

TO: Board of Directors

REPORT NO: # CHBD 05 19 13

FROM: Barbara Veale, Director, Planning and Watershed Management

DATE: April 24, 2019

SUBJECT: Conservation Halton's Draft Comments on the Ontario
Endangered Species Act 10th Year Review Discussion Paper
ERO NO: 013-4143
CH File No: PPL 052

MEMO

Context:

After considering comments on the 10 Year Review of Ontario's Endangered Species Act: Discussion Paper, the Provincial Government is proposing changes to the Endangered Species Act, 2007 to improve the effectiveness of the program. The Discussion Paper outlined the challenges of the *Endangered Species Act*, with focused questions and was open for a 45-day public consultation period from January 18 until March 4, 2019. Based on the review, consideration of modern approaches from other jurisdictions and valuable feedback they received, the Province is recommending changes to modernize and improve the effectiveness of the Act and improve outcomes for Species at Risk.

Key Focus Areas of Review

The key areas staff focused their review on are outlined below, consistent with the categories put forth by the Province. Below each category is a brief summary of the proposed changes.

- 1) Assessing species at risk and listing them on the Species at Risk in Ontario List
 - Variety of changes proposed regarding the listing process relating to public consultation.
- 2) Defining and implementing species and habitat protections
 - Proposed changes include decoupling the listing process from automatic protection and the temporary suspension of species and habitat protections.
- 3) Developing species at risk recovery policies
 - Changes proposed include giving more time to develop Government Response Statements, clarifying the role of a recovery strategy and removing the requirements of posting under the *Environmental Bill of Rights* (1993).

- 4) Issuing Endangered Species Act permits and agreements and developing regulatory exemptions
 - The most significant change relates to the creation of Regulatory Charge and Agency. This will be an independent Crown Agency called the Species at Risk Conservation Trust and would allow for a charge in lieu of completing certain on-the-ground activities required by the Act.
- 5) Enforcing the Endangered Species Act
 - Proposed changes to the Act to allow for the transition of the file from the Ministry of Natural Resources and Forestry to Ministry of Environment, Conservation and Parks. Also moves the regulatory aspects to Enforcement Officers rather than just Conservation Officers, which is supported.

Summary of our Key Issues

The below outlines staff's high-level concerns on the proposed changes:

- Species at Risk Conservation Trust: Staff is concerned that the Trust would allow any proponent to contribute cash-in-lieu as opposed to completing on-the-ground recovery actions. Clarity from the Province is needed on what species this will affect and details on the future regulation are needed.
- Section 18 Changes: The proposed changes to S. 18 of the Act removes the requirement to demonstrate an overall benefit to the species. In effect, Species at Risk would be treated the same as non-species at risk, which is more of a 'best efforts' approach, which is not supported.
- Reduction of transparency and accountability: Some of the proposed changes may result in a reduction of transparency and accountability of the province. For example: transferring approval authority from the Lieutenant Governor in Council to the Minister; changing posting requirements under the *Environmental Bill of Rights*; enabling the scoping of species protections via new Minister's regulations, etc.

Next Steps

- Staff will provide formal comment on these changes via the Environmental Registry prior to the May 18th deadline.
- We will monitor changes and report back to the Board once these changes are known.

REPORT TO: Board of Directors

REPORT NO: # CHBD 05 19 12

FROM: Moya Johnson & Mike Cluett

DATE: April 25, 2019

SUBJECT: **Provincial Cutbacks to Conservation Authorities for Flood Forecasting and Control**

Recommendation

THAT the Conservation Halton Board of Directors direct the **Chair of Conservation Halton to write to the Honourable John Yakabuski, Minister of Natural Resources and Forestry to express his and the Board of Directors concerns related to the loss of provincial funding and request that the Province of Ontario reinvest in Conservation Authority Flood Forecasting, Operations and Natural Hazards management core programs,**

And

THAT the Conservation Halton Board of Directors direct the CAO to provide **a copy of this letter and resolution to the Honourable Steve Clark, Minister of Municipal Affairs and Housing, the Honourable Rod Phillips, the Ministry of the Environment, Conservation and Parks, and to the Towns of Halton Hills, Milton, Puslinch and Oakville, the Cities of Burlington, Hamilton, Mississauga, and the Regions of Halton and Peel and all Halton MPPs and MPs.**

Report

This report summarizes the impact of the Provincial transfer payments reduction by 50% for 2019 announced by the Province of Ontario through the Minister of Natural Resources and Forestry 2019 Budget allocations.

The Chief Administrative Officer of Conservation Halton received a letter signed by Monique Rolf von den Baumen, Assistant Deputy Minister (dated April 12 and attached to this report) that the Halton Region Conservation Authority will receive \$155,034.34 in funding for the 2019-20 fiscal year, for Section 39 Eligible Natural Hazard Management Grant. The reduced provincial funding will result in a 2019 budget variance of \$145,277, and an increase of 1.5%. The announcement comes after CA's budgets have already been approved.

