



Board of Directors Meeting

A G E N D A

November 19, 2020

2:00 p.m.

Special Meeting of the LTVCA Board of Directors

1. First Nations Acknowledgement	
2. Call to Order	
3. Adoption of Agenda	
4. Disclosure of Conflicts of Interest	
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1. First Nations Acknowledgement

We will begin by acknowledging that the land on which we gather is the traditional territory of First Nations people who have longstanding relationships to the land, water and region of southwestern Ontario. We also acknowledge the local lower Thames River watershed communities of this area, which include Chippewa's of the Thames First Nation, Oneida Nation of the Thames, Munsee Delaware Nation and Delaware Nation at Moraviantown. We value the significant historical and contemporary contributions of local and regional First Nations and all of the Original peoples of Turtle Island (North America). We are thankful for the opportunity to live, learn and share with mutual respect and appreciation.

5. Presentations

5.1) Proposed changes to the Conservation Authorities Act through schedule 6 of Bill 229

M. Peacock will be providing the Board of Directors with a Power Point Presentation of the changes and potential impacts that the passing of Bill 229 and in particular, Schedule 6 of that Bill, will have on Conservation Authorities and their associated members.

6. Business for Approval

6.1) Impact of Bill 229, Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020

TO: Chair and Members of the Board of Directors - Special Meeting of the Board of Directors, Thursday, November 19, 2020

FROM: Mark Peacock, P. Eng., C.A.O. Secretary-Treasurer

RE: IMPACT OF BILL 229, PROTECT, SUPPORT AND RECOVER FROM COVID-19 ACT (BUDGET MEASURES), 2020

KEY ISSUE: The Province of Ontario has proposed amendments to the Conservation Authorities Act and the Planning Act in Schedule 6 of Bill 229, that present major implications for Lower Thames Valley Conservation Authority's (LTVCA) ability to fulfill its mandate, primarily in the areas of watershed management, planning, permitting and enforcement.

RECOMMENDED RESOLUTION:

WHEREAS on November 5, 2020, the Province of Ontario introduced Bill 229, Protect, Support and Recover from COVID-19 Act (Budget Measures), which proposes amendments to the Conservation Authorities Act and Planning Act;

AND WHEREAS the proposed amendments will diminish LTVCA's ability to serve its municipal partners and other watershed stakeholders in the protection from natural hazards and conserving natural resources;

THEREFORE, LET IT BE RESOLVED THAT LTVCA's Board of Directors request that the Government of Ontario remove the proposed amendments to the Conservation Authorities Act and Planning Act as contained in Bill 229 Schedule 6 and continue with the process already underway with Bill 108;

AND FURTHER THAT This request is for the following reasons:

1. The proposed changes to the Conservation Authorities Act that removes oversight and control of Conservation Authorities from local municipalities giving it to the Minister is less transparent, less responsible to local citizens, and removes consistency, and
2. That proposed changes to the Conservation Authorities Act does not streamline but increases Red Tape in permitting and will slow and encumber the Section 28 permitting process, and
3. That proposed changes to the Conservation Authorities Act and the Planning Act will endanger the protection of the watershed and its environment, and
4. That proposed changes to the Conservation Authorities Act will not support and improve the continued protection of local residents from Natural Hazards.

BACKGROUND

Bill 108

Through previous Bill 108 Amendments to the Conservation Authorities Act, Conservation Authorities have been engaged collaborators throughout the three-year provincial consultation process regarding the modernization of the Conservation Authorities Act (the Act or the CA Act). Prior to previous amendments to the Act under Bill 108, the More Homes, More Choice Act, Conservation Authorities had strongly advocated that the Province recognize the critical role that conservation authorities (CAs) play as watershed and natural resource management agencies. In addition to

requesting the addition of “conserving natural resources” as a mandatory program or service, it was strongly voiced that stronger enforcement powers were needed to improve regulatory compliance in the control of natural hazards and the conservation of land.

Bill 108 received Royal Assent on June 6, 2019 and assigned greater emphasis to the three categories of programs and services established through Bill 139 amendments (mandatory, municipally-driven and Board-driven). Some of the key legislative amendments were made in section 21.1 (1) of the Act. They require conservation authorities to at a minimum provide programs or services (mandatory) that meet the following descriptions and that will be prescribed in regulations:

- i. Programs and services related to the risk of natural hazards
- ii. 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
- iii. Programs and services related to the authority’s duties, functions and responsibilities as a source protection authority under the Clean Water Act, 2006
- iv. iv. Programs and services related to the authority’s duties, functions and responsibilities under an Act prescribed by the regulations

Subsequent to Standing Committee and Third reading of Bill 108, a late addition to these categories as part of the amendments, was a clause that enables CAs to provide a program or service other than those listed above, but it must first be prescribed in a provincial regulation. The Environmental Registry of Ontario Decision notice on the approval of the CA Act amendments under Bill 108 reports that this clause was added to address comments received by the Province that CAs’ mandatory programs and services were being defined too narrowly.

Non-Mandatory Programs and Services

The Bill 108 provisions governing municipally directed programs and services, (non-mandatory), require a publicly available Memorandum of Understanding or agreement. Provisions were also added for other programs and services (non-mandatory), which state that a conservation authority may provide, within its area of jurisdiction, such other programs and services it determines are advisable to further its objects. Nonetheless, if municipal funding is involved, there must be a public agreement in place between CAs and municipalities. These provisions supported the Watershed Management object of the Conservation Authority. (Section 20 of the Conservation Authorities Act)

Key amendments of Bill 108 are un-proclaimed and await regulations. Many of the amendments from Bill 108 regarding programs and services and enforcement provisions are not yet in effect because they require enacting regulations. CAs, municipalities and other stakeholders have been eagerly awaiting the release of the draft regulations as they would reveal greater detail on the scope of CAs’ mandate and were expected to grant enhanced enforcement powers to address un-proclaimed provisions and ongoing community concerns. Since then, individual briefings with CAs were held with Minister’s staff and local MPPs.

Multi-Stakeholder Consultation Sessions

In early 2020, the Province conducted further consultation by hosting four in-person multi stakeholder consultation sessions, as previously reported to the Board of Directors. LTVCA staff participated in one of the sessions in London. Many of our local councillors and municipal staff also attended the sessions. Consisting of facilitated roundtable discussions and presentations from the agricultural sector, building industry, Conservation Ontario, and nongovernment organizations, participants were provided with a series of questions under themes of mandatory and non-mandatory programs and services, the existing CA model, and partnerships.

Conservation Authorities Act Survey Following the provincial multi-stakeholder consultation

The Ministry of Environment, Conservation and Parks issued an on-line survey to the public (survey closed March 13, 2020) that solicited input on the conservation authority model as it relates to transparency, permitting, oversight, Board composition and partnerships. It also asked for feedback on which programs and services should be mandatory within the areas of managing natural hazards, managing conservation authority-owned lands, and drinking water source protection.

It should also be noted that at that time, many municipalities within LTVCA's jurisdiction, (and across the Province), passed Council resolutions of support for the valuable watershed management work of CAs for submission to the Province.

Bill 229 – Major Changes from Bill 108

On November 5, 2020, the Province of Ontario introduced Bill 229, Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020. Schedule 6 of Bill 229 proposes amendments to the Conservation Authorities Act and the Planning Act. As of the writing of this report, the Bill is proceeding through the legislature and carried on First Reading. The Province did not introduce any associated regulations. This Bill represents a significant change from the Conservation Authorities Act amendments found in Bill 108.

Key amendments proposed under Bill 229 are:

1. Removes the emphasis on watershed management of the Conservation Authority and stresses only provincially mandated programs, thereby limiting local initiative to study and develop programs to address local watershed issues. Watershed Management has always been how CAs do their work.
2. Removes the authority for Conservation Authorities to expropriate lands (generally done for flood protection e.g. flood prone lands of Wallaceburg). Conservation Authorities would have the ability to request either the Province or a municipality expropriate land. This may limit CAs abilities to undertake major flood mitigation programs / property acquisition.
3. Requires participating municipalities to appoint municipal councillors as conservation authority members and that municipally appointed members generally act on behalf of their municipalities. This proposal would repeal the un-proclaimed provision made in Bill 108 that members were to act with a view to furthering the objects of the conservation authority. It is unsure if governing body members can be directed to not act in the best interest of the organizations they govern. (legal fiduciary responsibility) Additionally, some member municipalities have told the LTVCA that they do not have enough councillors to act as board members given other responsibilities.
4. Allows the Minister to assume control of a Conservation Authorities operations and appoint temporary administrators and inspectors at a Conservation Authorities expense. This would eliminate local municipal control of a Conservation Authority at municipal expense.
5. Enables the minister to appoint a member to the conservation authority from the agricultural sector. Unsure how this will work given municipalities pay for the majority of CA operations.
6. Requires that conservation authority chairs and vice-chairs rotate every two years between different participating municipalities. This may be problematic should members not wish to take on these roles.
7. Enables the minister to delegate some of their duties and powers under the Conservation Authorities Act, for example to a ministry official. This removes municipal control of Conservation Authority duties.
8. Adds a legal provision to the Conservation Authorities Act related to aboriginal and treaty rights under the Constitution. Such a non-derogation provision would recognize that nothing in the Act would abrogate or derogate from the existing aboriginal and treaty rights recognized and affirmed by section 35 of the Constitution. No concerns.

