency of utilizing watershed-based specialized science and technical expertise that many individual municipalities do not possess in-house, e.g., floodplain management, stormwater management, hydrogeology, fluvial geomorphology, ecology, and natural heritage systems planning. These services are delivered as outlined in Memorandum of Understandings with municipalities as part of planning and technical staff's day-to-day work under the planning and environmental assessment processes, and ultimately in these projects' detailed design stage where they may require a section 28 permit. CAs pride themselves in ensuring coordination of applications under the *Planning Act* and the *Conservation Authorities Act* to eliminate unnecessary delay or duplication in the process.

Individually, CAs generally operate at a tertiary watershed scale, but collectively, 36 CAs operate on a Great Lakes basin/watershed scale. Environment and natural resource management program efficiencies can be gained by examining opportunities to look at programs across individual watersheds. To date, the provincial modernization and transformation of provincial environment and natural resource management programs have focused on increasing efficiencies for an individual agency's processes through computerization and proponent self-assessment. The ultimate effectiveness of these processes is undetermined in meeting provincial environment and natural resource mandates including the minimization of the cumulative impacts. CAs observe that overall these individual processes are less efficient in that applicants are having to wade through multiple processes and to make decisions for which they may have limited or no qualification to assess. Partnering with the CAs on environment and natural resource management programs best delivered on a watershed basis, could serve as the basis for more clarity and a 'one window' service delivery model.

There is no agency responsible for coordinating and implementing the myriad of resource management programs by the provincial ministries and CAs. The previously referenced need for a provincial watershed governance body (see sections 6.1b and 6.2a) could address the coordination gap. In terms of implementation, CAs are well structured to serve as the primary agency for implementing environment and natural resources management programs of provincial agencies and ministries. CAs have the necessary local knowledge that is required for effective implementation of resource management programs and policies. The intent of a "one-window" approach is to streamline and coordinate environment and natural resource approvals and remove any duplications at the local level and to include accountability mechanisms. This would be beneficial to the Province, municipalities and applicants.

**b. Are current roles and responsibilities authorized by the *Conservation Authorities Act* appropriate? Why or why not? What changes, if any, would you like to see?**

The legislation provides a broad 'mandate' and suite of responsibilities which empower CAs to set local programs and priorities in collaboration with member municipalities, government ministries and partners. Section 21 of the *Conservation Authorities Act* outlines the 'Powers of Authorities' including the ability "to study and investigate the watershed" and "to cause research to be done" and to establish watershed-based resource management programs. These 'powers' have resulted in innovations by CAs in partnership with municipalities and the provincial and even federal governments that have raised the respect for watershed management to the point that it is recognized in the Provincial Policy Statement of the *Planning Act* and in the Great Lakes Water Quality Agreement. As well, other 'powers' necessary for effective delivery of watershed management are included in Section 21 such as the ability to charge fees for services approved by the Minister of Natural Resources and Forestry; and to enter into agreements with other implementers. The current CA 'mandate', as broadly outlined in sections 20 (objects) and 21 (powers) of the *Conservation Authorities Act*, remains as relevant today as when it was envisioned in 1946 because these sections have **enabled** integrated watershed management (see response to 1a for more details).

While Sections 20 and 21 enable integrated watershed management they could be made more explicitly supportive with inclusion of updated language that reflects current roles and responsibilities best undertaken at a watershed scale (see response to 6.3a). For example, the “roles and activities” which the 2010 ‘Policies and Procedures for Conservation Authority Plan Review and Permitting Activities’ states, “CAs may undertake” should be embedded in the *Conservation Authorities Act*. This would clarify confusion surrounding CAs’ ‘mandate’. The provincially recognized roles in plan review and permitting include: regulatory authorities (s.28) and delegated provincial interest in plan review for natural hazards management, resource management agency (with clear emphasis on watershed-based), public commenting bodies, service providers, and, landowners. Overall, the challenge in the drafting of these clauses will be to ensure that they clarify the CA mandate without having the unintended consequence of being limiting for effective and innovative local environmental and resource management on a watershed basis. It is proposed that to achieve this ideal definition and better CA/provincial coordination of implementation, a Provincial Directive/Policy should mandate coordinated, multi-ministry engagement with CAs towards an integrated watershed management approach to environmental and resource management that delivers local program needs while meeting cross-ministry science, policy, and legislative objectives.