Conservation Authorities have a mandate to prevent, mitigate and forecast flooding within their respective watersheds. Provincial funding (transfer payments) have traditionally been provided to assist CAs with addressing their core mandate, namely flood forecasting and hazard area management.

Impacts (decreases) to CA budgets regarding flood forecasting would result in an increased risk to members of the public associated with property damage, personal injury and possibly, loss of life.

CAs sources of funding have been a combination of the Province and municipalities within their watersheds, and the loss in Conservation Halton's budget would transfer to the Municipal (Regional) levy and result in a 1.5% increase in its budget request from its watershed funding Municipalities.

Impact on Strategic Goals

This report supports the Metamorphosis strategic theme of Taking care of our growing communities.

Financial Impact

Conservation Halton will see an increase of budget needs of 1.5% in the coming years and to mitigate the impact to the 2019 Budget the funds will have to be transferred from reserves. Other cost mitigation options will be considered during the budget variance and projection reporting to minimize the need for the full amount of the reserve transfer.

Moved by:

Councillor Moya Johnson

Seconded by:

Councillor Mike Cluett

REPORT TO: Board of Directors

REPORT NO: CHBD 05 19 10

FROM: Barbara J. Veale, Director, Planning and Watershed Management

DATE: April 25, 2019

SUBJECT: Meeting Provincial Priorities for Reducing Regulatory Burdens
CH File No.: ADM 341

Recommendation

THAT the Board of Directors **endorse the three key solutions developed by the Conservation Ontario working group to improve client service and accountability; increase speed of approvals; and, reduce the regulatory burden;**

And

THAT the Board of Directors **direct staff to continue to work with Conservation Ontario and clients to identify areas for additional improvements;**

And

THAT the Board of Directors **direct Conservation Halton staff to circulate this amended report and Board resolutions to Conservation Halton's area municipalities, neighbouring conservation authorities, and Conservation Ontario for information purposes.**

Executive Summary

A number of questions have been raised about duplication of efforts and causes for delays in land use planning and approvals, specifically with respect to the Province's priority of addressing housing supply concerns (especially in high growth areas). It is important that conservation authorities participate in this conversation to clarify their mandate and role in the process.

A volunteer General Managers'/CAO working group has been established to work with Conservation Ontario (CO) staff to review current processes and identify improvements that would support the provincial government's priorities.

The CO working group has identified three key areas that could be considered by conservation authorities:

- Improve client service and accountability;
- Increase speed of approvals; and
- Reduce the regulatory burden.

The CO working group is seeking a commitment from all conservation authorities to pursue streamlining and client services measures in order to contribute to achieving provincial priorities and has requested that the above resolution be endorsed by all Boards of Directors.

This resolution is in keeping with the direction that Conservation Halton (CH) has already been taking over the past few years and an area that was identified as a priority in the Strategic Plan. Staff is working to provide effective and efficient service delivery, streamline internal planning and permit review processes, and revamp CH's regulatory program by working with landowners to amicably resolve compliance issues whenever possible, rather than laying charges. Therefore, staff recommend that the Board of Directors endorse the above resolution.

Report

Background

In June 2018, a new provincial government was elected and moved quickly to implement the Plan for the People platform which included promises to:

“Cut red tape and stifling regulations that are crippling job creation and growth, and ...single-window access for approvals with a hard one-year deadline.”

Since that time, the provincial government has introduced a number of consultations, draft proposals and proposed amendments to legislation in support of their agenda.

Made in Ontario Environment Plan

The Ministry of Environment, Conservation and Parks released the *Preserving and Protecting our Environment for Future Generations: A Made-in-Ontario Environment Plan (2018)* that affirmed support for conservation and environmental planning and specifically mentioned that they would:

“work in collaboration with municipalities and stakeholders to ensure that conservation authorities focus and deliver on their core mandate of protecting people and property from flooding and other natural hazards and conserving natural resources.”

Housing Supply Action Plan

The Ministry of Municipal Affairs and Housing has initiated consultations on a *Housing Supply Action Plan* aimed at increasing housing supply and streamlining the development approval process. The Ministry is also reviewing the *Planning Act* and the *Provincial Policy Statement* to ensure that the land use planning and development approvals process is aligned with their goal.

Concerns about Conservation Authorities

Conservation authorities (CAs) in Ontario, in implementing their mandate, are part of the planning and development approvals process. Concerns have been expressed by some, that conservation authorities “need to stick to their mandate” and that they present a “significant barrier” to timely development approvals. Many of these concerns arise in the Greater Toronto Area where land development is complex, and demands are high. However, this concern has also been expressed in other areas of the province where development is occurring.