9. Authorizes the Minister of Natural Resources and Forestry to issue an order to take over and decide an application for a permit under section 28 of the Conservation Authorities Act in place of the conservation authority (i.e. before the conservation authority has made a decision on the application). Potentially, removes local and science based decision making for permitting.
10. Allows an applicant, within 30 days of a conservation authority issuing a permit, with or without conditions, or denying a permit, to request the minister to review the conservation authority's decision. Currently delegated to Mining and Lands Tribunal.
11. Where the minister has taken over a permit application or is reviewing a permit decision by a conservation authority, allows an applicant to appeal directly to Local Planning Appeals Tribunal (LPAT) where the minister fails to make a decision within 90 days. Expected delays and red tape because of LPAT process.
12. In addition to the provision to seek a minister's review, provides the applicant with the ability to appeal a permit decision to the (LPAT) within 90 days after the conservation authority has made a decision. Expected delays and red tape because of LPAT process.
13. Allows applicants to appeal directly to LPAT where a conservation authority fails to make a decision on section 28 permit applications within 120 days. Expected delays and red tape because of LPAT process.
14. Provides permit applicants with the ability to appeal permit fees charged by a conservation authority to LPAT. Potentially very cumbersome with significant workload implications. A better process for fee review is needed.
15. Amends the un-proclaimed warrantless entry provisions to change the circumstances when an entry to land may be exercised by a conservation authority officer so that such circumstances are similar to entry powers now in effect in section 28 of the Act. Significantly limits CAs abilities to investigate flood plain and natural area violations.
16. Removes the un-proclaimed provisions for conservation authorities to be able to issue stop work orders and retain the current enforcement tools, such as laying charges and potential court injunctions. Significantly limits CAs abilities to stop damage to flood plain and natural area violations.
17. An amendment to the Planning Act to add conservation authorities to subsection 1 (2) of the Planning Act. This amendment, if passed, would make conservation authorities part of the Province's one window planning approach. This would mean that a conservation authority could not, as a public body under that Act, appeal a decision to LPAT or become a party to an appeal before LPAT. Unsure of how this will affect CAs ability to appeal decisions that affect CA held lands.

Due to its inclusion in a budget Bill, Schedule 6 of Bill 229 requires no consultation. The Ministry of Environment, Conservation and Parks (MECP) has also posted a Bulletin on the Environmental Registry of Ontario (ERO) for the information of the public. The ERO Bulletin states that MECP is amending the CA Act to improve transparency and consistency in conservation authority operations, strengthen municipal and provincial oversight, and streamline conservation authority roles in permitting and land use planning.

Section 33 of the Environmental Bill of Rights, 1993 (EBR) exempts proposals from the public consultation requirements under the EBR if the proposal forms part of, or gives effect to, a budget or economic statement presented to the Legislative Assembly. There is therefore no obligation for the government to consult on the proposed amendments because this proposal was brought forward under a budget measures bill. (It should be noted that the Legislative Assembly of Ontario webpage on Bill 229, lists "Committee" prior to Second Reading and again, prior to Third Reading.)

The ERO Bulletin also states that later this fall, the government intends to consult on regulatory proposals for mandatory programs and services, section 28 natural hazards, section 29 conservation authority lands, agreements and transition under the CA Act. These proposals will be posted on the Environmental Registry for public consultation.

Ministry of Environment, Conservation and Parks (MECP) Webinar

On the morning of November 6, 2020, the MECP invited LTVCA, other conservation authorities and Conservation Ontario (CO) to join a webinar that afternoon on the proposed amendments affecting conservation authorities under Bill 229. At the webinar, MECP staff provided an overview of the Bill's proposed amendments and fielded questions from the attendees. CO and CA staff sought clarification on the amendments proposing alternate permit review and appeal processes. Participants also expressed doubt as to level of efficiency the proposed measures would bring to permit appeal and approval given the demonstrated success of ongoing CO and CA-driven streamlining initiatives.

Efforts in this area were acknowledged in 2020 by the Minister of Natural Resources and Forestry in a letter to the Chair of Conservation Ontario stating that the Minister was pleased to see the progress and success of Conservation Ontario's Client Service and Streamlining Initiative. The LTVCA's has undertaken a client services improvement programme to increase operational efficiencies, streamline processes and enhance customer service to support provincial priorities for streamlining the planning and development approvals. This initiative was approved in 2019 by the LTVCA Board of Directors.

LTVCA plan to take the following actions:

Issue a press release to members of the media and posted on LTVCA's website summarizing our initial response to the proposed amendments

Issue social media posts on priority areas of watershed management, governance, planning, permitting and enforcement, for use by municipalities and public support

Issue a letter from LTVCA's Chair to the Premier of Ontario and Ministers of Environment, Conservation and Parks, Natural Resource and Forestry, Finance, and Municipal Affairs and Housing

Provide information to groups championing Conservation Authorities concerns with Bill 229

Issue a letter and supply supporting documentation to local Members of Provincial Parliament urging them to support conservation authorities and meet with them if possible

Draft a sample municipal council resolution of support for conservation authorities in the wake of Bill 229 for use by municipal partners

Continue to engage with our partner municipalities to obtain resolutions of support from local municipal and county Councils, residents throughout our jurisdiction, and our network of supporters to reach out to the Premier, MECP, MMAH, MNRF and local members of provincial Parliament to voice support for the changes as proposed by LTVCA

Continue to monitor the Environmental Registry of Ontario and the Province of Ontario News' Website to ensure LTVCA is aware of, participates in consultation, and comments on the yet to be released draft regulations under the amended CA Act

Continue to inform the Board of Directors of new developments on the CA Act and supporting regulations, particularly outcomes of our engagement with the Province

Respectfully Submitted
Mark Peacock, P. Eng.
CAO Secretary-Treasurer

7. Correspondence

7.1) Backgrounder: Concerns About Changes to the Conservation Authorities Act and Planning Act Which Affect Conservation Authorities



Backgrounder

Concerns About Changes to the *Conservation Authorities Act* and *Planning Act* Which Affect Conservation Authorities

November 11, 2020

The Province has introduced a number of changes to the *Conservation Authorities Act* and the *Planning Act* that significantly either limit and completely change the role of conservation authorities to protect Ontario's environment and ensure people and property are safe from natural hazards. The changes risk watering down or limiting the conservation authorities' ability to ensure a watershed-based approach to development and to overall protection of Ontario's environment.

Highlights of Key Changes:

- remove and/or significantly hinder the conservation authorities' role in regulating development, permit and planning application appeal process and engaging in review and appeal of municipal planning applications
- allow the Minister make decisions on permit appeals and issue permits without watershed data and expertise from the conservation authorities
- redirect the fiduciary role (Duty of Members) for municipally appointed CA Board members. They are being told to make decisions in the best interest of the municipalities and not the conservation authority. We believe is inconsistent with the *Municipal Act* (need to check).

Conservation Authority Transparency and Accountability

There are a number of changes which appear administrative in nature which we acknowledge will address concerns around conservation authorities' transparency and accountability. CA Administrative By-Laws were completed by the December 2018 legislated deadline and should already address these concerns including making key documents publicly available; including meeting agendas, meeting minutes, and annual audits.

Conservation Ontario Concerns

Ontario's environment will be at risk.

Provincial changes to both the *Conservation Authorities Act* and the *Planning Act* risk watering down or losing the conservation authorities' science-based watershed approach which currently protects Ontario's environment.

- Conservation authorities are important agencies who help protect Ontario's environment. Their science-based watershed information helps to steer development to appropriate places where it will not harm the environment or create risks to people.
- CAs bring the watershed science and information to the various tables where development and growth are being reviewed and discussed.
- Provincial changes limit the conservation authorities' ability to provide input to municipal planning applications and to permit decisions and appeals.

- The conservation authority watershed model has served Ontario well and is relied upon by many levels of government, businesses and residents to protect the environment from upstream to downstream.
- Conservation authorities undertake watershed-scale monitoring, data collection management and modelling; watershed-scale studies, plans, assessments and strategies; and watershed-wide actions including stewardship, communication, outreach and education activities that protect our environment on a watershed basis.

Provincial changes will actually create more costs, delays and red tape around permit and planning applications and appeals.

- There are new appeal processes which will significantly slow down the permitting process creating delays and more red tape.
- If applicants are not satisfied with decisions made by the Hearing Boards (CA Board of Directors and/or Executive), then applicants can now appeal directly to the Minister who can make his or her own decision and even issue a permit.
- Alternatively, or in addition, the applicant can appeal a decision of the conservation authority to the Local Planning Appeal Tribunal (LPAT).
- These changes could add as many as almost 200 days to the application process.