Conservation Ontario would like to see a change to the CA-Provincial Ministry relationships which is funded to maximize use of CAs as an efficient, local service delivery model (see more details in response to 6.2a). This provincial directive could be given effect at the provincial level through some type of provincial watershed governance body\*.

\*see response to 6.1b for examples

**c. How may the impacts of climate change affect the programs and activities delivered by conservation authorities? Are conservation authorities equipped to deal with these effects?**

Impacts of climate change including rising temperatures and changing precipitation patterns in Ontario have already increased the intensity of local flood events, reduced river flows, warmed surface waters and impacted wetlands. These impacts will likely continue and other threats to environmental, public health and our economy are expected to materialize including reduced quantity and quality of drinking water and disruption to businesses and costly damage to infrastructure. Like their municipal and private sector counterparts, CAs anticipate having to spend more of their budgets on mitigation activities to address liability (e.g. damaged trees from icestorms along trails in Conservation Areas) and protection of environmental integrity and biodiversity.

As leaders in natural resource protection in Ontario, CAs are uniquely positioned to support measures to conserve, preserve, restore, mitigate and adapt to climate change but CAs cannot deal with these effects alone. They need the Province to take a leadership role in developing and providing policies/technical guidelines and the best available science (including monitoring data and research) to facilitate mitigation and adaptation. These initiatives should be pursued together and be supported by provincial funding (see Response to #2d for more details).

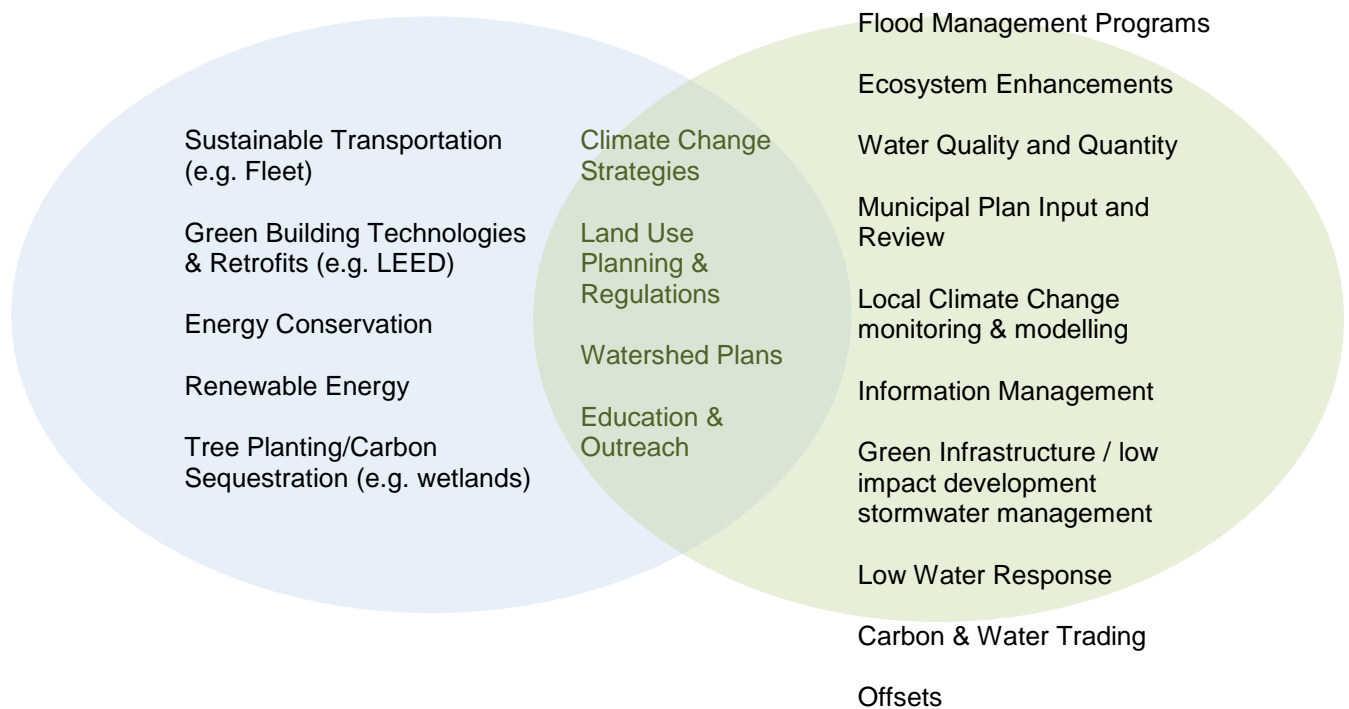


This issue of Climate Change is bigger than any one CA and we believe that the Federal government, the Province of Ontario, municipalities and CAs must work together to deal with the effects of climate change. Watershed specific work is underway but federal and provincial leadership and funding is required.