CAs have acknowledged that processes and relationships with the many stakeholders can be improved. In 2007, Conservation Ontario and representatives from CAs in Ontario participated in a multi-stakeholder initiative with the Ontario Home Builders Association (OHBA), Building Industry and Land Development Association (BILD), municipalities, provincial ministries, and other stakeholders as members of the Conservation Authority Liaison Committee (CALC). In 2010, the Ministry of Natural Resources and Forestry (MNRF) and Ministry of Municipal Affairs and Housing (MMAH) approved the *Policies and Procedures for Conservation Authority Plan Review and Permitting Activities* that have since been incorporated into MNRF's Policies and Procedures Manual.

In 2012 and 2014, training was provided by CO to assist CA staff in implementing the best practices laid out in this document. Each CA was encouraged to prepare policies and procedures approved by their Board of Directors and to post them publicly to ensure transparency and outline expectations, including review and permitting timelines and fees.

CAs believe that it is imperative to engage in the conversation about the very important role CAs play in land use planning and development approvals, as well as helping the new government understand their mandate and the relationships they have with member municipalities.

Conservation Ontario Response

Conservation Ontario (CO) retained Strategy Corp to provide insights and advice on government relations. Through this process, a number of General Managers/CAOs from different conservation authorities across the province volunteered to establish a small working group to work with CO to identify recommendations for solutions that will consistently address the issues identified by the provincial government around the housing supply, while still protecting natural hazards management and plan review activities required to protect the health and safety of Ontario's watersheds and residents.

Conservation Authority Mandate

The CO working group discussed clarifying and restating the mandate of CAs as supported by the recent update to the *Conservation Authorities Act (2017)* and as described in the provincial government's *Made-in-Ontario Environment Plan*:

"The core mandate of conservation authorities is to undertake watershed-based programs to protect people and property from flooding and other natural hazards, and to conserve natural resources for economic, social and environmental benefits".

This core mandate has always been the purpose of CAs since their inception in 1946. Now, more than ever, it is necessary to have organizations such as CAs taking meaningful on-the-ground actions and working at the right scale to protect and manage natural resources. The efforts by CAs related to monitoring, issue identification, and appropriate mitigation measures help communities across Ontario respond to climate change and increase their resiliency to extreme weather. Further, as the federal and provincial governments further restrict their activities to policy-related activities, there is a gap in capacity to address local environmental issues.

The following excerpt from a Conservation Ontario briefing note to the provincial government identifies that:

“Conservation authorities are a cost-effective mechanism for the Province and municipalities for the delivery of objectives under the Provincial Policy Statement (PPS)

- In addition to acting as a commenting agency on behalf of the Province with regard to natural hazards, conservation authorities also act as regulators. Additionally, conservation authorities act as technical advisors for municipalities in the review of planning applications, and, as source protection authorities under the Clean Water Act supporting policy implementation.*
- Conservation authorities ensure that applicants and municipal planning authorities are aware of regulations and requirements as well as assist in the coordination of applications under the Planning Act and the Conservation Authorities Act. The focus is to eliminate unnecessary delay or duplication in the process as it relates to protecting public health and safety from natural hazards, now and into the future.*
- Conservation authorities, through the provision of advice from watershed-based science, enable municipalities to cost effectively consider in their decision-making other PPS considerations such as ‘wise use and management of resources’ and stormwater.”*

Streamlining Conservation Authority Activities

The CO working group has been evaluating ways that CAs can streamline approval activities and reduce delays in order to help the provincial government address the lack of housing supply. It is recognized that CAs need to identify the outcomes that the provincial government and member municipalities need and review and modify processes to ensure the best solutions.

The CO working group developed the following three key solutions to work on with the development and construction community and municipalities. Through these activities any other specific concerns can be identified and addressed.

1. Improve Client Service and Accountability

- Provide client service training and establish client service standards implementing activities such as one point of contact for applications, and template guidelines for policies, processes, and, CA/Municipal MOUs that have clear deadlines for the different plan review services.
- Our commitment to timely approvals will be reported on annually.
- Initially, focus efforts on conservation authorities with high growth areas (GGHG/GTA and other parts of the province) where housing supply is needed immediately.

2. Increase speed of approvals

- Assess current application review/approval timelines, identifying problem areas where timelines are not being met and developing solutions to meet timelines.
- Establish timelines that match the complexity of development applications (e.g. simple and complete applications can be processed more quickly).

3. Reduce the regulatory burden

- Examine where conservation authorities can improve or change our processes to speed up or simplify permitting in hazard areas.
- Explore additional legislative or regulatory amendments to achieve increased housing supply and decreased approval timeframes.

Work Underway Among CAs

Some of these activities have already been started with the CO Section 28 Regulations Committee meeting over the past six months to identify potential streamlining options that can be implemented immediately. CH is represented on this committee by the Director of Planning and Watershed Management.

Other regulatory or planning processes influence the CA's ability to complete the work associated with *Planning Act* reviews and other legislation such as the *Safe Drinking Water Act (O. Reg 205/18)* and streamlining of approvals under the *Endangered Species Act*. CAs have collectively and individually taken the opportunity to provide comments to the provincial government about how these other processes can be improved.