Changes made by the Province to the conservation authorities' role in not being allowed to independently appeal decisions made around permits and municipal planning applications will put more people and infrastructure at risk of flooding and other natural hazards and add additional stressors to Ontario's biodiversity.

- Conservation authorities' regulatory role is not always a popular one but it is very important. Being able to participate in appeals processes ensures that the watershed lens is being applied to planning and land use decisions and that people and their property are protected from natural hazards such as flooding.
- Changes have been made to the conservation authorities' role in the permit appeal process. They are no longer allowed to appeal these decisions independently.
- Without our ability to look at development applications on a watershed basis, we run the risk of the plan review process being piecemealed and ultimately the potential to exasperate risks associated with natural hazards and for cumulative negative environmental impacts.

The Province has removed the responsibility for municipally appointed CA Board members to represent the interests of the Conservation Authority.

- The Province has changed the 'Duty to Members' section of the CAA to have municipal representatives on CA Boards actually act in the interests of their own municipality rather than the conservation authority's interests.
- It contradicts the fiduciary duty of board members of any organization to represent the best interests of the corporation they are overseeing. It puts an individual municipal interest above the conservation authority interests.
- This change undermines the ability of the CA Board to address the broader environmental/resource management issues facing our watersheds today. It limits discourse on these issues and consideration of programs and services that address watershed-wide issues that span municipal boundaries is paramount in a time of increasing climate change.

For more information:

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 Conservationontario.ca

7.2) Advocacy Strategy & Key Messages for Conservation Authorities Re: Changes to the Conservation Authorities Act and the Planning Act



Advocacy Strategy & Key Messages for Conservation Authorities Re: Changes to the Conservation Authorities Act and the Planning Act

November 11, 2020

Description

At this time, Conservation Ontario is recommending we pursue four goals in response to the changes made to the *Conservation Authorities Act* and the *Planning Act*, however, conservation authorities should be aware that this may change unexpectedly in response to sudden developments or changes in positions or events. We will keep CA General Managers/CAOs up to date on any changes in tactics and/or messaging.

Current Advocacy Goals

1. **To influence the Province to do a number of amendments and/or repeals of sections in both the *Conservation Authorities Act* and the *Planning Act*.** CO trying to get on Standing Committee to share concerns with changes. CO also meet with the Association of Municipalities of Ontario (AMO), MECP, MNRF and MMAH ministry staff and pursue meetings with the ministers in order to get clarification about the changes in both Acts and promote amendments and/or repeals of sections.
2. **CAs to ask their municipalities to pass a resolution to protect the CAs' watershed management role and support amendments to the changes.** Conservation Ontario has developed a template municipal resolution which briefly describes the key concerns about the changes and asks the Province repeal and/or amend certain sections, provide CAs with the tools and financial resources they need to effectively implement their watershed management role, and that the Province respect the conservation authority/municipal relationships and not intervene in non-mandatory programs.
3. **CAs contact local MPPs** in order to share CA concerns about the changes. Need to help get CO on standing committee and in meetings with Ministers.
4. **Through upcoming communication tactics (e.g. social media and blogs), CAs and CO clarify and communicate information about the impact of changes and promote value of CAs.** Targets: CA Board Members and local and provincial stakeholders such as municipalities, partners, agencies and organizations; and general public. Key messages and background info provided by CO to assist CAs.

Our 'Ask' of Stakeholders and Key Messages

These changes will hurt Ontario's environment in both the short and long term, and could put public health at more risk of flooding and other natural hazards. We are asking for their help to contact the Province and ask them to address the conservation authorities concerns by either repealing and/or amending some of the changes to both the *Conservation Authorities Act* and the *Planning Act* imposed through Bill 229.

Briefings by Ministry of Environment, Conservation and Parks (MECP)

MECP is scheduled to brief municipalities on the legislative changes on November 16th and 23rd. Conservation Authorities should speak to CA Board members in advance of these meetings.

To support you, Conservation Ontario is providing significant additional detail on the changes along with implications for all conservation authorities for you to use with your Board Members and others. Documents included with this strategy include:

- *CO Detailed Reference Document for CAOs/GMs – November 11, 2020*
- *Summary of Proposed Amendments and Implications for CA Boards – November 11, 2020*

Both of these documents will be updated as necessary.

Key Messages - NOTE: CAs asked for three key messages, however, other issues will be asked about. Information on additional issues are in the CO Backgrounder. CAs need to provide local examples in their discussions.

1. Ontario's environment will be at risk.

Provincial changes to both the *Conservation Authorities Act* and the *Planning Act* risk watering down or losing the conservation authorities' science-based watershed approach which currently protects Ontario's environment.

- Conservation authorities are important agencies who help protect Ontario's environment. Their science-based watershed information helps to steer development to appropriate places where it will not harm the environment or create risks to people.
- CAs bring the watershed science and information to the various tables where development and growth are being reviewed and discussed.
- Provincial changes limit the conservation authorities' ability to provide input to municipal planning applications and to permit decisions and appeals.
- The conservation authority watershed model has served Ontario well and is relied upon by many levels of government, businesses and residents to protect the environment from upstream to downstream.
- Conservation authorities undertake watershed-scale monitoring, data collection management and modelling; watershed-scale studies, plans, assessments and strategies; and watershed-wide actions including stewardship, communication, outreach and education activities that protect our environment on a watershed basis.

2. Provincial changes will actually create more costs, delays and red tape around permit and planning applications and appeals.

- There are new appeal processes which will significantly slow down the permitting process creating delays and more red tape.
- If applicants are not satisfied with decisions made by the Hearing Boards (CA Board of Directors and/or Executive), then applicants can now appeal directly to the Minister who can make his or her own decision and even issue a permit.
- Alternatively, or in addition, the applicant can appeal a decision of the conservation authority to the Local Planning Appeal Tribunal (LPAT).
- These changes could add as many as almost 200 days to the application process.

3. Changes made by the Province to the conservation authorities' role in not being allowed to independently appeal decisions made around permits and municipal planning applications will put more people and infrastructure at risk of flooding and other natural hazards and add additional stressors to Ontario's biodiversity.

- Conservation authorities' regulatory role is not always a popular one but it is very important. Being able to participate in appeals processes ensures that the watershed lens is being applied to planning and land use decisions and that people and their property are protected from natural hazards such as flooding.
- Changes have been made to the conservation authorities' role in the permit appeal process. They are no longer allowed to appeal these decisions independently.
- Without our ability to look at development applications on a watershed basis, we run the risk of the plan review process being piecemealed and ultimately the potential to exasperate risks associated with natural hazards and for cumulative negative environmental impacts.

Timelines – Advocacy

Conservation Ontario has already requested Standing Committee representation, are sending letters to Ministers from CO's Chair and are working on arranging meetings with Ministers and ministry staff.

CAs are encouraged to begin their meetings with MPPs immediately and to ask their municipalities to pass a resolution for the Province to address CA Concerns. The Proposed Municipal Resolution is also included with this strategy.

Timelines – Communication Tactics

Along with this strategy, Conservation Ontario is also providing a Backgrounder which can be used as a public handout or for CA websites. It is very high level and targeted to non-technical stakeholders.

Conservation Ontario will develop a schedule of social media infographics, blog(s) and possibly a media release as soon as this information is on CO's website which is underway. It will be sent to CA staff.

CA staff are asked to share the posts which will begin next week (November 16).

Conservation Ontario has already been using the messaging provided to Conservation Authorities in media interviews.

7.3) Conservation Ontario Detailed Reference Document (November 11, 2020)

