
For Information

REPORT TITLE: **Implications of Recent Changes to the Conservation Authorities Act Through Bill 229, Protect, Support and Recover from COVID 19 Act (Budget Measures), 2020**

FROM: Andrea Warren, Interim Commissioner of Public Works

OBJECTIVE

To update Regional Council on amendments to the *Conservation Authorities Act* and the implications that those may have on the Region pending the outcome of new regulations

REPORT HIGHLIGHTS

- In 2015, the Province initiated a review of the *Conservation Authorities Act* (“the Act”).
 - The Province has subsequently enacted changes to the Act through a series of bills the most recent of which is Bill 229, the *Protect, Support and Recover from COVID 19 Act, (Budget Measures), 2020* that received Royal Assent on December 8, 2020.
 - Collectively the revisions are intended to modernize conservation authority governance, oversight, and funding mechanisms and clarify the mandate, roles and responsibilities of conservation authorities.
 - The Province will be releasing implementation regulations for consultation including details on the mandatory programs and services to be delivered by conservation authorities, the proposed agreements that may be required to fund non-mandatory programs and services and transition.
 - Staff are working with conservation authorities to ensure these changes will continue to enable Regional funding of mandatory and non-mandatory programs and services deemed important to the Region and the local municipalities. This includes the management of watershed resources, watershed planning, conservation land management and stewardship, source water protection, flooding and natural hazard management.
 - Additional changes in Bill 229 impacting conservation authority roles and permitting are highlighted for information.
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DISCUSSION

1. Background

Conservation authorities (CAs) play an important role in managing natural resources and the prevention of flooding and erosion hazards, delivering a broad range of watershed management programs and services addressing both provincial and municipal needs.

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There are five CAs with watershed areas in Peel Region. These are Conservation Halton (CH), Credit Valley Conservation (CVC), Lake Simcoe Region Conservation Authority (LSRCA), Nottawasaga Valley Conservation Authority Conservation (NVCA) and Toronto and Region Conservation Authority (TRCA). Of the five CAs, the Region provides budget support to CH, CVC and TRCA, which together have jurisdiction over approximately 99 per cent of the total lands in Peel Region.

The Province initiated a review of the *Conservation Authorities Act* ("the Act") in 2015 with the purpose of modernizing CA governance, oversight, and funding mechanisms and clarifying the mandate, roles and responsibilities of CAs. It was intended that legislative proposals would be phased-in over several years with enabling provisions that would come into force when supporting regulatory, policy and program details were available.

Prior to *Bill 229*, the Province had made amendments through *Bill 139 the Building Better Communities and Conserving Watersheds Act, 2017* and *Bill 108 the More Homes, More Choice Act, 2019* as part of the Province's Housing Supply Action Plan in 2019.

Table 1 provides a summary of the key changes proposed in those two earlier Bills.

Table 1

Bills Enacting Changes to the CA Act	Key Amendments to the CA Act
<p><i>Bill 139 Building Better Communities and Conserving Watersheds Act, 2017</i> (This Bill received Royal Assent on December 12, 2017).</p>	<ul style="list-style-type: none"> • Mandatory programs and services that are required by regulation. • Municipal programs and services that the authority agrees to provide on behalf of municipalities under a memorandum of understanding. • Such other programs and services as the authority may determine are advisable to further its objects. • Clarified CAs permitting authority. • Clarified processes for enlargements, amalgamations or dissolution for CAs. • The power for CAs to issue stop work orders was added.
<p><i>Bill 108 More Homes, More Choice Act 2019</i>, as part of the Province's Housing Supply Action Plan in 2019 (This Bill received Royal Assent on June 6, 2019).</p>	<ul style="list-style-type: none"> • Defines the four areas of core mandatory programs and services offered by CAs and allows for the programs and services that make up each area to be further defined by regulation. The four areas included programs and services related to: <ul style="list-style-type: none"> 1. risk of natural hazards;