Conservation Halton's Customer Service and Streamlining Activities

CH has undertaken many actions to improve client service and accountability, increase speed of approvals, and reduce the regulatory burden. While it is recognized that there are always improvements that can be made, CH through its Strategic Plan, has publicly committed to ensuring that its mandate is delivered effectively and efficiently. Conservation Halton has already embraced the key actions identified by the CO working group and is actively pursuing additional actions with our partners and clients. Some of these key actions are identified below.

1. Improve Client Service and Accountability

CH provides a range of planning and advisory services to watershed municipalities and other agencies. These services are typically outlined in Memoranda of Understanding or Agreement with individual municipalities and agencies. Through these MOUs, CH provides;

- Technical input regarding potential environmental impacts; and,
- Advice about how damaging impacts can be avoided or reduced and/or how opportunities for mitigation, restoration or improvement of environmental features and functions can be realized.

CH comments are advisory and apply to a range of matters including but not limited to natural hazards, natural heritage, and water quality and quantity. The terms of the agreements for planning services provided by CH differ, depending on the in-house staff expertise and resource issues of concern within the specific municipality or agency. Agreements have been signed with all watershed municipalities (Region of Halton, 2018 & 1999; Region of Peel, 2012; City of Hamilton, 2013; County of Wellington, 2017).

The Region of Halton, local municipalities, and conservation authorities recently developed a high-level Memorandum of Understanding (MOU) to specify how environmental services relating to plan review and technical clearances would be delivered among the parties. The MOU outlines principles and approaches which support collaboration among parties, clear roles and responsibilities, elimination of duplicative efforts, specific review timelines, and open data. Specific roles and responsibilities for plan review will be defined further in accordance with the renewed MOU (for now, the roles and responsibilities outlined in the 1999 MOU apply). As a first action, conservation authorities have been invited to participate as a full member of the Halton Area Planning Partnership (HAPP). CH is currently working with HAPP members on a new Terms of Reference to reflect the expanded membership.

In 2018, discussions for the renewal of the Memorandum of Agreement (MOA) with the City of Hamilton and four conservation authorities, including CH commenced. It is anticipated that a revised MOA will be finalized in 2019.

In 2014, the Region of Halton entered into an agreement with CH to provide compensation for the technical review of Environmental Assessments and the timely review and processing of regional permits associated with capital improvements. An internal multi-disciplinary team called the Regional Infrastructure Team (RIT) was created and has successfully fulfilled the terms of the agreement. This agreement was renewed in 2018 for another 5 years.

In addition to renewing service agreements with municipalities which outline explicit roles and responsibilities for plan review, as part of its Strategic Plan, CH has made customer service a priority. In mid-2017, Pat Moyle and Maureen McCauley were retained to undertake a Process Re-Engineering Study to identify and assess CH's processes for reviewing and commenting on planning and permit files. The study, finalized in November 2017, provided 50 recommendations for improving CH's internal plan review and permitting processes and service delivery.

Many recommendations were easy, common-sense fixes that build on current processes and practices. Others require additional resources and are longer term. The themes inherent in many of the recommendations relate to finding efficiencies, streamlining processes, clarifying roles and responsibilities, improving communications, building relationships, and increasing staff and organizational capacity. For example, key recommendations included:

- Reinstating the manager position
- Establishing municipal review teams to provide more efficient and coordinated reviews and improve CH-municipal staff communication
- Improving CH's correspondence to provide clear, concise, focused, and easily understood comments
- Developing CH technical submission guidelines to encourage better technical submissions from consultants and others
- Renewing a BILD/CH working group
- Upgrading CH's GIS and file tracking systems

A work plan was developed by staff in early 2018 to implement the study recommendations. Most of the shorter-term recommendations have been implemented.

A Senior Manager was hired in April 2018. Staff roles and responsibilities were evaluated and a new municipal review team structure was developed. The Planning Ecology Specialist positions were revamped and consolidated. Internal workshops were held to improve correspondence. CH staff has received positive feedback about these changes and additional communications training is planned for 2019.

Staff has developed draft technical submission guidelines which specify what technical information and analysis is required by CH. It is anticipated that this guidance will result in better, more complete technical submissions from landowners and consultants, which in turn, will reduce the number of submissions required and the time and resources needed for review. These guidelines include Slope Stability Assessment Submission Guidelines, Stormwater Management Submission Guidelines, Landscaping and Rehabilitation Guidelines, and Tree Preservation Plan Guidelines. External

consultation on the draft guidelines will commence in mid-2019. In addition, a series of checklists have been developed to assist applicants in knowing what is required for a complete permit applications.

Internal protocols have been developed to promote consistency in approaches among staff for erosion and sediment control and for determining whether or not a natural feature should be considered a local drainage feature or a watercourse which is regulated under Ontario Regulation 162/06. In 2016, the staff internal procedure manual was revised for planning and in 2018, the compliance and enforcement manual was completed.