Generalized Description of Legislative Amendments to Conservation Authorities Act (CAA) per ERO Bulletin 019-2646	Proposed General Positioning & Proposed Questions/Comments for Clarification on Legislative Amendment & Proposed Comments for Development of Proposed Regulations/Policies
<p>1. Planning Act amendment</p> <p>“We have also heard concerns from some stakeholders about the role of conservation authorities ... as a public body with the power to comment on and challenge decisions under the Planning Act. Stakeholders have questioned whether conservation authorities’ current roles are consistent and supportive of timely decisions that are necessary in the land use planning and approval process, and some stakeholders consider these roles need to be streamlined as they impose unnecessary costs and/or delays for businesses and property owners.</p> <p>...</p> <p>The Schedule also proposes an amendment to the Planning Act to add conservation authorities to subsection 1 (2) of the Planning Act. This amendment, if passed, would make conservation authorities part of the Province’s one window planning approach. This would mean that a conservation authority could not, as a public body under that Act, appeal a decision to LPAT or become a party to an appeal before LPAT. Municipalities and the Province can continue to work with conservation authorities and rely on their advice and support where they want it during an LPAT appeal.” (ERO posting 019-2646)</p>	<p>Proposed General Positioning: It is understood that the effect of this amendment would be that conservation authorities would no longer be able to appeal or become party to an appeal of a <i>Planning Act</i> decision as a public body. While most <i>Planning Act</i> applications will continue to be directly circulated to conservation authorities by municipalities or planning authorities, it appears as though conservation authorities will only be representing the “provincial interest” with respect to natural hazards when providing comments as part of the Province’s one window planning approach (e.g. Official Plans and Official Plan Amendments). The inability to represent the provincial interest and/or appeal on more common <i>Planning Act</i> applications (e.g. Plan of Subdivision, Site Plan) represents a significant threat to public safety. While the full implications of this amendment are not understood, it is anticipated however not confirmed that CAs will continue to be able to appeal <i>Planning Act</i> decisions as landowners. Conservation Ontario has requested a meeting with MMAH, the Ministry responsible for the Province’s ‘one window’ to discuss the possible “unintended consequences” of this amendment.</p> <p>Amend. Recommend that an amendment be made to limit appeals as a public body to conformity with section 3.1 (natural hazards) of the Provincial Policy Statement. Retain the ability of CAs as landowners to participate in appeals affecting their land. Briefing is required with MMAH and MNRF staff to understand the implications of this amendment.</p> <p>Questions:</p> <p>Will it affect CA circulation/notification of planning applications and the ability of a CA to comment on planning applications?</p> <p>How will CAs be able to appeal as a landowner?</p> <p>How will CAs be able to represent the watershed interest without the ability to appeal <i>Planning Act</i> decisions as a public body?</p> <p>How does this relate to the natural hazards program and service regulation?</p> <p>Policy/Agreement/Regulation work: Presumably this amendment will require revisions to our MMAH/MNRF/CO MOU and to our template MOU for plan review services. The overlay of this with mandatory programs and services regulation, including the natural hazards program and service regulation and scoping of non-mandatory regulations is to be determined.</p>
<p>2. Section 28 amendments</p> <p>“We have also heard concerns from some stakeholders about the role of</p>	<p>Proposed General Positioning: The proposed amendments to the Section 28 regulation will negatively impact a CA’s ability to protect life and property, through limiting a CA’s ability to independently apply their watershed science, allowing individuals to circumvent the CA permitting process and by tying up CA staff in unnecessary appeal</p>

Generalized Description of Legislative Amendments to Conservation Authorities Act (CAA) per ERO Bulletin 019-2646	Proposed General Positioning & Proposed Questions/Comments for Clarification on Legislative Amendment & Proposed Comments for Development of Proposed Regulations/Policies
<p>conservation authorities in issuing permits under the <i>Conservation Authorities Act</i> and as a public body with the power to comment on and challenge decisions under the Planning Act. Stakeholders have questioned whether conservation authorities' current roles are consistent and supportive of timely decisions that are necessary in the land use planning and approval process, and some stakeholders consider these roles need to be streamlined as they impose unnecessary costs and/or delays for businesses and property owners.</p> <p>We are therefore proposing changes to the <i>Conservation Authorities Act</i> to streamline the role of conservation authorities in permitting and land use planning as well to ensure timely decisions are made in relation to permits required under section 28 of the Act.</p> <p>If passed, the proposed amendments would:</p> <ul style="list-style-type: none"> i. Authorize the Minister of Natural Resources and Forestry to issue an order to take over and decide an application for a permit under section 28 of the <i>Conservation Authorities Act</i> in place of the conservation authority (i.e. before the conservation authority has made a decision on the application). ii. Allow an applicant, within 30 days of a conservation authority issuing a permit, with or without conditions, or denying a permit, to request the minister to review the conservation authority's decision. iii. Where the minister has taken over a permit application or is reviewing a permit decision by a conservation authority, allow an applicant to appeal directly 	<p>processes. This proposal does not improve transparency, consistency in decision-making and nor does it streamline the process. In fact, this proposal will result in a significantly longer approval process which might jeopardize the health or safety of persons or result in the damage or destruction of property.</p> <p>Repeal/Amend.</p> <ul style="list-style-type: none"> i. Amend. Clarify that the Ministry would be responsible to ensure compliance with any permit that they issued and for any liability associated with the decision. ii. Amend. Note that this description is inconsistent with the legislation (30 days as compared to 15). Choose one point of appeal (the Minister or the LPAT). iii. Amend. Choose one point of appeal (the Minister or the LPAT). iv. Amend. Choose one point of appeal (the Minister or the LPAT). v. Amend. Allow appeal of permit cancellation to the Members of the Authority only. vi. Amend. Specify in the legislation that the appeal for a non-decision after 120 days can only be made when the conservation authority has deemed the application to be complete. vii. Amend. Enact one of the three possible alternatives in its place: <ul style="list-style-type: none"> a) Develop provincial guidance that defines how to establish fees in consultation with municipal partners and other stakeholders. If the CA is not in compliance with the guidance, the Minister could make an order under S. 23 to amend the CA fees policy. B) Enable the fee policy to go through public consultation via the ERO or C) require the approval of the Minister of the CA fee policy to avoid multiple appeals regarding the same fee schedule. Remove the right of appeal to the LPAT. viii. Repeal. The MNRF undertook an evidenced-based update to the powers of entry in 2017. This amendment would remove the update. Note: the 2017 update was not made at CO's request. ix. Repeal. Conservation authorities' inability to stop work has a significant negative impact on public health and safety. Laying charges and obtaining court injunctions is unnecessarily costly for the taxpayers and the accused. <p>Questions:</p> <p>How do these amendments reflect the recommendations of the Auditor General's report on the NPCA, the Flood Advisor's recommendations and the previous consultation on the Section 28 regulations?</p> <p>How are appeals to permit applications going to be addressed at the LPAT when there is a related land use planning decision that was refused and not appealed?</p>

Generalized Description of Legislative Amendments to Conservation Authorities Act (CAA) per ERO Bulletin 019-2646	Proposed General Positioning & Proposed Questions/Comments for Clarification on Legislative Amendment & Proposed Comments for Development of Proposed Regulations/Policies
<p>iv. to LPAT where the minister fails to make a decision within 90 days. In addition to the provision to seek a minister's review, provide the applicant with the ability to appeal a permit decision to LPAT within 90 days after the conservation authority has made a decision.</p> <p>v. Where a permit is cancelled, allow the permit holder to appeal the cancellation to LPAT within 90 days.</p> <p>vi. Allow applicants to appeal directly to LPAT where a conservation authority fails to make a decision on section 28 permit applications within 120 days.</p> <p>vii. Provide permit applicants with the ability to appeal permit fees charged by a conservation authority to LPAT.</p> <p>viii. Amend the un-proclaimed warrantless entry provisions to change the circumstances when an entry to land may be exercised by a conservation authority officer so that such circumstances are similar to entry powers now in effect in section 28 of the Act.</p> <p>ix. Remove the un-proclaimed provisions for conservation authorities to be able to issue stop work orders and retain the current enforcement tools, such as laying charges and potential court injunctions.</p> <p>....</p> <p>Later this fall, we intend to further consult on regulatory proposals (mandatory programs and services, section 28 natural hazards, section 29 conservation authority lands, agreements and transition) under the Conservation Authorities Act which will be posted on the Environmental Registry for public consultation." (ERO posting 019-2646)</p>	<p>How does the ability to appeal individual permit fees relate to the Board's ability to set an overall fee policy and expectations around cost recovery?</p> <p>Policy/Agreement/Regulation work: Mandatory program and services regulation is to be posted in the near future.</p> <p>The timing of the Section 28 regulation is to be determined, but it is anticipated that it will be released at the same time as the mandatory program and services regulations.</p> <p>Once a new Section 28 regulation is in place, significant policy development will be required related to implementation of the new regulation.</p>

Generalized Description of Legislative Amendments to Conservation Authorities Act (CAA) per ERO Bulletin 019-2646	Proposed General Positioning & Proposed Questions/Comments for Clarification on Legislative Amendment & Proposed Comments for Development of Proposed Regulations/Policies
<p>3. Regulation making powers for prescribing standards and requirements for Non-Mandatory (i.e. Local) programs and services</p> <p>“Through these consultations we heard concerns that some conservation authorities have expanded their programs and services beyond their core mandate.</p> <p>We recognize that conservation authorities play an important role in local resource management, including protecting and preserving significant conservation land. With the scope of conservation authorities’ activities expanding over time, some participating municipalities of a conservation authority have expressed concern about the increases to their municipal levies that they are required to pay under the <i>Conservation Authorities Act</i> to finance their respective conservation authorities and the lack of direct control that participating municipalities may have over conservation authority budgets. Participating municipalities on average contribute over half of the conservation authority revenue through municipal levies. Most of the remainder comes from conservation authorities’ self-generated revenue, with provincial funding averaging less than ten per cent.</p> <p>Based on the feedback we received, the province is moving forward with a proposal to further define the core mandate of conservation authorities. These changes would improve the governance, oversight and accountability of conservation authorities, while respecting taxpayer dollars by giving municipalities more say over the conservation authority services they pay for.</p> <p>....</p> <p>We know that many conservation authorities provide valuable recreational and educational programs and services that are important to the local community,</p>	<p>Proposed General Positioning: Proposed clauses enable the Minister to make regulations that would prescribe standards and requirements for Municipal Programs and Services (i.e. service agreement between Municipality and CA) and Other Programs and Services (i.e. those determined by the Board and which if use municipal levy would require all municipalities’ agreement). Although the Province has communicated that the local service agreement MOU’s between Conservation Authorities and Municipal Governments are a local matter and the province is not intending to reduce this local control of MOUs through future regulation, Conservation Ontario is pursuing opportunities to have these amendments repealed through the Standing committee clause by clause process so that they do not remain in the legislation for use by a future Minister or Government.</p> <p>Action: Repeal/amend all clauses and amendments relating to the ability to prescribe standards and requirements (including repeal of Section 21.1.1(5), Section 21.1.2 Prescribed Standards, Section 21.1.2 (3) b) Terms and Conditions, and Section 21.1.2(4) Conflict; and Including amendment of i.e. deletion of references to regulations in Section 21.1.1(1), and, 21.1.2 (1).</p> <p>Questions: n/a for repealing and amending these clauses.</p> <p>However, need further clarification/briefing on this bullet from MECP webinar: - the government will move forward with consultations on regulatory and policy proposals in two phases, including mandatory programs and services (phase one), and municipal levy (phase two).</p> <p>Policy/Agreement/Regulation work: n/a for repealing and amending these clauses.</p> <p>Mandatory programs and services regulation is to be posted in the next few weeks which will set the framework for what is then non-mandatory and requiring agreements and transition periods.</p> <p>**Need to start advocating about the time period suggested in the CA briefing; if municipalities are being briefed on Nov 16 and 23rd then we need them speaking up on the issue of an insufficient transition period. MECP briefing indicated “changes would be implemented in the CA 2022 budgets” which as interpreted to mean that the Transition period would end December 2021; GMs are requesting December 2022.</p>