CAs believe that mitigation and adaptation are critical, complementary initiatives which should be pursued together in order to work towards implementing a greener, low carbon economy supported by sustainable natural resources. The following illustrates some current CA Climate mitigation and adaptation initiatives and activities that should be supported (see Response to #2d for more details); improving delivery of these programs will be key for the future.

## Mitigation

## Adaptation



- d. Is the variability in conservation authorities' capacity and resourcing to offer a range of programs and services a concern? Should there be a standard program for all authorities to deliver? Why or why not?**

Variability in resources is a concern if local needs are not being met. As larger, better funded CAs take on additional programs there is increased expectations that the smaller CAs can and will also take them on. There are also stakeholder expectations that all CAs have the same data and capacity to assist them.

The funding inequity for CA programs accounts for the financial variability in CA capacity to deliver on existing and any additional Provincial priorities unless they are funded (see more details on Funding and local ability to pay in responses to question #2).

Better funded and more consistent CA watershed management programs around both water and land resources ensures clean and sustainable water and land resources needed for our daily lives and our economy.

Provincial priorities (e.g. climate change, Great Lakes protection, source water protection, natural hazards management, growth, economy) that are best delivered at the watershed scale should be funded as such with a “standard framework” for integrated watershed management for all CAs to deliver.

The concept of a restrictive ‘standard program’ for all CAs to follow would adversely affect the ability of a CA to develop unique programs required for their specific watershed. Beyond the standard requirements for provincially delegated programs referenced above, the intent or origins of the CA movement is to allow for local watershed issues and concerns to be addressed. This should not change. The existing flexibility should be retained for CA Board approved programs that support local watershed needs.

**e. What are some of the challenges facing conservation authorities in balancing their various roles and responsibilities? Are there tools or other changes that would help with this?**

The Provincial funding shortfall for the natural hazards management program is considered to be a major challenge in delivery of that role and responsibility; as well as, the need for the MNRF to undertake legislative (Section 28) amendments for consistency/efficiency (some outlined in more detail at the end of this section), and MNRF and partner ministries to provide leadership and support in modernizing the Provincial technical guidelines.

Lack of a sustainable funding formula that recognizes the multi-ministry benefits of the CA watershed management program in general is another major challenge especially given the MNRF’s limited budget in comparison to other provincial ministries.

As previously referenced, there are a myriad of government bodies that have objectives towards protecting and managing natural resources; this is a major challenge. In terms of tools or other changes that would be helpful in addressing this challenge, as described in more detail above, what’s needed is funding and a provincial directive for coordinated multi-ministry engagement with CAs towards an integrated watershed management approach to environmental and resource management that delivers local program needs while

meeting cross-ministry science, policy, and legislative objectives. CAs are well positioned to act as a “one-window” service delivery agent for the Province.

Conservation Ontario has endorsed a number of amendments to Section 28 to address some of the key challenges described below:

Enforcement of Section 28 Regulations is compromised by not having the ability to issue stop work orders to address non-compliance with permit conditions or works without permits. Stop work orders are required to minimize continuing violations, environmental damage and to gain compliance quickly.

Section 28 (16) refers to fines for contravention to the regulation. Fines need to be increased significantly to be consistent with other environmental legislation. Increased fines should be accompanied with a method of cost recovery for the CA.

Section 28 (25) defines wetlands. The definition should be updated to reflect more frequently used definitions such as provided in the *Planning Act* and Provincial land use plans.

There are many terms used throughout Section 28 that require definitions and which could be addressed through a Section 40 Regulation. For example, the terms ‘conservation of land’ and the phrase ‘interference in any way’ with a wetland should be defined. The direction taken on these definitions should be consistent with taking a watershed ecosystem approach as per the most recent Mining and Lands Commissioner decisions as identified in the 2008 “Draft Guidelines to Support Conservation Authority Administration of the Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation”.

**f. Are there opportunities to improve consistency in service standards, timelines and fee structures? What are the means by which consistency can be improved? What are some of the challenges in achieving greater consistency in these areas?**

In May 2010, MNR (now MNRF) and MMAH finalized and approved the draft document produced by the CA Liaison Committee, entitled “Policies and Procedures for Conservation Authority Plan Review and Permitting”, to form part of MNRF’s ‘Conservation Authority Policies and Procedures Manual’. Among other items, the document addresses standards, timelines and fees.