The working group established with BILD in 2014 was revamped in 2019. A number of items for joint collaboration was identified including reviewing and commenting on 2019 proposed fee schedules and CH's draft technical submission guidelines. Staff also participate on the Hamilton-Halton Agricultural Advisory Panel which has been active for many years. The group meets quarterly to provide a forum for members to discuss concerns and opportunities with the two conservation authorities. Through this group, a guide to assist the farming community was produced which clarifies the types and locations of farming activities that require permits.

Staff in the Planning and Watershed Management department are working with the IT and GIS staff to make improvements to the planning and permit file/time tracking system, as well as to provide site-specific housekeeping updates to CH's regulatory mapping based on technical reviews and reports associated with planning and permit applications and wetland assessments.

In summary, concerted effort has been made by CH to improve client service, particularly over the past two years. Additional opportunities to improve client service will be identified and implemented in the future through discussions with CO, municipal and provincial staff, BILD, the Agricultural Advisory Panel, and other stakeholders.

2. Increase speed of approvals

In CH's Strategic Plan, two key service targets were established:

- Deliver comments on 95 percent of technical reviews of permits and planning applications within 6 weeks
- Process 95 percent of minor permit applications within 30 days

To measure response times, CH began tracking the number of files reviewed and the time taken to review each. In 2017, 131 technical reviews were completed for planning applications. Of these, 87 were completed within 6 weeks (66%); 32 were completed within 2 weeks (24%); and 44 required more than 6 weeks (34%). In 2018, 256 technical reviews were completed for planning applications. Of these, 156 were completed within 6 weeks (65%); 43 were completed within 2 weeks (18%); and 83 required more than 6 weeks (35%). In 2018, 77 % of the technical reviews done by the dedicated RIT team were completed within 6 weeks, with 50% completed within 2 to 4 weeks). Planning due dates for most site-specific applications under the *Planning Act* are typically met.

In 2017, 98 technical reviews were completed for major permit applications. Of these, 77 were completed within 6 weeks (79%); 37 were completed within 2 weeks (38%); and 21 required more than 6 weeks (21%). In 2018, 89 technical reviews were completed for major permit applications. Of these, 84 were completed within 6 weeks (94%), with just 5 reviews requiring greater than 6 weeks. In 2017,

268 minor permits were approved, with 248 permits approved within 30 days (92%). In 2018, 253 minor permits were approved, with 243 permits approved within 30 days (96%).

The time it takes to review technical submissions associated with planning applications is well below the target set in CH's Strategic Plan. This can be attributed to several factors including the quality of the submissions received, the number of technical meetings held among the applicant and the reviewing agencies, the number of technical submissions received, municipal planning priorities, and availability of staff, among others. While the percentage of technical submissions associated with planning applications reviewed within 6 weeks remained almost constant, the number of reviews undertaken in 2018 increased substantially.

The response times for the review of technical submissions associated with permit applications now meet the strategic targets set out by CH in its strategic plan. Several reasons account for this improvement including the receipt of better technical submissions, improved communication between staff and the applicant/agent, and a modified fee structure which encourages fewer submissions.

In subsequent years, CH will focus on continuing to improve response times for reviewing technical submissions associated with planning applications and maintaining the response times already achieved for permits.

3. Reduce the regulatory burden

In addition to improving response times for review of permits under Ontario Regulation 162/06, the regulations program team has made a conscious effort to improve communication with clients. Staff are committed to responding to inquiries within 48 hours (typically response time is less than 24 hours) and encouraging pre-consultation meetings to discuss proposals and information/technical requirements prior to the submission of a permit application. Pre-consultation enables staff to help people understand why a permit may be required and what the process entails. In many instances, pre-consultation results in a redesign of the proposal such that technical studies or even the requirement for a permit can be avoided. As a result, there have been no staff recommendations for denial of a permit since 2014.

In 2017, the compliance and enforcement approach was modernized. The goals of the program are to:

- Ensure compliance with approvals associated with Ontario Regulation 162/06;
- Ensure that reported or detected violations are resolved in a timely and cost-effective manner; and,
- Proceed with the legal process of laying charges when the violation is deliberate and the landowner is unwilling to work with Conservation Halton to resolve the violation.

Staff work with the Niagara Escarpment Commission, municipalities, the public and other stakeholders to respond to reported or detected works that have been completed or are underway without permission in areas that are regulated by CH. Early identification of infractions allows staff to work with landowners and/or their agents to minimize impacts to regulated features and areas and to remedy issues at a minimal cost. Where infractions are easily remedied, staff works to avoid formal or legal action, which can result in costly fines, penalties and legal fees. Staff works with willing landowners to resolve violations with on-site remediation or through a Restoration or Compliance Agreement.

A Restoration Agreement is negotiated with willing landowners where the alleged infraction can be fully removed from the regulated area. A Compliance Agreement is negotiated with willing landowners for violations that have the potential to meet Conservation Halton policies and regulatory requirements.