Generalized Description of Legislative Amendments to Conservation Authorities Act (CAA) per ERO Bulletin 019-2646	Proposed General Positioning & Proposed Questions/Comments for Clarification on Legislative Amendment & Proposed Comments for Development of Proposed Regulations/Policies
<p>such as camping and outdoor education. These programs would continue, so long as they are funded through self-generated revenue or have support from the local municipality that funds them.</p> <p>...</p> <p>Require, after a specified date, that municipal financing of a non-mandatory program and service can only continue, where the conservation authority has entered into a financing agreement with its participating municipalities.</p> <p>Establish a transition period and process for conservation authorities and municipalities to identify, through an inventory, which of their programs and services are mandatory and then to enter into agreements for the non-mandatory programs or services that are financed in whole or in part at the municipal level.</p> <p>....</p> <p>Enable the minister to, by regulation, establish standards and requirements for the delivery of non-mandatory programs and services.</p> <p>...</p> <p>Later this fall, we intend to further consult on regulatory proposals (mandatory programs and services, section 28 natural hazards, section 29 conservation authority lands, agreements and transition) under the <i>Conservation Authorities Act</i> which will be posted on the Environmental Registry for public consultation.</p> <p>” (ERO posting 019-2646)</p> <p>MECP Slide Deck:</p> <ul style="list-style-type: none"> • In addition to the proposed legislative amendments, the government will move forward with consultations on regulatory and policy proposals in two phases, including mandatory programs and services (phase one), and municipal levy (phase two). 	

Generalized Description of Legislative Amendments to Conservation Authorities Act (CAA) per ERO Bulletin 019-2646	Proposed General Positioning & Proposed Questions/Comments for Clarification on Legislative Amendment & Proposed Comments for Development of Proposed Regulations/Policies
<p>4A. Governance – Duty of Members</p> <p>“...that municipally appointed members generally act on behalf of their municipalities. This proposal would repeal the un-proclaimed provision made in Bill 108 that members were to act with a view to furthering the objects of the conservation authority, and instead provide clarity for conservation authority member governance and enhanced municipal oversight over taxpayer dollars.” (ERO posting 019-2646)</p>	<p>Proposed General Positioning: The change to the ‘Duty of Members’ from furthering the objects of the authority to representing the interest of their municipality needs to be repealed. It contradicts the fiduciary duty of a Board Member to represent the best interests of the corporation they are overseeing. It puts an individual municipal interest above the broader watershed interests further to the purpose of the Act.</p> <p>It basically undermines the ability of the CA Board to address the broader environmental/resource management issues facing our watersheds today. Discourse on these issues and consideration of programs and services that address watershed-wide issues that span municipal boundaries is paramount in a time of increasing climate change, etc.</p> <p>Conservation Ontario will be asking the Association of Municipalities of Ontario (AMO) to champion this governance issue as well and to request a repeal. CAs should obtain resolutions of support from their Boards and Municipal Councils.</p> <p>Action: Repeal the amendment to Section 14.1 “Duty of Members”</p> <p>Questions: n/a</p> <p>Policy/Agreement/Regulation work: n/a</p>
<p>4B. Governance - Additional</p> <p>“Require participating municipalities to appoint municipal councillors as conservation authority members”</p> <p>“Enable the minister to appoint a member to the conservation authority from the agricultural sector.”</p> <p>“Require that conservation authority chairs and vice-chairs rotate every two years between different participating municipalities.”</p> <p>“Require conservation authorities to make key documents publicly available online (e.g. ..., municipal member agreements,...) Require conservation authorities to submit to the minister a copy of any agreement its participating municipalities have entered into on the number of members each</p>	<p>Proposed General Positioning: A number of amendments have been made regarding CA Board appointments. Of concern are new clauses that require municipalities to only appoint municipal councillors and that the Chair/Vice Chair rotate every two years between different municipalities. Conservation Ontario’s positioning has been that Board appointments should remain the decision of the municipality but there will be practical limitations for these new requirements to be met (e.g. some CAs have only one or a few municipalities in their jurisdiction; some have more than 50% citizen appointees). Conservation Ontario will be asking the Association of Municipalities of Ontario (AMO) to champion these governance issues. CAs should obtain resolutions of support from their Boards and Municipal Councils.</p> <p>There is no opportunity to manage these legislative amendments through the regulations process as Bill 229 has <u>removed the ability to prescribe by regulation</u>, the composition, appointment, or qualifications of members of CAs. Given the already identified regulatory consultations planned and the pressures from COVID exacerbating municipal councillors’ time, respectfully request that proclamation of these governance changes be delayed for at least a few years. This would allow time for AMO and CO to collaboratively work on the necessary policies to support effective Board governance.</p>

Generalized Description of Legislative Amendments to Conservation Authorities Act (CAA) per ERO Bulletin 019-2646	Proposed General Positioning & Proposed Questions/Comments for Clarification on Legislative Amendment & Proposed Comments for Development of Proposed Regulations/Policies
<p>participating municipality is entitled to appoint to a conservation authority.”</p>	<p>Action: Request delay in proclamation until after regulations consultations are completed over the next number of years. Inform and solicit the support of AMO and member municipalities to champion amendments.</p> <p>Questions: Can municipalities supply the required number of municipal councilors? Will CA Boards be able to achieve quorum given additional committee pressure on municipal councilors? Can Mayors (head of council) be members too? How will rotating the Chair/Vice Chair every two years between different municipalities be achieved if it's not supported by the outcomes of CA's election process? Will the agriculture representative be a voting member? What is the duty of this member (i.e. not included in Section 14.1)? What is the purpose of the Minister receiving copies of agreements on the number of members each municipality is entitled to appoint to a CA?</p> <p>Policy/Agreement/Regulation work: Bill 229 has removed the ability to prescribe any of this by regulation. AMO and CO could work on policies/procedures that would support “Conservation Authority Best Management Practices (BMP) and Administrative By-Law Model” (amended September 28, 2020) and updates to individual CA by-laws.</p>
<p>5. Transparency/accountability</p> <p>“Require conservation authorities to make key documents publicly available online (e.g., meeting agendas, meeting minutes, ... annual audits).” (ERO posting 019-2646)</p>	<p>Proposed General Positioning: There are a number of changes which appear administrative in nature which we acknowledge will address concerns around transparency and accountability. CA Administrative By-Laws were completed by the December 2018 legislated deadline and should already address these concerns including making key documents publicly available; including meeting agendas, meeting minutes, and annual audits.</p> <p>Conservation Ontario can assist CAs in updating their Administrative By-Laws by clarifying which BMPs are now legislated. Each update to individual CA Administrative By-Laws incurs legal costs such that it's anticipated that these updates will be addressed at a future date when more substantive amendments are required. In the meantime, these can be implemented without awaiting by-law amendments.</p> <p>Action: Implement – make materials publicly available</p> <p>Questions: n/a</p>

Generalized Description of Legislative Amendments to Conservation Authorities Act (CAA) per ERO Bulletin 019-2646	Proposed General Positioning & Proposed Questions/Comments for Clarification on Legislative Amendment & Proposed Comments for Development of Proposed Regulations/Policies
	Policy/Agreement/Regulation work: Updates to “Conservation Authority Best Management Practices (BMP) and Administrative By-Law Model” (amended September 28, 2020) and updates to individual CA By-Laws

7.4) Summary of Proposed Amendments to the Conservation Authorities Act & Planning Act through Bill 229 and Implications

