

Report To: Board of Directors

**Subject: Conservation Authorities Act Phase 1 Regulations Guide -
NPCA Comments**

Report No: FA-41-21 (Revised)

Date: June 18, 2021

Recommendation:

1. **THAT** the Report No. FA-41-21 (Revised) RE: Conservation Authorities Act Phase 1 Regulations Guide with appended NPCA comments **BE RECEIVED**.
2. **THAT** the transition actions, as listed in the report, **BE REFERRED** to the Governance Committee for consideration of next steps including discussions with municipal partners.
3. **AND FURTHER THAT** the report **BE CIRCULATED** to municipalities within the NPCA's jurisdiction.

Purpose:

The purpose of this report is to update the Board on Niagara Peninsula Conservation Authority (NPCA) comments provided to the Province via Environmental Registry of Ontario. The report also provides a high-level overview of actions resulting from the proposed regulations.

Background:

The Ministry of Environment Conservation and Parks (MECP) has posted a consultation guide to the Environmental Registry on Thursday, May 13, 2021 "Ministry of the Environment, Conservation and Parks Regulatory Proposal Consultation Guide: Regulations Defining Core Mandate and Improving Governance, Oversight and Accountability of Conservation Authorities". Phase 1 Regulations deal with Program and Services, Governance and Oversight as well Section 29 matters related to Conservation Authority (CA) lands. Section 28 regulations related to CA planning and permitting roles will be released in the coming months, and Phase 2 Regulations regarding the Municipal Levy will be released later in 2021.

Earlier this year, the Province established a working group of stakeholders to provide guidance in developing the proposed regulations. CA representatives on the working group have worked diligently to ensure that the regulations being developed by the Province can be efficiently implemented by the conservation authorities and stay true to the mandate of CA's to protect Ontario's watersheds.

Discussion:

Staff attended information sessions scheduled by MECP and participated in discussions with Conservation Ontario. Conservation Ontario is also working with conservation authorities to prepare a direct submission to the government. NPCA staff comments are being submitted directly to the ERO with copy to municipal staff and attached as Appendix 1.

A high-level summary of required transition actions is provided below and will be integrated with the Governance Committee Work Plan. The transition period for completion of these actions has been extended to January 1, 2023. It should be noted that these actions are in addition to the governance related changes resulting from proclamation of governance provisions in February of 2021. Additionally, more actions are anticipated through Section 28 regulations and levy regulations.

- a) Create an inventory of all programs and services by December 31, 2021.
- b) Develop a Transition Plan to be submitted to the Province by the December 31, 2021.
- c) Develop a core Watershed-Based Resource Management Strategy.
- d) Develop a Strategy for all conservation authority owned or controlled lands and Land Management Plans for each property. (The NPCA is already in the process of launching this process in 2021.).
- e) Develop a Land Acquisition Strategy (LAS). (The NPCA LAS is near completion.)
- f) Enter into agreements for municipal funding of non-mandatory programs and services that require municipal levy by January 1, 2023.
- g) Oversee the formation and operation of a Public Advisory Board. (The NPCA already has a Public Advisory Committee. The Terms of Reference will need to be updated.)

Financial Implications:

The proposed CA Act changes continue to create an extensive amount of workload and need for resources to ensure timely conformity of actions. Staff are currently working on a plan to address this need.

Related Reports and Appendices

Appendix 1 - Letter to MECP Regarding Environmental Registry of Ontario Posting 019-2986 - Conservation Authorities Act Phase 1 Regulation Guide

Authored by:

Original Signed by:

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Reviewed and Submitted by:

Original Signed by:

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June 15, 2021

Honourable Jeff Yurek
Minister of the Environment, Conservation and Parks
College Park, 5th Floor
777 Bay Street
Toronto, ON M7A 2J3

RE: Response to Environmental Registry of Ontario Posting 019-2986 – Conservation Authorities Act Phase 1 Regulations Guide

Dear Minister Yurek,

Thank you for the opportunity to provide input to the Ministry of the Environment, Conservation and Parks (MECP) Regulatory Proposal Consultation Guide on Phase 1 Regulations. The Niagara Peninsula Conservation Authority (NPCA) would like to thank the Ministry for involving Conservation Ontario and conservation authority (CA) representatives on the Provincial Working Group of stakeholders to provide guidance in developing the proposed regulations.

The NPCA appreciates the recognition of the critical role of CA's in addressing integrated watershed management and climate change through the provision of 'Core Watershed-based Resource Management Strategy (CWRMS)'. This reconfirms the role CA's play in protecting Ontario's watersheds, provides a longer-term perspective, and offers a consistent eco-system based framework for categorizing the mandatory and non-mandatory programs and services for consultation with municipalities. The NPCA will continue to work with the Province through Conservation Ontario and the Provincial Working Group to ensure that the regulations being developed can be effectively implemented and contribute to our mandate to protect Ontario's watersheds.

The NPCA has reviewed the ERO posting and offers the following specific comments:

PART ONE: PROGRAMS AND SERVICES DELIVERED BY CONSERVATION AUTHORITIES

Transition Timelines: The NPCA appreciates the provision of the proposed overall transition period to January 1, 2023 by which all agreements for the use of municipal levy must be in place. The proposed deadline would bring the new proposed financial structure for CA's into practice for the authority and municipal fiscal year of 2023. It is also required that CA's must develop a transition plan by December 31st including an overall work plan and timeline to develop and enter into agreements with municipalities; an inventory of the authority's programs and services; and any other matters as prescribed in regulation.

