

Conservation Authorities Act Review

Conservation Authorities are recommending four areas for discussion:

- **Confirm the current Conservation Authority 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 Conservation Authority working relationships across 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.

Below are further details about the four priorities listed above. The information is grouped to indicate if it is supporting the current Act, suggesting an improvement or identifying a specific legislative change.

Support

Watershed Boundary and Broad Mandate

Ontarians are most interested in the quality and quantity of water and natural areas where they live, work and play. Under the *Conservation Authorities Act*, the watershed was chosen as the jurisdiction of Conservation Authorities because it's an important ecosystem boundary to manage natural resources and particularly, water. The Act also 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.

As such:

- The watershed boundary should remain as the CA jurisdiction.
- The current CA mandate, as broadly outlined in Sections 20 and 21 of the *Conservation Authorities Act* should remain as it enables local innovation, efficiency and effectiveness.

Municipally Appointed Board of Directors

The activities undertaken by Conservation Authorities are directed by a municipally appointed board of directors. In the past, the province played a more direct role in overseeing Conservation Authorities but today, changes to the Act, policies and general practice have resulted in less direct provincial oversight. Conservation Authorities still must abide by provincial legislative, regulatory and policy requirements.

- The current 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 Conservation Authorities. 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.

Improve

Inter-Agency Coordination and Partnership

There are a myriad of government bodies that have objectives towards protecting and managing natural resources and no one agency is responsible for coordinating these efforts which is a major challenge. The work of Conservation Authorities supports and benefits multiple provincial priorities and closer collaboration between CAs and various ministries would be jointly beneficial.

- What is needed is 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. A 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 Conservation Authority programs make to achieving multiple provincial priorities. CAs are well positioned to act as a “one-window” service delivery agent for the Province.
- Specific to water related natural hazard programs that the province oversees (e.g. floods, wetlands), there are legislative, policy and technical guideline supports that are needed from the MNRF for consistency and modernization. This requires a renewed commitment within the MNRF to provide this policy support to the modernized delivery of this program, and, 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/LID approaches to stormwater management.

Response to Climate Change

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 and protection of environmental integrity and biodiversity.

- 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. The issue of climate change is bigger than any one CA and 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. The Province needs 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.

Provincial Funding

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 also generate revenue through service and user fees, resource development and fundraising. Since the mid-1990s the funding partnership between the Province and municipalities 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 levy. On average, 48% is provided through municipal levies; 40% comes from self-generated revenues; 10% comes from the Province and 2% is provided by federal grants or contracts. The reduction in provincial contributions 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.

- Since the 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 was cut in the mid-1990s and has remained unchanged, with no inflationary increases and no 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 this provincial transfer payment for the operation of the flood management program under the *Conservation Authorities Act* estimated to be approximately \$5.1 million annually. This gap, along with a lack of an annual inflationary increase, must be covered by municipal levy.
- CAs also 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. MNRF, MOECC, MMAH, MEDEI, OMAFRA, MTCS) funding formula for basic operational activities of CAs that support multiple provincial priorities.
- 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, stormwater fees/rates, Trillium Foundation, Infrastructure funding for recreational / outdoor education facilities, etc.

Legislative Amendments

- Section 14 (4) should be amended to adjust members' appointments from 'no more than 3 years' to reflect municipal councillors' terms of 4 years.
- Section 37 should be amended to remove the requirement for OMB approval for Board members' salaries, expenses and allowances since little to no provincial money is used to compensate CA Board members' expenses.

- 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".