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Bills Enacting Changes to the CA Act	Key Amendments to the CA Act
	<ol style="list-style-type: none"> 2. conservation and management of lands owned or controlled by the CA; 3. CAs duties, functions and responsibilities as a source protection authority under the <i>Clean Water Act, 2006</i>; and 4. CAs duties, functions and responsibilities under an Act prescribed by the regulations. <ul style="list-style-type: none"> • Allows other programs and services outside of the four core areas to be prescribed as mandatory programs and services. • Requires, after a specified date, that municipal financing of a non-mandatory program and service can only continue, where the CA has entered into a financing agreement with its participating municipalities.

2. Implications for the Region

Bill 229 is a provincial budget bill that proposed amendments to 44 Acts, including the *Conservation Authorities Act*, through Schedule 6. The bill received Royal Assent on December 8, 2020

The provisions of the Act, as amended by Bill 229, will now prescribe mandatory programs and services to be provided by CAs and the manner by which they are funded and enable the provision of non-mandatory and other programs and services to be provided by CAs subject to agreements, prescribed standards and requirements to be set out in regulations.

In 2020, Regional Council approved resolutions related to the role of the CAs. The first resolution (2020 – 143) on February 27, 2020 was in support of CAs as it relates to provincial funding cuts, the need to maintain their watershed focus and ensuring CA and municipal staff involvement when developing draft regulations. The second resolution (2020 – 938) on November 12, 2020, expressed concerns regarding proposed changes to the CA Act as a result of proposed Bill 229.

The key changes in Bill 229 include

i. Provisions defining mandatory and non-mandatory programs and services are retained with minor revisions

Bill 229 replaced but substantively retained the provisions from Bill 108 defining the mandatory and non-mandatory programs and services to be provided by CAs and the manner by which costs are funded and apportioned as both capital and operating expenses. A CA is required to

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enter into agreements with the participating municipalities in its jurisdiction if any municipal funding is needed to recover costs for either non-mandatory or other programs or services provided to municipalities. Under the provisions, CAs are also allowed to provide such other programs and services as they determine are advisable to further the purposes of the Act, subject to regulations. Implementation of the provisions require supporting regulations which have yet to be released.

Implications for the Region

The framework under the Act regarding the provision of mandatory and non-mandatory programs and services clarifies the core programs of the CAs while still providing flexibility to enable CAs to continue to deliver a broader range of programs and services deemed important to the Region and the local municipalities.

The requirement that CAs enter into agreements with municipalities for the delivery of non-mandatory programs is consistent with the Region's current Memorandums of Understanding (MOUs) with each of the CAs having jurisdiction in the Region of Peel.

The Region, area municipalities and CAs have historically operated with service level agreements (SLAs) and Memorandums of Understanding (MOUs) for certain program areas. These include:

- Plan input and review services
- Environmental Assessment review
- Low Impact Development (LID) monitoring
- Design and construction of Jim Tovey Lakeview Conservation Area

Once final direction is provided, the Region will be required to review existing MOUs to ensure consistency with the new requirements including potentially entering into new or revised funding and service level MOUs and agreements.

ii. A new right to appeal fees for permit applications

Section 21.2 of the Act has been amended to now permit an applicant upon a request for reconsideration of fees charged by a CA to appeal a non-decision after a 30 day timeline or appeal a decision directly to the Local Planning Appeal Tribunal.

Implications for the Region

Collection of fees is an integral part of the CAs' revenue stream and helps to complement the levies that are paid by the Region. If there is uncertainty about the collection of these fees in a timely manner due to this appeal process, that may affect revenue flow and could trigger increased funding requests of the CAs from the Region in future budgets.

iii. Conservation Authorities now required to issue permits when Minister's Zoning Orders are issued

Section 28, which deals with CA permitting, was further revised to require a CA to grant permission to carry out a development project if a zoning order has been made by the Minister of Municipal Affairs and Housing under section 47 of the *Planning Act* authorizing the development under that Act.