The proposed timeframes for the transition period should enable time for the transition plans to be developed in consultation with municipalities and coordinated with the new municipal levy regulation proposed for Phase 2. The challenging timelines can only be met if the actual regulations (both Phase 1 and Phase 2) are enacted expeditiously.

Funding for Mandatory Programs: The mandatory programs that a conservation authority is to provide includes natural hazards, source water protection, managing conservation authority owned properties, and other services specific to certain conservation authorities. The government is also proposing additional services prescribed by regulation, including a core watershed resource management strategy (CWRMS) and Provincial Water Quality and Quantity Monitoring. The NPCA is encouraged to see the inclusion of these additional services, particularly the CWRMS. We will work with Conservation Ontario on a consistent approach to the CWRMS across Ontario watersheds.

Natural Hazard Programs: Given the limited resources and other critical priorities of our municipal partners, we request the province to consider their continued funding support of critical mandated programs. Additionally, supporting private landowners with restoration and stewardship services is crucial for the overall watershed health and natural hazard management. A majority of land within the Niagara watershed is under private ownership and stewardship must be supported to address future challenges such as climate change. The recent 50% cut to MNR funding for the natural hazards program makes ongoing effective implementation challenging.

Provincial Water Quality and Water Quantity Program: Both the Provincial Water Quality (PWQMN) and Water Quantity (PGMN) Monitoring Programs are examples of successful cost sharing programs between MECP and conservation authorities. These longstanding programs provide important trend data in support of effective water management. However, the existing Provincial Water Quality and Quantity Monitoring Programs coverage is incomplete and conservation authorities have expanded these networks to provide better coverage (more monitoring outside of the Provincial Networks) for their respective monitoring networks. We ask that the province consider these expanded water quality monitoring programs eligible for inclusion into the mandatory program.

Drinking Water Source Protection Program: The NPCA requests that funding support for mandatory programs and services for conservation authorities related to Source Protection Authority responsibilities under the *Clean Water Act* remain intact. It is our understanding that MECP will continue to provide funding if conservation authorities are required to exercise and perform the powers and duties of a drinking water source protection authority; and implement programs and services related to those responsibilities.

Inclusion of Passive Recreation and Nature Awareness/Education: Included in the mandatory services is the management and maintenance of conservation authority owned lands. However, this does not include the significant aspect of passive recreation, awareness and education critical to community well-being, an important service conservation authority lands offer to the residents of Niagara. Most NPCA properties have some component of passive recreation and nature education components. In many cases, trails are integrated into the property such that it would be problematic to separate the mandatory/non-mandatory components for budgeting purposes. This has the potential to create additional operational costs in tracking the separate funding streams and performing maintenance.

Asset Management and State of Good Repair: NPCA lands and their associated infrastructure (walking trails, safety features, washrooms, signage, etc.) provide important amenities for residents of our watersheds and beyond. Excluding the repair and maintenance of these assets may result in losing facilities or infrastructure due to an inability to maintain them and would be a significant loss for users as well as a health and safety risk. As such, we ask that the proposed provision of the management plan and resource inventory in the Consultation Guide also involve the preparation of an asset management plan to assess asset conditions, current and proposed

levels of service, asset management strategy, and a financing strategy to support the lifecycle management of assets.

The NPCA is pleased to share that our conservation authority is quite advanced in this area. An asset management program has already been deployed with appropriate technology. We will be working with Conservation Ontario to facilitate transfer of this approach to our sister conservation authorities.

Memorandums of Understanding: Non-mandatory programs and services will require conservation authorities to enter into a memorandum of understanding (MOU) with funding partners. At present, CA's also have MOU's and Service Level Agreements (SLA's) with lower tier municipalities on *Planning Act* matters and other fee-for-service programs offered to lower tier municipal partners. Clarity on these MOU timing/transition requirements needs to be understood to complete the required transition plans.

PART TWO: GOVERNANCE AND OVERSIGHT OF CONSERVATION AUTHORITIES

Public Advisory Committee: The NPCA continues to consult and engage community stakeholders in all aspects of our work. The NPCA and several others CA's already have well-established watershed committees or public advisory committees with Board approved Terms of Reference included formally within the Administrative By-Laws of the respective authorities. In this regard, the NPCA would like to request that the Province address the resource needs related to governance and administration of public advisory committees. To be able to effectively deliver on a sound public engagement strategy through the public advisory committee, CA's need a minimum of two experienced full-time equivalents along with other technical experts and program costs. For transparent and adequate administration, CA's need to establish a secretariat for administration, record keeping, and management of projects. We request that these costs be identified as eligible under minimum levy.

PART THREE: OTHER REGULATORY MATTERS - Section 29 Minister's Regulation

The NPCA supports the consolidation of the various individual CA regulations under Section 29 of the Act regarding public use of an authority's property. However, we believe that our Section 29 regulation can benefit from a comprehensive update. It is proposed that the Section 29 regulation be redesigned to better align with by-laws made under the *Municipal Act* related to the use of municipal property including parks, and the *Provincial Parks and Conservation Reserves Act, 2006* and its associated regulations, including O. Reg. 347/07: *Provincial Parks: General Provisions*.

We appreciate the opportunity to comment on this proposal and hope these comments are helpful. Any questions regarding this matter may be directed to the NPCA's Senior Manager of Planning and Regulations, David Deluce at 905-788-3135, ext. 224 or ddeluce@npca.ca.

Sincerely,

A handwritten signature in black ink, appearing to read "Chandra", written over a horizontal line.

Chandra Sharma, MCIP, RPP
Chief Administrative Officer/Secretary-Treasurer
Niagara Peninsula Conservation Authority

cc: Local Area CAO's
Conservation Ontario