Description of Proposed Amendments	Implications to Conservation Authorities
<p>Existing aboriginal or treaty rights</p> <p>Section 1 is amended to include a non-abrogation clause with respect to aboriginal and treaty rights.</p>	<p>No concern.</p>
<p>Members of authority</p> <p>Section 14 is amended to ensure that the members of a conservation authority that are appointed by participating municipalities are municipal councillors. The Minister is given the authority to appoint an additional member to a conservation authority to represent the agricultural sector. The powers to define in regulation the composition, appointment or minimum qualifications for a member of the Board have been repealed. The duties of a member are amended, every member is to act honestly and in good faith and shall generally act on behalf of their respective municipalities.</p>	<p>There may be a municipal concern. Municipalities will no longer be able to appoint a member of the public to the Board and the specification of ‘municipal councillor’ rather than “municipally elected official” may exclude Mayors.</p> <p>There may be a municipal concern. Should the Minister choose to appoint a member to represent the agricultural sector it is assumed that candidates would apply through the Public Appointments Secretariat. It is also assumed that these appointments would have the same voting privileges as all members and would be entitled to receive per diems and to be appointed as the chair or vice-chair.</p> <p>There may be a municipal concern. There is no opportunity to manage these legislative amendments through the regulations process as Bill 229 has removed the ability to prescribe by regulation, the composition, appointment, or qualifications of members of CAs.</p> <p>Significant concern. The amendment that would require members to act on behalf of their respective municipalities contradicts the fiduciary duty of a Board Member to represent the best interests of the corporation they are overseeing. It puts an individual municipal interest above the broader watershed interests further to the purpose of the Act.</p>
<p>Meetings of authorities</p> <p>Section 15 is amended to require that meeting agendas be available to the public before a meeting takes place and that minutes of meetings be available to the public within 30 days after a</p>	<p>No concern. CA Administrative By-Laws were completed by the December 2018 legislated deadline and, as a best practice, should already address making key documents publicly available; including meeting agendas and meeting minutes.</p>

Description of Proposed Amendments	Implications to Conservation Authorities
meeting. They are to be made available to the public online.	
<p>Chair/vice-chair</p> <p>Section 17 is amended to clarify that the term of appointment for a chair or vice-chair is one year and they cannot serve for more than two consecutive terms.</p>	<p>There may be a municipal concern. Municipal Councillor interest and availability regarding this requirement is to be determined.</p>
<p>Objects</p> <p>Section 20 objects of a conservation authority are to provide the mandatory, municipal or other programs and services required or permitted under the Act and regulations.</p>	<p>No concern. Previously the objects of an authority were to undertake programs and services designed to further the conservation, restoration, development and management of natural resources. This is still reflected in the Purpose of the Act. The objects now reference the mandatory and non-mandatory programs and services to be delivered. The “other programs and services” clause indicates that “an authority may provide within its area of jurisdiction such other programs and services as the authority determines are advisable to further the purposes of this Act”.</p>
<p>Powers of authorities</p> <p>Section 21 amendments to the powers of an Authority including altering the power to enter onto land without the permission of the owner and removing the power to expropriate land.</p>	<p>No concern</p>
<p>Programs and Services</p> <p>Section 21.1 requires an authority to provide mandatory programs and services that are prescribed by regulation and meet the requirements set out in that section. Section 21.1.1 allows authorities to enter into agreements with participating municipalities to provide programs and services on behalf of the municipalities, subject to the regulations. Section 21.1.2 would allow authorities to provide such other programs and services as it determines are advisable to further the purposes of the Act, subject to the regulations.</p>	<p>Significant concern. The basic framework of mandatory, municipal and other program and services has not changed from the previously adopted but not yet proclaimed amendments to the legislation. What has now changed is that municipal programs and services and other programs and services are subject to such standards and requirements as may be prescribed by regulation. Potentially the regulations could restrict what the Authority is able to do for its member municipalities or to further the purpose of the Act.</p>
<p>Agreements for ‘other programs and services’</p> <p>An authority is required to enter into agreements with the participating municipalities in its jurisdiction if any municipal funding is needed to</p>	<p>Potential concern. This appears to be a continuation of an amendment previously adopted but not yet proclaimed. MECP staff indicate that the current expectation is that the plan in the roll-out of</p>

Description of Proposed Amendments	Implications to Conservation Authorities
<p>recover costs for the programs or services provided under section 21.1.2 (i.e. other program and services). A transition plan shall be developed by an authority to prepare for entering into agreements relating to the recovery of costs. *All programs and services must be provided in accordance with any prescribed standards and requirements.* <i>NOTE- this new addition is addressed as a significant concern under Programs and Services above.</i></p>	<p>consultations on regulations is that the Mandatory programs and services regulation is to be posted in the next few weeks. It is noted that this will set the framework for what is then non-mandatory and requiring agreements and transition periods. MECP staff further indicated “changes would be implemented in the CA 2022 budgets” which is interpreted to mean that the Transition period is proposed to end December 2021. Subject to the availability of the prescribed regulations this date is anticipated to be challenging for coordination with CA and municipal budget processes.</p>
<p>Fees for programs and services</p> <p>Section 21.2 of the Act allows a person who is charged a fee for a program or service provided by an authority to apply to the authority to reconsider the fee. Section 21.2 is amended to require the authority to make a decision upon reconsideration of a fee within 30 days. Further, the amendments allow a person to appeal the decision to the Local Planning Appeal Tribunal or to bring the matter directly to the Tribunal if the authority fails to render a decision within 30 days.</p>	<p>Some concern. Multiple appeals of fees have the potential to undermine CA Board direction with regard to cost recovery and to divert both financial and staff resources away from the primary work of the conservation authority.</p>
<p>Provincial oversight</p> <p>New sections 23.2 and 23.3 of the Act would allow the Minister to take certain actions after reviewing a report on an investigation into an authority’s operations. The Minister may order the authority to do anything to prevent or remedy non-compliance with the Act. The Minister may also recommend that the Lieutenant Governor in Council appoint an administrator to take over the control and operations of the authority.</p>	<p>No concern. This appears to be an expansion of powers previously provided to the Minister.</p>
<p>Ministerial Review of Permit Decisions</p> <p>Subsection 28.1 (8) of the Act currently allows a person who applied to a conservation authority for a permit under subsection 28.1 (1) to appeal that decision to the Minister if the authority has refused the permit or issued it subject to conditions. Subsection 28.1 (8) is repealed and replaced with provisions that allow the applicant to choose to seek a review of the authority’s decision by the Minister</p>	<p>Significant concern. These amendments provide two pathways for an applicant to appeal a decision of an Authority to deny a permit or the conditions on a permit. One is to ask the Minister to review the decision; the other is to appeal directly to the Local Planning Appeal Tribunal. Appeals brought through these processes will create additional workload for the Authority and increase the amount of time that a permit appeal process takes.</p>

Description of Proposed Amendments	Implications to Conservation Authorities
<p>or, if the Minister does not conduct such a review, to appeal the decision to the Local Planning Appeal Tribunal within 90 days after the decision is made. Furthermore, if the authority fails to make a decision with respect to an application within 120 days after the application is submitted, the applicant may appeal the application directly to the Tribunal.</p>	<p>New guidelines will need to be created to support the Minister and the LPAT in their decision-making processes. There is no reference to a complete application being submitted prior to the 120 day “clock” being started.</p>
<p>Minister’s Order Re. S. 28 Permit</p> <p>New section 28.1.1 of the Act allows the Minister to order a conservation authority not to issue a permit to engage in an activity that, without the permit, would be prohibited under section 28 of the Act. After making such an order the Minister may issue the permit instead of the conservation authority.</p>	<p>Significant concern. These powers appear to be similar to a Minister Zoning Order provided for under the <i>Planning Act</i>. Should the Minister decide to use these powers it appears that the CA may be required to ensure compliance with the Minister’s permit.</p>
<p>Cancellation of Permits</p> <p>Section 28.3 of the Act is amended to allow a decision of a conservation authority to cancel a permit or to make another decision under subsection 28.3 (5) to be appealed by the permit holder to the Local Planning Appeal Tribunal.</p>	<p>Some concern. Some conservation authorities use the cancellation of a permit as part of their compliance approach; the ability to appeal to the LPAT will add 90 days to the process prior to a LPAT hearing taking place. Renders the tool ineffective if the permit holder decides to appeal.</p>
<p>Entry Without Warrant, Permit Application</p> <p>Subsection 30.2 (permit application) of the Act sets out circumstances in which an officer may enter land within the area of jurisdictions of an authority. Those circumstances are revised.</p>	<p>Some concern. The changes are to amendments previously adopted but not proclaimed. For considering a permit application, the officer is now required to give reasonable notice to the owner and to the occupier of the property, which may result in increased administrative burden for the CA. It also appears to remove the ability to bring experts onto the site.</p>
<p>Entry Without Warrant, Compliance</p> <p>Subsection 30.2 (compliance) of the Act sets out circumstances in which an officer may enter land within the area of jurisdictions of an authority. Those circumstances are revised.</p>	<p>Significant/Some concern. The revisions essentially undo any enhanced powers of entry found within the yet to be proclaimed enforcement and offences section of the Act. The result is that CAs essentially maintain their existing powers of entry, which are quite limited. Conservation authorities will likely have to rely on search warrants to gain entry to a property where compliance is a concern. Reasonable grounds for obtaining a search warrant cannot be obtained where the activity cannot be viewed without entry onto the property (i.e. from the road).</p>