Where a landowner is unwilling to enter into an Agreement and where, in the opinion of staff, the unauthorized development is likely to affect the control of flooding, erosion, dynamic beaches, or pollution or the conservation of land, more formal actions are considered. Through formal proceedings, enforcement staff endeavours to negotiate a settlement, wherever possible.

This approach is reflected in the updated internal compliance and enforcement staff manual (2018). Staff is focused on resolving violation issues with landowners as a first step and has been very successful with this approach. No new charges have been laid in the past two years.

Rates and Fees Study

The Region of Halton is one of the fastest growing areas in Canada and it is anticipated that it will continue to grow rapidly. To ensure resources are sufficient to meet demand for CH planning and permitting services, it is important to discern the real direct and indirect costs of providing planning and permitting services. To this end, CH initiated a Rates and Fees Study in June 2018. The study was undertaken by Watson & Associates Economists Ltd. Staff worked closely with the consultant, providing information and helping to develop process maps for each application type in order to identify the key steps and time required to review and process “average” applications.

Based on the analysis undertaken, it was determined that CH was recovering an average of 74% of the annual review cost for all categories of planning applications and 72% of the costs for all categories of permit applications. Watson & Associates submitted their report to CH in January 2019. The report included a recommendation to increase the cost recovery target for permits from 80% to 100% and to continue to use a cost recovery rate of 100% for plan review. The report also recommended a fee structure for 2019 based on these recommended cost recovery targets. This fee structure was discussed with BILD. A staff report was presented to the CH Board of Directors in February 2019, along with proposed fees schedules which corresponded to the fee structures recommended in the Watson & Associates Report, with a few exceptions. The new cost recovery targets and proposed 2019 fee schedules were approved. The new fee structure will enable CH to ensure that resources are sufficient to allow staff to continue to improve response times and provide enhanced customer service into the future.

Communications Plan

In terms of transparency, CH publishes an annual report which highlights progress towards the targets on the CH website. In addition, the website includes Conservation Halton’s policies, guidelines, fee schedules, and mapping. CH has been and will continue to work co-operatively with stakeholders to identify collective opportunities for further streamlining and efficiencies in planning and permitting review processes. This is being carried out through liaison meetings with the development community and other stakeholders, MOU discussions with municipalities, and exchange of information and ideas with other conservation authority staff. Conservation Halton will also continue to actively communicate changes to internal review processes with stakeholders through these meetings and the website.

Impact on Strategic Goals

This report supports the Metamorphosis strategic theme of taking care of our growing communities. The theme is supported by the objective to remain dedicated to ecosystem-based watershed planning that contributes to the development of sustainable rural, urban and suburban communities.

Financial Impact

There is no financial impact to this report.

Signed & respectfully submitted:



Barbara J. Veale,
Director, Planning and Watershed Management

Approved for circulation:



Hassaan Basit
CAO/Secretary-Treasurer

FOR QUESTIONS ON CONTENT: Barbara Veale, 905-336-1158 x.2273, bveale@hrca.on.ca

REPORT TO: Board of Directors

REPORT NO: 05 19 11

FROM: Barbara J. Veale, Director, Planning & Watershed Management

DATE: April 25, 2019

SUBJECT: **Proposed Amendments to the *Conservation Authorities Act* and Regulations for Development Permits
CH File No.: PPO 048**

Recommendation

THAT the Conservation Halton Board of Directors **receive for information the report entitled “Proposed Amendments to the *Conservation Authorities Act* and Regulations for Development Permits”;**

And

THAT the Conservation Halton Board of Directors **direct Conservation Halton staff to amend Report No. 05 19 11 to include additional comments outlining opportunities for Conservation Authorities to assist the Province in streamlining approvals;**

And

THAT the Conservation Halton Board of Directors **direct Conservation Halton staff to revise the draft letters to the Ministry of the Environment, Conservation and Parks and the Ministry of Natural Resources and Forestry respectively, as Conservation Halton’s formal responses to the Province on the proposed changes to the Conservation Authorities Act (ERO number 013-5018 “Modernizing CA operations – CA Act” and ERO number 013-4992 “Focusing CA development permits on the protection of people and property”) in accordance with the changes to Report No. 05 19 11;**

And

THAT the Conservation Halton Board of Directors **direct Conservation Halton staff to circulate this report and Board resolution (s) to Conservation Halton’s area municipalities, neighbouring conservation authorities and Conservation Ontario for information purposes.**

Executive Summary

On April 5, 2019, the provincial government posted two notices on the Environmental Registry with proposed changes to the *Conservation Authorities Act (CAA)* and a proposal for a new development permit regulation under Section 28 of the *CAA*. The proposed amendments are intended to help Conservation Authorities (CAs) focus on and deliver their core mandate and to improve governance. The proposed regulation is intended to make rules for development in hazardous areas more consistent across CAs and to support faster, more predictable and less costly approvals.

