
For Information

REPORT TITLE: Region of Peel Response to Amendments to the Conservation Authorities Act

FROM: Kealy Dedman, Commissioner of Public Works

OBJECTIVE

To update Regional Council on amendments to the *Conservation Authorities Act (CA Act)* and the transition to the new framework for submitting Conservation Authority budgets effective January 1, 2024, for the 2024 fiscal year.

REPORT HIGHLIGHTS

- Over the last seven years the Province has enacted several changes to the CA Act through a series of Bills.
 - The most recent of which is Bill 23, the *More Homes Built Faster Act* which received Royal Assent on November 28, 2022.
 - The Region of Peel has responded to all Environmental Registry of Ontario (ERO) postings related to the CA Act, providing timely feedback on changes and their anticipated impact on the Region.
 - Collectively the revisions are intended to modernize conservation authority governance, oversight, and funding mechanisms, improve transparency and accountability, and clarify the mandate, roles and responsibilities of conservation authorities.
 - Conservation authorities' mandate includes the management of watershed resources, watershed planning, conservation land management and stewardship, source water protection, flooding and natural hazard management.
 - Regional staff has been working with the conservation authorities to ensure that the legislative and regulatory changes will not adversely impact program and services deemed important to the Region and the local municipalities.
 - The legislative and regulatory changes to the CA Act will result in a new Conservation Authority municipal budgetary framework to be effective January 1, 2024.
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DISCUSSION

1. Background

The Region like other participating municipalities are key funders of the Conservation Authorities (CAs) through the approval of CA budgets under the CA Act. 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 (NVCA) and Toronto and Region Conservation Authority (TRCA). Of the five CAs, the Region is designated as a participating municipality under the CA Act to provide budget support to CH, CVC and TRCA, which together comprise approximately 99 per cent of the total lands in Peel Region.

The Province initiated a review of the CA Act in 2015 with the purpose of modernizing CA governance, oversight, and the way in which CA programs and services are funded as well as clarifying their mandate, roles and responsibilities.

As a result of the review, amendments to the CA Act have been made through the following Bills:

- Bill 139, the *Building Better Communities and Conserving Watersheds Act, 2017*
- Bill 108, the *More Homes, More Choice Act, 2019* as part of the Province's Housing Supply Action Plan in 2019
- Bill 229, the *Protect, Support and Recover from COVID 19 Act, (Budget Measures), 2020*
- Bill 23, the *More Homes Built Faster Act 2022*

Appendix I provides a summary of the key changes to the CA Act.

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.

2. Legislative Changes

Under the CA Act, CAs have the ability to levy municipalities for their operating (General Levy) and Capital (Special Levy) costs. Recent changes to the CA Act establish a new framework for the submission of CA budgets for approval by participating municipalities. Legislative changes now require that the conservation authority programs and services be classified into three categories:

- Category 1 (mandatory programs and services every conservation authority is required to provide);
- Category 2 (non-mandatory programs and services a municipality requests a CA to provide on their behalf); and
- Category 3 (non-mandatory programs and services a CA determines are advisable to deliver to further the purposes of the CA Act).

The CA Act now defines the following as mandatory programs and services (Category 1) that CAs are to provide:

- Programs and services related to the risk of natural hazards.
- Programs and services related to the conservation and management of lands owned or controlled by the authority including any interests in land registered on title.
- Programs and services related to the authority's duties, functions and responsibilities as a source protection authority under the *Clean Water Act, 2006*.

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- Programs and services related to the authority's duties, functions and responsibilities under an Act prescribed by the regulations.

Costs for mandatory programs and services that are not covered through grants or self-generated revenue are required to be funded by participating municipalities through municipal levies in accordance with cost apportionment requirements prescribed under the CA Act.

Non-mandatory programs and services (Category 2 and 3) are discretionary and require a memorandum of understanding (MOU) or agreement to be entered into between the municipality and conservation authority. Category 2 programs and services could continue to be funded through existing Special Levy project funding provided by the Region, user fees, or other means as may be specified in the agreement. Category 3 programs and services require a cost apportioning agreement to be entered into between the participating municipalities and CA. MOUs and agreements for Category 2 and 3 programs and services must be in place by January 1, 2024 in order for CAs to levy for these programs and services.

In the most recent changes to the CA Act in Bill 23, the CAs permitting authority and commenting role under prescribed legislation has been further scoped to focus on the management of natural hazard risks. Municipalities no longer have the ability to enter into MOUs or agreements for CAs to provide non-mandatory program or service related to reviewing or commenting on proposals, applications or other matters under prescribed Acts, including the *Planning Act* and *Environmental Assessment Act*, or appeal matters under the *Planning Act*, unless comments or appeals are related to the CAs natural hazards mandate.

3. Regulatory Changes

New regulations prescribing details related to implementation of the legislative changes came into effect in two phases.

