



**Community Planning**

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Our File: L11 2021 CA Act Regulations

June 25, 2021

Ms. Liz Mikel  
Conservation and Source Protection Branch  
Ministry of the Environment, Conservation and Parks  
40 St Clair Ave W, 14th Flr  
Toronto, ON  
M4V 1M2

**Via Email: [ca.office@ontario.ca](mailto:ca.office@ontario.ca)**

Dear Ms. Mikel:

Re: **ERO Posting No. 019-2986**  
Regulatory proposals (Phase 1) under the Conservation Authorities Act

County of Oxford staff have reviewed the proposal details as outlined in ERO Posting No. 019-2986, including the “consultation guide” pertaining to regulatory proposals under the *Conservation Authorities Act*. Staff note that this proposed regulation represents the first phase of consultation on a number of regulations being proposed under the Act, and specifically includes the following:

- Prescription of what constitutes “mandatory programs and services” that a conservation authority would be required to provide.
- The detailed requirements regarding conservation authorities entering into agreements with participating municipalities in order to utilize funds from municipal levies for the delivery non-mandatory programs and services.
- Requirements for transition plans to comply with the new regulations including detailed requirements on the preparation of inventories, consultation processes, timelines and regular reporting on the status of implementation to the Ministry of Environment, Conservation and Parks (MECP).
- Requirements for conservation authorities to establish a community advisory board, that includes members of the public, to provide advice to the Authority.
- The consolidation of the Conservation Areas regulations made under Section 29 of the Conservation Authorities Act into one Minister’s regulation. These regulations set out

prohibited activities and activities that require a permit under the Act within Conservation Areas.

Based on our review of the materials provided, staff provide the following comments:

1. We have noted in our comments on past conservation authority related consultations that there is a significant variation in capacity/expertise between various conservation authorities and availability of regulatory mapping and other information which can present some challenges for consistent local service delivery and could create an inconsistent regulatory environment for developers/builders, it remains unclear how the current regulatory proposals will assist in addressing this, and it is a concern that the proposed framework may result in greater inconsistencies in service delivery due to additional limitations in funding availability and the further downloading of costs for mandatory programs and services to municipalities.

**Feedback regarding “mandatory programs and services”**

2. It is understood that the mandatory program pertaining to natural hazards is intended to include CA review and input of Official Plan (OP) through the One Window process. Staff note that this process occurs at the upper or single tier level as part of new OP/ OP updates where the Province is the approval authority. Based on the proposed scope it does not appear to include the review of existing, or identification of new two zone floodplain policy areas or Special Policy Areas (SPAs) as a mandatory program or service. The County includes multiple areas of existing two-zone floodplain and are reliant on the input of conservation authorities to provide expertise pertaining to water resource engineering and natural hazards to ensure that areas are appropriately mapped and protected through policy. This function of Conservation Authorities should be clarified and included as a mandatory program or service which is funded through the Province and aligned with the requirements for natural hazards under the Provincial Policy Statement, 2020.
3. Under the proposed regulation, staff note that the municipal levy would only be available for the operation and maintenance of any water control infrastructure owned or controlled by the conservation authority that mitigates risk to life and property damage from flooding or supports low flow augmentation as a mandatory service. A municipal levy would not apply to water control infrastructure that does not have a demonstrated flood management or flow augmentation role, without an agreement with the participating municipality being put in place. Agreements would be required with the participating municipalities to maintain levy support for the maintenance and upkeep of the infrastructure under the proposed regulation as a non-mandatory service. Staff note that the proposed regulation would appear to require these agreements with the participating municipality (i.e. the County), however in some cases this infrastructure may be of greatest interest or concern to the local municipality (i.e. the lower tier), as such the proposed regulation should consider how input and participation from lower tier municipalities is to be incorporated into the agreement process.

Staff also note that the Province provides funding support through the Water and Erosion Control Infrastructure (WECI) program which supports the maintenance and repair programs of water control infrastructure for conservation authorities. The County requests that the Province continue to provide this financial support to the conservation authorities in place of relying on municipal levies through an agreement to support this program. Major repairs to water control infrastructure can require significant funds, studies and permits. Provincial funding should be maintained to avoid municipalities being required to cover the costs of major maintenance projects.