A Provincial review through the CA Liaison Committee was undertaken with regard to service standards, timelines and fees. It was demonstrated that overall CAs have met the standards established in MNRF Policies and Procedures with regard to timelines and fees. The 2012 report that assessed the overall adherence to timelines, trends in adherence, and reasons for not meeting timelines over a one year period found that, according to a provincial summary “overall, 87% of permits met timelines, increasing to 92% by the final quarter of monitoring. In cases where timelines were not met, timelines were often exceeded due to delays on the part of the applicant or other reviewing agencies. In some cases, delays were due to internal issues such as

staff vacation, high workload, etc.”. The 2012 report ‘Review of Conservation Authority Fees’, according to a provincial summary, “provided a basis for improved understanding and discussion of fees among members *[of the Committee]* and for identifying potential areas of improvement”. To date, the Committee has not been reconvened on this topic, and, generally, it may be appropriate to reconvene this committee on at least an annual basis to discuss and resolve issues.

Overall, CAs have a shared commitment to improve information sharing and networking and to develop templates and guidelines for greater consistency. To improve consistency and to build capacity, Conservation Ontario hosted “Planning and Regulations Best Management Practices (BMPs)” workshops in 2012 and 2014 whereby CA staff met to discuss and share their implementation of the Policies and Procedures for CA Plan Review and Permitting Activities. As well, in 2015, Conservation Ontario hosted a Section 28 Regulations workshop on the 2008 “Draft Guidelines to Support Conservation Authority Administration of the Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation”. Further to this workshop, work is underway with the CO Section 28 Regulations Committee to update the 2008 Guidelines. It is noted that, having updated guidelines that are endorsed by the Province would lead to more consistency.

To further drive consistency, additional training sessions for the municipal, provincial, and development sectors should be provided by the Province to remind them of the provincial expectations of CAs’ roles in plan review and permitting, service delivery, and fees. As well, MNR could undertake CA audits/reviews where complaints are most prevalent.

With regard to fees, challenges in achieving greater consistency are related to: differences in CA Board direction with regard to an expectation of 100% cost recovery through fees versus an expectation that the services be delivered through the municipal levy and provincial transfer payment; the amount and complexity of development applications within a watershed; regional differences in costs (e.g. wages, consultants); and, the amount and severity of natural hazards existing within a CA’s jurisdiction thus contributing to complexity of review.

In general, provincial leadership regarding minimum standards would assist and the establishment of a provincial watershed governance body could also help address any potential gaps in minimum standards regarding policy requirements, programs and processes to support integrated watershed management and local delivery of environmental and resource management. Key areas for minimum standards such as Section 28 fees, asset and risk management, and administrative by-laws, to name a few, would be helpful to ensure that all 36 CAs are operating at the same basic level. As well, as previously indicated, it is critical to have a sustainable funding formula that recognizes, the multiple benefits of CA programs to provincial priorities, inflation and the local ability to pay. The concern of consistency amongst CAs is an on-going criticism of the CA Program and it would be most helpful to determine the priority programs that will be supported by a sustainable funding formula and then to communicate to stakeholders, partners and the general public where they can expect some consistency across all CAs.

CA capacity and ability to improve service standards, timelines and fee structures is a critical point of discussion. The Drinking Source Water Protection Model was used to successfully address some of these issues by providing a provincial directive for watershed partnerships, leadership and capacity building. Key to this success was provincial investment.

#### 6.4 Other Areas of Interest

**Question #4: Are there any other areas, questions or concerns regarding the *Conservation Authorities Act* or conservation authorities in general that you feel should be considered as part of the review?**

The Province, Municipalities and CAs should develop a coordinated communication plan to inform the public and stakeholders about the role of CAs in Ontario.

Thank you for the opportunity to engage in the listening sessions and comment on the *Conservation Authorities Act* Review Discussion Paper. CAs play an important role in addressing today's environmental and resource management challenges and we look forward to working with MNRF through the *Conservation Authorities Act* review process. Should you have any questions regarding the above comments please contact myself (ext. 231) or Bonnie Fox (Manager, Policy and Planning) at 905-895-0716 ext. 223.

Sincerely,



Kim Gavine  
General Manager

c.c. All Conservation Authorities' CAOs