Conservation Halton (CH) staff has reviewed each of the postings and has drafted a response to the provincial government. Given that the commenting period closes before the next CH Board of Directors' meeting, staff is seeking Board endorsement of the draft letters before submitting them to the respective ministries. While staff supports the intent of many of the proposed changes, comprehensive comments cannot be provided until such time as detailed legislative and regulatory changes are presented. The current proposals appear to take a narrow approach to natural hazard management and fail to recognize the important role that CAs play in protecting and managing natural resources at a watershed scale – one of the key principles underpinning the *CAA*.

Report

On April 5, 2019, the Province posted two notices on the Environmental Registry with proposed changes to the *Conservation Authorities Act (CAA)* and related regulations, including:

1. ERO Posting # 013-5018 - Modernizing conservation authorities operations – *Conservation Authorities Act*
2. ERO Posting # 013-4992 - Focusing conservation authority development permits on the protection of people and property

The first notice was posted by the Ministry of the Environment, Conservation and Parks (MECP) for 45 days with the commenting period closing on May 20, 2019. The second notice was posted by the Ministry of Natural Resources and Forestry (MNRF) for 46 days with the commenting period closing on May 21, 2019.

The Province has stated that the proposed amendments to the *CAA* are being proposed to help CAs focus and deliver on their core mandate and to improve governance. The proposed development permit regulation is intended to make rules for development in hazardous areas more consistent across all CAs and to support faster, more predictable and less costly permit approvals.

In both notices, the provincial government has acknowledged the role that CAs play in helping to protect homes, businesses and infrastructure from the impacts of climate change, as well as the role CAs have in Ontario's land use planning and environmental protection process. CAs were credited for helping to protect people and property from extreme weather, such as flooding and other natural hazards, safeguarding sources of drinking water, and conserving the province's natural resources.

The proposed changes to both the *CAA* and the development permit regulation are considered part of the provincial government's *Made-in-Ontario Environmental Plan* to help communities prepare for and respond to climate change. Improving the efficiency and effectiveness of CA regulations is part of the provincial government's strategy for strengthening Ontario's resiliency to extreme weather events.

The following report provides an overview of the information that has been presented to date for each of the above-referenced Environmental Registry postings. Conservation Halton (CH) staff has reviewed each of the postings and has drafted a response to the Province (Attachments 1 and 2). Given that the commenting period closes before the next CH Board of Directors' meeting, staff is seeking Board endorsement of the draft letters before submitting them to the respective ministries. While staff supports the intent of many of the proposed changes, comprehensive comments cannot be provided until such time that detailed legislative and regulatory changes are presented. The provincial government has indicated that it will develop and consult on a suite of regulatory and policy proposals to support the proposed amendments to the CAA later this spring.

ERO Posting # 013-5018 - Modernizing conservation authorities operations – *Conservation Authorities Act*

The Province has stated that the proposed amendments to the CAA are to help conservation authorities focus and deliver on their core mandate and to improve governance. If passed, the amendments to the CAA would:

- clearly define the core mandatory programs and services provided by conservation authorities to be natural hazard protection and management, conservation and management of conservation authority lands, drinking water source protection (as prescribed under the *Clean Water Act*), and protection of the Lake Simcoe watershed (as prescribed under the *Lake Simcoe Protection Act*);
- increase transparency in how conservation authorities levy municipalities for mandatory and non-mandatory programs and services by updating the CAA (first introduced in 1946), to conform with modern transparency standards by ensuring that municipalities and conservation authorities review levies for non-core programs after a certain period of time (e.g., 4 to 8 years);
- establish a transition period (e.g., 18 to 24 months) and process for conservation authorities and municipalities to enter into agreements for the delivery of non-mandatory programs and services and meet these transparency standards;
- enable the Minister to appoint an investigator to investigate or undertake an audit and report on a conservation authority; and
- clarify that the duty of conservation authority board members is to act in the best interest of the conservation authority, similar to not-for profit organizations.

The Province is also proposing to proclaim un-proclaimed provisions of the CAA related to:

- fees for programs and services;
- transparency and accountability;
- approval of projects with provincial grants;
- recovery of capital costs and operating expenses from municipalities (municipal levies);
- regulation of areas over which conservation authorities have jurisdiction (e.g., development permitting);
- enforcement and offences; and
- additional regulations.

The un-proclaimed provisions of the CAA (i.e., provisions to be enacted through regulation) were specified in the CAA promulgated in 2017 (*Building Better Communities* and *Conserving Watersheds Act*). Based on the information provided, the proposed changes appear to be bringing only these items into effect.

CH staff has reviewed the above posting and has drafted a response letter to the MECP (Attachment 1). Staff is seeking Board endorsement of the draft letter before submitting it.