4. Staff note that the proposed regulations also include new requirements for the management of conservation authority owned lands, including the development of strategies, management plans and policies related to acquisition, disposition, use, classification and

property management. Staff note that passive recreational functions (including trails) are not recognized as a mandatory program or service within the proposed regulation within these new requirements. Many Conservation Authority lands provide these same passive recreational opportunities as municipal, provincial and federally owned and managed parks. Having access to nature for passive use and to support overall wellbeing is essential and these same trail networks integrate into the broader trail system within the County. Programs and services that include passive recreational amenities on conservation authority owned properties should be included as mandatory programs and services.

Further, the Province should give further consideration to the role of conservation authorities in, and direct Provincial funding for, the securement and management of lands for natural heritage protection (e.g. through acquisition, dedication, donation etc.). Having a more coordinated, Province wide approach to the securement and management of natural heritage features and lands would provide for a more consistent level of natural heritage protection across the Province and improve the ability to protect, restore and enhance natural heritage systems and component features and areas on a more watershed basis (i.e. across municipal boundaries). It would also allow for greater economies of scale in management of these areas (e.g. shared professional expertise, development of management plans/programs etc.)

5. Regarding programs and services administered under the Clean Water Act for the Source Water Protection (SWP) program, staff note that there appears to be a possible shifting of responsibilities for source protection authorities, including completing municipal related land use mapping necessary (e.g., impervious surfaces and managed lands) to determine the risk posed by prescribed drinking water threats, and responding to requests to review proposals in wellhead protection areas and intake protection zones. These tasks are currently undertaken by the County, as the drinking water system owner, through the implementation and updating of its Source Water Protection Plan policies, and in order to meet Environmental Assessment requirements for new and expanding drinking water infrastructure, with support from source protection authority staff where requested. These responsibilities should remain with municipalities as the drinking water system owner, unless an agreement to provide such services on behalf of the County is entered into with the CA.

Staff also note that currently the Province has committed to funding support for the SWP program through March of 2022. This new regulation, as proposed, enables the Province to potentially shift the program funding to municipal levy based funding in the future. The Province should continue to fund the SWP program and should avoid the further downloading of costs onto municipalities.

In addition, the Province should look for opportunities to create efficiencies regarding conservation authority duties, functions, and responsibilities under the Clean Water Act. Such efficiencies could include streamlining and reducing the existing annual reporting burden regarding SWP plan implementation, this same relief should also be extended to municipalities who have to submit annual reports to the SWP staff at conservation authorities.

6. The Province is also proposing to prescribe two additional areas as mandatory programs or services, specifically: A “Core Watershed-based Resource Management Strategy” and “Provincial Water Quality and Quantity Monitoring”

With respect to the proposed “core watershed based resource management strategy”, while County staff appreciate the potential value such a strategy may provide, including from a watershed planning perspective, the concept for these plans is currently very vague within the consultation guide. MECP staff should clarify how these plans are proposed to be developed and how their preparation would be funded. In addition, the types of timelines, resources and data gathering needs should also be considered in order to ensure a consistent minimum standard between all strategies for all watersheds.

With respect to the “Provincial Water Quality and Quantity Monitoring” program, the scope of existing programs and monitoring initiatives intended to be incorporated under this regulation is unclear. The consultation guide makes reference to the Provincial Water Quality Monitoring Network and the Provincial Groundwater Monitoring Network, but omits references to other supportive monitoring programs, as well as supporting data collection which supports municipal infrastructure, including municipal sewage treatment plants which rely on stream flow and water quality information for compliance with certificate of approval (COA’s) for these facilities. The scope and description for these programs should be clarified.

The County also encourages the Province to release any regulations related to these two programs in the very near future in order to ensure they are included in upcoming discussions between municipalities, conservation authorities and other stakeholders in order to understand potential costs, resource needs and implications.

**Feedback regarding “non-mandatory programs and services” – agreements, transition plans and timing.**

Staff note that the proposal includes regulations that would require conservation authorities and participating municipalities to enter into agreements for the use of municipal levies to finance in whole or in part the non-mandatory programs and services. Also, it is proposed that a transition plan for conservation authorities/municipal agreements would be developed and implemented as part of this process.