Phase 1 regulations came into effect in October 2021 and further prescribed mandatory services for conservation authorities, required all non-mandatory services to be under an MOU or agreement, and set out timelines to transition to the new regulatory requirements by January 1, 2024. This resulted in three final regulations:

- O. Reg. 686/21: Mandatory Programs and Services
- O. Reg. 687/21: Transition Plans and Agreements for Programs and Services Under Section 21.1.2 of the CA Act
- O. Reg. 688/21: Rules of Conduct in Conservation Areas (not in effect)

Phase 2 regulations focused on financial and administrative matters and came into effect in April 2022. Phase 2 regulations address municipal apportionment methods, conservation authority budget requirements, and requirements to post information on the CA's website.

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4. CAs Required Actions

a) Transition Plans

Regulation 687/21 (*Transition Plans and Agreements for Programs and Services under Section 21.1.2 of the Act*) requires the development of transition plans by each CA. Transition plans outline:

- How and when the CA will meet the first and second phase transition period requirements;
- The approach and timelines for the development of MOUs and cost apportioning agreements to fund non-mandatory programs and services with municipalities within their jurisdiction; and
- Steps and timelines to provide an inventory and categorization of programs and services as 'mandatory' or 'non-mandatory' programs or services.

The CAs provided their transition plans to the Region in early 2022.

b) Second Phase Transition Period

During the second phase of the transition period (February 28, 2022 to January 1, 2024), CAs are to:

- Complete their consultation with municipalities on the inventory of programs and services and consider any feedback;
- Take necessary steps to enter into cost apportioning agreements; and
- Submit progress reports to the Ministry of Natural Resources and Forestry.

Also, as part of the second phase of transition, CAs were required to develop an Inventory of Programs and Services to be circulated and made available online by February 28, 2022.

5. Regional Response

Regional comments on the CA Act changes including Council endorsed response letters and resolutions provided recommendations to the Province during consultation on the legislative reforms.

Further to the finalization of the regulations and the CAs commencing consultation on their transition requirements, Regional Planning, Water, Wastewater, Transportation, Finance, and Office of Climate Change and Energy Management staff has coordinated preliminary comments to the CAs on their initial inventories and categorization of programs and services. Regional staff has requested that the CAs budget submissions, categorizations and funding agreements are clear and aligned to regulatory requirements under the Act.

The continued delivery of mandated programs and services related to natural hazards planning and regulation, conservation authority lands management and the provision of a range of non-mandatory watershed-based planning, programs, technical services, science, education and stewardship are critical to meeting local municipal and Regional needs.

Accordingly, and in parallel with the CAs budget transition to the new framework, staff is also providing feedback on alignment of the CAs 2024 budgets with Regional priorities

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through a structured engagement process with senior program staff. Regional staff will continue to work with CA staff in consultation with the local municipalities to provide comments on budget priorities and the final draft inventories expected to be provided to municipalities for consultation in early 2023.

In addition to meeting with the local municipalities to discuss draft lists of programs and services, and priority areas for future funding, Regional staff has also met with Durham, York and City of Toronto staff to discuss the inventory and categorization of mandatory and non-mandatory services provided by the TRCA which has watershed areas in all three regions and city.

Category 2 and 3 (non-mandatory) programs and services requiring agreements (MOUs) between the Region and the CAs for any portions to be funded by municipal levy are being considered. Discussions involving the Region's legal and technical staff are ongoing with the CAs on the draft MOUs, as well as other Service Level Agreements (SLAs) with the CAs that may have been in place prior to the new regulatory requirements.

As a result of changes in Bill 23 affecting the commenting role of the CAs under the *Planning Act* and other prescribed legislation, some plan input and review technical services that CAs previously provided the Region and local municipalities under Memorandums of Understanding are no longer provided effective January 1, 2023 (i.e., technical reviews related to natural heritage conformity and stormwater management not related to natural hazards). Other changes further focusing the CAs permitting authority on the management of natural hazard risks will come into effect at a future date. It is expected these changes will have implications to local municipal resourcing of planning review functions and that the 2024 CA budget submissions will be adjusted accordingly to address the implications of Bill 23.

As science-based watershed organizations, CAs are uniquely positioned to provide municipalities with data, mapping, programs and services, including critical programs related to restoration and stewardship of the natural environment to support watershed planning and other municipal decision making.

6. Next Steps

The CAs are expected to provide the Region with their final categorization of programs and services to be reviewed for clarity and alignment with the prescribed terms and requirements under the legislation. Regional staff will be coordinating comments internally and consulting with local municipal staff on their program and service needs similar to the exercise undertaken when the draft list was circulated last year.

Regional staff has started the 2024 annual work program priority setting exercise in collaboration with the CAs which helps align the CA's budgets to regional and local priorities and avoid duplication of effort. This process will continue once the final categorization of programs and services has been agreed on with adjustments to take into account the CAs transition to the new post-Bill 229 budget format and mandate as well as the impact of further changes and scoping of the CAs core mandate due to Bill 23.

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Successful conclusion of the 2024 budget is also dependent on finalization of the MOUs that are a requirement for Category 2 and 3 programs and services provided through agreement. Once the MOUs have been satisfactorily vetted through the Region's legal services a report will be brought to Council for information and endorsement.

APPENDICES

Appendix I - Summary of Recent Legislative Changes to the *Conservation Authorities Act*



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