ERO Posting # 013-4992 - Focusing conservation authority development permits on the protection of people and property

The Province is proposing to introduce one regulation for all CAs to further define the ability of a CA to regulate prohibited development and other activities for impacts to the control of flooding and other natural hazards.

Prohibited activities set out in Section 28 of the CAA as amended by Schedule 4 of the *Building Better Communities and Conserving Watersheds Act, 2017* include:

- Development in areas related to natural hazards such as floodplains, shorelines, wetlands and hazardous lands (i.e., lands that could be unsafe for development because of naturally occurring processes associated with flooding, erosion, dynamic beaches or unstable soil or bedrock); and
- Interference with or alterations to a watercourse or wetland.

The proposed regulation would consolidate and harmonize the existing 36 individual CA approved regulations into one approved regulation. This is intended to help ensure consistency in requirements across all CAs while still allowing for local flexibility based on differences in risks posed by flooding and other natural hazards.

The Province is also proposing to:

- Update definitions for key regulatory terms to better align with other provincial policy, including: “wetland”, “watercourse” and “pollution”;
- Define undefined terms including: “interference” and “conservation of land” consistent with the natural hazard management intent of the regulation;
- Reduce regulatory restrictions between 30m and 120m of a wetland and where a hydrological connection has been severed;
- Exempt low-risk development activities from requiring a permit including certain alterations and repairs to existing municipal drains subject to the *Drainage Act* provided they are undertaken in accordance with the *Drainage Act* and *Conservation Authorities Act* Protocol;
- Allow conservation authorities to further exempt low-risk development activities from requiring a permit provided in accordance with conservation authority policies;
- Require conservation authorities to develop, consult on, make publicly available and periodically review internal policies that guide permitting decisions;
- Require conservation authorities to notify the public of changes to mapped regulated areas such as floodplains or wetland boundaries; and
- Require conservation authorities to establish, monitor and report on service delivery standards including requirements and timelines for determination of complete applications and timelines for permit decisions.

CH staff has reviewed the above posting and has drafted a response letter to the MNRF (Attachment 2). Staff is seeking Board endorsement of the draft letter before submitting it.

Staff agrees that opportunities exist for some CAs to better focus and deliver on their core mandate and to improve governance. Further, staff agrees that further steps can be taken to make development in

CA regulated areas more consistent across CAs and approvals could be faster, more predictable and less costly.

CH has identified opportunities and implemented actions to streamline internal permit review processes and approvals over past few years which align well with the Provincial government's objectives. Staff is working with its partner municipalities to clarify roles and responsibilities and to reduce duplication through updating Memoranda of Understanding. In addition, a BILD/CH Liaison Working Group was formed to explore opportunities for improving technical submissions and accelerating the permit review process.

CH is actively pursuing the identification and implementation of additional actions with partners and clients in order to deliver the best possible customer service. These include actions to:

- take a comprehensive, creative and collaborative approach early in the planning process to provide greater clarity and certainty around approvals, promote opportunities for innovation, enable complete applications and timely development and infrastructure approvals, and help to avoid costly and lengthy appeals to the Local Planning Appeal Tribunal (LPAT) or Mining and Lands Tribunal;
- promote more certainty through clear CH policies and guidelines; and
- co-ordinate with municipalities to further streamline approval processes under the *Planning Act*.

In the Greater Toronto area, there may be other opportunities for CAs to help streamline approvals related to natural resources for development and infrastructure, where capacity exists. For example, CAs with expertise and capacity may be in a position to assist the Province with wetland evaluations and approvals and staking Provincially Significant Wetlands; wildlife management and administering other legislations such as the *Endangered Species Act*; and conducting Environmental Compliance Approvals for stormwater facilities under the *Ontario Water Resources Act*.

CH appreciates that the provincial government recognizes the critical role that CAs play in protecting life and property from the risks associated with natural hazards, as well as the role that CAs have helping the province to address the impacts of climate change. However, based on the information presented in the Environmental Registry postings, CH is concerned that the proposals fail to recognize the critical role that CAs play in the protection and management of natural resources on a watershed basis – one of the key principles underpinning the CAA.

CAs have an important part to play in protecting the functioning and resilience of natural resources at the watershed level. Through collaborative watershed planning, CAs can assist the Province and local municipalities in addressing climate-change and natural resource related issues at the watershed scale. This role should be acknowledged and not limited through any changes to the CAA or associated regulations.

Additional comments will be provided once detailed legislative and regulatory changes are presented. Conservation Halton staff will monitor future postings and report back to the Board of Directors once additional information is provided by the provincial government.

Impact on Strategic Goals

This report supports the Metamorphosis strategic theme of taking care of our growing communities. The theme is supported by the objective to remain dedicated to ecosystem-based watershed planning that contributes to the development of sustainable rural, urban and suburban communities.

Financial Impact

There is no financial impact to this report.

Signed & respectfully submitted by:



Barbara J. Veale, Director, Planning and
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Approved for circulation by:



Hassaan Basit
CAO/Secretary-Treasurer

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