7. With respect to agreements for non-mandatory programs and services advisable staff note the following:

- The regulations should be proposed at a high level and left flexible in order to allow municipalities and CAs to work together to develop an agreement framework, including review and update provisions, that work for their respective jurisdictions. The regulation should not prescribe a specific agreement review period or similar matters in detail.
- While the requirements for agreements pertaining to non-mandatory services subject to municipal levy under the Act may rest with the participating municipality, it should be recognized that (where the upper tier is the participating municipality, such as the County) the delivery of these programs and services may functionally occur at the local/lower tier level and as such lower tier municipalities should be included in the consultation process regarding the review of the inventory and preparation of agreements and sufficient time should be provided within the agreement preparation processes to achieve this.
- Where there are multiple watersheds within a single participating municipality, municipalities should have the opportunity to consider whether joint negotiations and agreements with/between multiple conservation authorities is desirable or appropriate. Given that there can be significant variation in capacity/expertise of staff, and range and extent of services provided between various conservation authorities; and that municipalities may have complex or differing needs in the delivery of services within varying watersheds - joint agreements may not be appropriate in all cases or for all matters and as such this should be left flexible for municipalities to determine with their respective Conservation Authorities.
- The requirement for a termination date in the regulations for agreements should also provide for flexibility that would allow for extension in the event of unforeseen events or circumstances.

8. With respect to transition plans, staff note the following:

- Municipalities should have input into the development of the workplan and timeline with respect to any and all agreements where they are subject to a municipal levy, and not just the review of the inventory of programs and services. Since municipalities are party to the agreements, they also have influence over the timelines to develop them and need to consider their own resources and timelines in terms of how it may factor into the completion of the agreements.
  - The list of any new mandatory programs and services the authority will need to provide as a result of the regulatory changes within the transition plan, should also include identification of the proposed funding sources for these new mandatory program and services. Furthermore, where separate fees are proposed to offset or prevent the use of the municipal levy, these fees should be directly related to the program or service and reflect an appropriate cost for the technical level of service provided. This should be with aim to establish a minimum base level of service between and among all Conservation Authorities.
9. The County appreciates wanting an efficient process to transition into the new regulatory framework, including clear and reasonable timelines. That said, the County has concerns regarding the overall timelines proposed as they appear to be overly aggressive. Given the breadth of outstanding regulatory content to be proposed by both MECP and the Ministry of Natural Resources and Forestry (MNRF) under the Conservation Authorities Act, to expect the completion of the preparation of transitions plans, including municipal engagement, by the end of 2021 is unlikely to be achieved.

County staff appreciate the inclusion of the ability to request extensions to the mandatory timelines proposed for completing agreements and transitioning into compliance with the proposed regulations by Jan 1 of 2023. However, given the municipal election in the fall of 2022, the expectation that municipalities will be able to negotiate and enter into agreements with conservation authorities by the spring/early summer of 2022 is also highly unlikely. We would encourage the Province to reconsider the aggressive timelines proposed, rather than creating an expectation that extension requests will be necessary from the outset of this process.

### **Feedback regarding Community Advisory Boards**

10. With respect to the proposed Community Advisory Boards, County staff would like to suggest that conservation authorities should consult with municipalities in the development of their Terms of Reference document for input. This would allow for discussion on the scope of the proposed committees, and potentially consider ways to create efficiencies for engagement between these committees and reduce potential for overlap with other provincially mandated committees (e.g. planning advisory committees required under the Planning Act). The County also would like to better understand how costs to support these committees will be leveraged and would suggest that use of the municipal levy should be avoided.

There are still a number of areas where further clarification and detail should be provided for municipalities to adequately assess the implications including in relation to the scope of non-mandatory services, establishment of fees for services including the use of municipal levy's, which are within the scope of upcoming regulatory proposals and ERO postings. The County is requesting that these future opportunities include sufficient time (i.e. minimum 90 day postings) in order for the County to be able to participate more fully in the consultation process.

Given the very limited time frame provided for review and comment on the current phase of regulations, these comments have been prepared exclusively by County staff in the interests of time. However, these staff comments and background information on the proposals will be shared with County Council and the eight area municipalities within Oxford. As such, it should be noted that additional comments on this proposal may still be forthcoming from the County and/or Area Municipalities after the June 27<sup>th</sup> commenting deadline provided.

On behalf of Oxford County, I would like to thank you for the opportunity to comment on this EBR posting, and the County looks forward to further opportunities to review and provide comment as the process moves forward. Questions regarding this correspondence should be directed to April Nix, Policy Planner at (519) 539-9800 x 3208.

Sincerely,



Paul Michiels  
Manager of Planning Policy  
County of Oxford

/an  
Via Email