Description of Proposed Amendments	Implications to Conservation Authorities
<p>Stop (work) Order</p> <p>Section 30.4 of the Act is repealed. That section, which has not yet been proclaimed and which would have given officers the power to issue stop orders to persons carrying on activities that could contravene or are contravening the Act, is repealed.</p>	<p>Significant concern. This is an important enforcement tool that conservation authorities have been requesting for years. Without this tool, conservation authorities must obtain an injunction to stop unauthorized activities which represents a significant cost to the taxpayers.</p>
<p>Regulations Made By Minister and LGIC</p> <p>The regulation making authority in section 40 is re-enacted to reflect amendments in the Schedule.</p>	<p>No concern.</p>
<p>Throughout the legislation all references to the Mining and Lands Commissioner has been replaced with the Local Planning Appeal Tribunal</p>	<p>Some concern. The LPAT lacks the specialized knowledge that the MLT has with regard to S. 28 applications. There is also a significant backlog of cases at the LPAT.</p>
<p>Planning Act – Exclusion of CAs as Public Body</p> <p>Subsection 1(2) of the <i>Planning Act</i> is amended to remove Conservation Authorities as a public body under the legislation. Conservation authorities will not be able to independently appeal or become a party to an appeal as a public body at the LPAT.</p>	<p>Significant concern. There is lack of clarity on the implications of this amendment.</p> <p>The intent of the amendment is to remove from conservation authorities the ability to appeal to LPAT any <i>Planning Act</i> decisions as a public body or to become a party to an appeal. Conservation authorities will instead be required to operate through the provincial one window approach, with comments and appeals coordinated through MMAH. Note that the one window planning system is typically enacted for the review of Official Plans and Official Plan Amendments. It is expected that conservation authorities will retain the ability to appeal a decision that adversely affects land that it owns however that has not been confirmed.</p>

7.5) Proposed Resolution for Municipalities

WHEREAS the Province has introduced Bill 229, Protect, Support and Recover from COVID 19 Act - Schedule 6 – Conservation Authorities Act

WHEREAS the Legislation introduces a number of changes and new sections that could remove and/or significantly hinder the conservation authorities' role in regulating development, permit appeal process and engaging in review and appeal of planning applications

WHEREAS we rely on the watershed expertise provided by local conservation authorities to protect residents, property and local natural resources on a watershed basis by regulating development and engaging in reviews of applications submitted under the *Planning Act*

WHEREAS the changes allow the Minister to make decisions without CA watershed data and expertise

WHEREAS the Legislation suggests that the Minister will have the ability to establish standards and requirements for non-mandatory programs which are negotiated between the conservation authorities and municipalities to meet local watershed needs

WHEREAS municipalities require a longer transition time to put in place agreements with conservation authorities for non-mandatory programs

WHEREAS municipalities believe that the appointment of municipal representatives on CA Boards should be a municipal decision; and the Chair and Vice Chair of the CA Board should be duly elected

WHEREAS the changes to the 'Duty of Members' contradicts the fiduciary duty of a CA board member to represent the best interests of the conservation authority and its responsibility to the watershed

WHEREAS conservation authorities have already been working with the Province, development sector and municipalities to streamline and speed up permitting and planning approvals through Conservation Ontario's Client Service and Streamlining Initiative

WHEREAS changes to the legislation will create more red tape and costs for the conservation authorities, and their municipal partners, and potentially result in delays in the development approval process

AND WHEREAS municipalities value and rely on the natural habitats and water resources within our jurisdiction for the health and well-being of residents; municipalities value the conservation authorities' work to prevent and manage the impacts of flooding and other natural hazards; and municipalities value the conservation authority's work to ensure safe drinking water

THEREFORE BE IT RESOLVED

- THAT the Province of Ontario work with conservation authorities to address their concerns by repealing and/or amending changes to the *Conservation Authorities Act* and the *Planning Act*
- THAT the Province of Ontario delay enactment of clauses affecting municipal concerns
- THAT the Province of Ontario provide a longer transition period up to December 2022 for non-mandatory programs to enable coordination of CA-municipal budget processes
- THAT the Province respect the current conservation authority/municipal relationships
- AND THAT the Province embrace their long-standing partnership with the conservation authorities and provide them with the tools and financial resources they need to effectively implement their watershed management role.

7.6) ‘The developers are all in control’: Doug Ford’s government moves to limit the power of conservation authorities, sparking fears for the environment

By [Noor Javed](#) Staff Reporter

Wed., Nov. 11, 2020

New legislation by [Doug Ford’s](#) provincial government will override the powers of Ontario’s conservation authorities, limiting their ability to assess the environmental impact of developments across the province, according to environmental groups.

Last week, as part of its omnibus budget bill, the province proposed changes to the Conservation Authorities Act that limit the role of the province’s 36 conservation authorities in the development approval process.

“These are probably the most extreme changes we have seen (to the Act),” said Kim Gavine, general manager of Conservation Ontario, the umbrella organization representing the 36 conservation authorities. The authorities are responsible for the protection and restoration of the land, water and natural habitat in their communities.

“We have the science background, we have the data and we make decisions holistically — we don’t do them parcel by parcel,” said Gavine. “The fear is that decisions could be made that will have negative environmental impacts on water quality, water quantity and the overall health of our environment.”

In particular, the legislation takes away the role of the conservation authorities to provide science-based input on development applications, and their cumulative impact on the environment, floodplains and watershed, and puts the power to issue permits for contentious developments directly into the hands of the Minister of Natural Resources and Forestry — allowing decisions potentially to be made based on political influence rather than what is best for the environment.

The latest changes come as the Ford government is already facing criticism for its overzealous use of ministerial zoning orders, or MZO’s, which allow the government to permit development while bypassing municipal planning process, public consultation and environmental assessments.

Changes in the new legislation will allow the developers to bypass any restrictions put into place by conservation authorities.

“This legislation has taken away all the teeth the conservation authorities had to protect the environment,” said Tim Gray, executive director of Environmental Defense. “They can still give advice, but a developer can say, ‘Thanks, but we don’t have to listen to you.’”

Gray said the new legislation strips the conservation authority of any powers they had to protect communities from flooding, [or protect wetlands or forests](#).

“It’s all been taken away,” said Gray. “The developers are all in control.”

Gary Wheeler, a spokesperson for the Ministry of Environment, Conservation and Parks, said that for the past 18 months, the province has been consulting on the role of conservation authorities.

“We heard some concerns that conservation authorities have expanded their programs and services beyond their core mandate,” said Wheeler, in an email. “Based on this feedback, we are moving forward with a proposal to further define the core mandate of conservation authorities.”

“These changes would improve the governance, oversight and accountability of conservation authorities, while respecting taxpayer dollars by giving municipalities more say over the conservation authority services they pay for.”

Wheeler said the proposed changes provide a new mechanism for the “province to become involved in the issuance of permits, where there are matters of provincial interest and a desire to ensure a consistent approach for all landowners, the agricultural sector and other proponents that interact with conservation authorities.”

In a statement issued Friday, the Toronto and Region Conservation Authority said it has “substantial concerns” about the proposed amendments.

“TRCA plays a crucial role in the permitting process, often on behalf of our partner municipalities,” it said in its statement. “Unexpectedly, the proposed amendments authorize the Minister of Natural Resources and Forestry to assume jurisdiction for certain permit applications in place of the conservation authority.”

Under the new legislation, if the TRCA refuses a permit or applies conditions, applicants can appeal directly to the minister or take the matter to the Local Planning Appeal Tribunal (LPAT), an independent provincial body that adjudicates contentious municipal planning issues.

Previously, the only mechanism a landowner to appeal a permit was to take the matter directly to the executive board of the local conservation authority.

In the release, the TRCA said it also had concerns around additional proposed legislation — changes to the Planning Act — which would inhibit the ability of conservation authorities to represent themselves at an LPAT hearing.

“If passed, we would not be able to participate in an LPAT appeal to represent our interests unless we are requested through an agreement with the municipality, or by the minister in the event the minister appeals a decision,” the TRCA said.

“These proposed changes to the planning and permitting process have the potential to allow individuals to circumvent checks and balances, which exist to protect the safe development of communities in our watersheds.”

Ministry’s Wheeler said that “municipalities and the province would continue to be able to work with conservation authorities and rely on their advice and support where they want it during an LPAT appeal.”

Liz Benneian, a director with the community group, A Better Niagara, said that community groups are also alarmed that the new legislation will boot citizens off conservation authority boards, giving their seat to elected officials.

She said to add insult to injury, elected officials have been mandated to put the interest of their municipalities ahead of those of the conservation authority.

“Since when do we have board members on a board who are told they have to act in the interest other than the organization they are supposed to be serving?” she said.