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Implications for the Region

This change would make it mandatory that a CA grant permission to an applicant to carry out a development project if a Minister's Zoning Order has authorized the development. Such permits will also require applicants to enter agreements with the CA in order to compensate for ecological impacts and any other impacts that may result from the development. While a CA may attach conditions to these 'required' permits, the applicant can request that conditions be reviewed by the Minister or appeal directly to the Local Planning Appeal Tribunal, which may potentially circumvent consistent application of CA policy.

iv. Changes regarding land use planning and permitting will remove the ability of a conservation authority to participate in *Planning Act* appeals and make it easier to challenge the permitting decisions of a conservation authority

Bill 229 amended the *Planning Act* to exclude CAs in the definition of a public body as it relates to specific sections permitting public body appeals of planning decisions. Upon proclamation, this change removes the ability of a CA to appeal planning decisions to the Local Planning Appeal Tribunal or to become a party to an appeal except where an appeal relates to a prescribed natural hazard risk or where the CA was the applicant for a consent in the matter under appeal.

Currently, under the Act, the CAs regulatory permitting process allows appeals of CA decisions to the Mining and Lands Tribunal. Revisions made to the Act, will now provide two processes to enable decisions on permits to be challenged: a request to review by the Minister or by appeal to the Local Planning Appeal Tribunal.

Implications for the Region

The proposed amendment to the *Planning Act*, which limits CAs from appealing a municipal planning decision to the Local Planning Appeal Tribunal (LPAT) or becoming a party to an appeal will change the role of CAs in hearings from having direct appellant and party status. Although changes are made to the CAs role at hearings these do not limit the ability of municipalities to call CA staff as technical advisors or witnesses in support of municipal appeals.

More details on the amendments in Bill 229 are provided in Appendix I.

NEXT STEPS

On February 2, 2021, specific provisions in the Act were proclaimed to initiate changes to CA governance (e.g. changes to CA municipal membership), for consistency in administration, transparency and financial accountability, as well as provincial oversight of CA operations.

The Ministry is proposing that the remaining un-proclaimed provisions be proclaimed in two further stages over the coming months to align with the roll out of proposed regulations and policy. These include:

- Provisions related to natural hazard management, mandatory programs and services, community advisory boards, agreements to fund non-mandatory programs and services, transition period, and fees; and

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- Provisions related to municipal levies, and standards and requirements for non-mandatory programs and services.

Consultation on regulations to support implementation of the *Act* are also anticipated in conjunction with the enactment of the remaining un-proclaimed provisions including:

- details on the programs and services CAs will implement and how the programs and services may be funded, such as the:
 - mandatory programs and services CAs will deliver
 - proposed agreements with participating municipalities that may be required to fund non-mandatory programs and services with municipal dollars, and the transition period to establish those agreements
- how CAs will regulate development and other activities to ensure public safety through natural hazard management
- the requirement for CAs to establish community advisory boards
- a minister's regulation under section 29 of the *Conservation Authorities Act* relating to CA operation and management of lands owned by the authority
- details on municipal levies related to mandatory and non-mandatory programs and services
- standards for the delivery of non-mandatory programs and services

The Province has appointed a working group with CA and municipal representatives (there is no representative from Peel) to provide advice on regulations that impact CAs and their participating municipalities.

Staff will continue to coordinate internally and externally with the CAs and with local municipalities to determine any needed consistency or opportunities to consolidate future memorandums of understanding and service level agreements when the new regulations come into effect.

Further, staff will continue to monitor the status of regulations and will report back to Council when these become available and the implications for the Region of Peel can be fully assessed.

APPENDICES

Appendix I - Details of Bill 229 Schedule 6

For further information regarding this report, please contact Adrian Smith, Interim Chief Planner and Director of Regional Planning and Growth Management, Ext. 4047, Adrian.smith@peelregion.ca.

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