7.7) Ford government to take powers away from conservation authorities

By [Emma McIntosh](#) | [News](#), [Politics](#) | November 11th 2020



Ontario Premier Doug Ford tours flooding in the Ottawa region in 2019. Now, the Ford government is making changes to how the agencies that oversee watersheds and flood mitigation work. File photo by Kamara Morozuk

The [Doug Ford](#) government is rewriting the rules for agencies that protect Ontario watersheds, undermining their powers and allowing developers to skip checks and balances, environmental advocates say.

In Ontario, 36 conservation authorities manage hazards like flood control and water quality, issue permits for construction in areas near crucial waterways and oversee conservation lands.

The changes to the rules governing them undermine the agencies' ability to ensure development in flood-plains is done safely, said Conservation Ontario, a non-profit representing the 36 conservation authorities.

"It just reduces our ability to protect Ontario's environment," said Kim Gavine, the general manager of Conservation Ontario.

"It's almost like death by a thousand cuts."

The changes were nestled inside Bill 229, a bill introduced Thursday to enact measures the government outlined in its [2020 budget](#).

Ontario first created conservation authorities [in 1946](#) after the province found that decades of poor planning had led to drought, deforestation, erosion and increased flooding. The current system was designed based on lessons learned in the wake of [hurricane Hazel](#), which struck southern Ontario in 1954, killing 81 people and destroying homes that had been built on flood-plains. After the disaster, Ontario put conservation authorities in charge of flood forecasting and making sure development near waterways was done safely.

“It’s really about protecting people and property,” said Laurie Nelson, director of policy planning at the Toronto and Region Conservation Authority (TRCA), referring to the current conservation authority rules.

The Ford government’s rewrite of those rules would chip away at conservation authorities’ power, allowing the minister of natural resources to take over some decision-making on developments. It would also allow developers to appeal conservation authorities’ decisions directly to the minister, who could then overturn them. And it would take away the agencies’ ability to appeal municipal planning decisions they believe could be harmful for conservation.

“It is a problem because it politicizes a process that is not political,” said Ontario NDP environment critic Ian Arthur.

“I think that the more that we politicize this, the more that we add in ministerial discretion or discretion on a municipal level, the less it does what it’s supposed to do.”

Conservation authorities oversee Ontario watersheds. Doug Ford's changes to how they work could allow developers to circumvent checks and balances brought in after hurricane Hazel in 1954, environmental advocates say. [#onpoli](#)

The changes put the interests of developers ahead of science-based decision-making, said Ontario Green party Leader Mike Schreiner.

“The climate crisis is only going to worsen flooding,” he said. “It’s just so short-sighted and reckless.”

Reduced flood protections could also be a “huge liability and safety risk,” said Tim Gray, the executive director of the non-profit Environmental Defence.

“Anything that removes oversight from an ecological or flood hazard perspective has the ability to increase risk,” he added.

Andrew Buttigieg, a spokesperson for Ontario Environment Minister Jeff Yurek, didn’t directly answer when asked about concerns around flood mitigation and safety. But he said the new rules would “increase accountability, consistency and transparency by streamlining the land use planning process,” and that improving the governance of conservation authorities is part of the province’s flood mitigation strategy.

“These changes would improve the governance, oversight and accountability of conservation authorities, while respecting taxpayer dollars by giving municipalities more say over the conservation authority services they pay for,” Buttigieg said in an email.

New rules would let government approve controversial development

Conservation authorities are governed by provincial rules, though municipal governments are also heavily involved.

They have a special role in development: While a municipal government might be concerned about economic issues or the environmental impact within its boundaries, a conservation authority looks at the cumulative effects on entire watersheds, which can span hundreds of square kilometres. The authorities employ scientists who assess the impact of each project.

The new rules, if passed, would theoretically allow the province to overrule concerns raised by those scientists.

One example is a [controversial development](#) in Pickering, Ont., that would pave over a protected wetland. Though the TRCA hasn't officially decided whether to issue a permit or not, it has said it doesn't generally support projects on protected wetlands — if the TRCA decided to deny the permit, the new legislation would allow the Ford government to overrule it.

“There will never be an answer of no,” Gray said.

The TRCA is also concerned about the changes, and in a statement Friday called on “partner municipalities, residents throughout our jurisdiction, and our network of supporters” to reach out to the province on its behalf.

“We really want to be able to protect our watersheds,” Nelson said. “And being a major landowner in the GTA, we want to ensure that our public lands are also protected.”

The government announced plans to change the rules for conservation authorities in 2019. That year, it also [cut their funding](#) for mitigating natural hazards like floods by 50 per cent and ordered conservation authorities to shut down programs the province [deemed unnecessary](#).

Conservation authorities had been working with the province in good faith to streamline their permitting processes and tell the government what types of changes could be helpful, Gavine said.

“We’ve made great strides in improving turnaround times,” she added. “I believe that the changes that are being presented in the (new legislation) are not necessary in light of this improved work that we’ve seen.”

The legislation is likely to pass, since the Progressive Conservative government holds a majority.

It’s not clear what the full impact of the changes could be because the province has said it’s also writing a new set of regulations to go with the new rules, said Gavine. (Buttigieg didn’t answer when asked when the regulations would be finished.)

“I believe there’s other ways we could work co-operatively,” Gavine said.

“We fear that it’s going to impact our ability to look at the health of Ontario’s environment.”

7.8) Conservation Authorities Under Fire

Ontario Nature

On November 5th, the Government of Ontario revealed its plans to severely curtail the role of Conservation Authorities in watershed planning and management. Schedule 6 of omnibus Budget Bill 229 proposes numerous changes to the *Conservation Authorities Act* (CAA) that will [undermine efforts](#) to conserve biodiversity and build community resilience to climate change.

The Canadian Environmental Law Association (CELA) has prepared a [preliminary analysis](#) of Schedule 6, outlining the proposed changes and their implications. Among the key concerns identified are:

- Narrowing of the scope and powers of Conservation Authorities, impeding the achievement of the overall purpose of the CAA, which is to “provide for the organization and delivery of programs and services that further the conservation, restoration, development and management of natural resources in watersheds in Ontario;”
- Restricting the duties of Conservation Authorities’ members so that they no longer must act to further the watershed-based mandates of the Conservation Authorities, but rather can act only on behalf of the narrower interests of their respective municipalities;
- Reducing the ability of Conservation Authorities to act as independent public bodies in land use planning, including removing their ability to seek to appeal municipal planning decisions;
- Introducing new rights for developers to force fast-tracking of development approvals and to appeal decisions they do not like, without providing the same opportunity to citizens who may wish to challenge decisions that damage the environment; and
- Giving the Minister new power to overturn a conservation authority’s decision to refuse to issue a permit for development.

Alarming, the proposed changes were introduced as part of a budget bill, which means that the public’s right to comment under the *Environmental Bill of Rights* is over-ridden, as explained in the Environmental Registry of Ontario notice ([ERO # 019-2646](#)).

Ontario’s Conservation Authorities are a unique and widely respected innovation.

The vital role of our Conservation Authorities in watershed-based land use planning and permitting [must be retained](#) to prevent unchecked development that puts communities at risk from flooding and other climate change impacts through loss of wetlands, woodlands and farmland.

Please join Ontario Nature in asking the government to withdraw Schedule 6 in its entirety from Bill 229.

If possible, please try to speak directly with your MPP to ask that Schedule 6 be removed. Use [this tool](#) to find their contact information based on your postal code.

Given how quickly Bill 229 is likely to move through the Legislature, we need to act together – quickly and decisively. **Please join us for a webinar, jointly presented by CELA, Ontario Nature and Environmental Defence on Tuesday, November 17th at 7 p.m. [about these proposed changes and how we can fight back](#).**

Photo: Endangered redbreasted dace © Jon Clayton

Ontario Nature Petition: Retain the Current Mandate of the Province's 36 Conservation Authorities

6,856 emails sent

Website: <https://ontarionature.good.do/conservationauthorities/send/>

Send an email to:

- Minister Philips, Minister of Finance, minister.fin@ontario.ca,
- Minister Clark, Minister of Municipal Affairs and Housing, minister.mah@ontario.ca
- Minister Yurek, Minister of the Environment, Conservation and Parks, minister.MECP@ontario.ca
- Your local MPP

Compose your email

Subject: Don't Undercut Conservation Authorities With Schedule 6

Dear Minister Phillips,

cc: Minister Clark and Minister Yurek

I strongly oppose the proposed changes to the Conservation Authorities Act set out in Schedule 6 of Bill 229 that curtail the role of Conservation Authorities in watershed planning and management. I am also deeply concerned that these proposed changes were brought forward in a budget bill, thereby over-riding my right to comment under the Environmental Bill of Rights. I request that you remove Schedule 6 in its entirety from Bill 229.

Ontario's Conservation Authorities are a unique and widely respected innovation. They provide a much-valued bridge across municipal boundaries to understand and address environmental concerns, such as flooding. Because they operate at the watershed level, they are ideally positioned to encourage science-based collaborative strategies and decision-making. Their vital role in land use planning and permitting must be retained to ensure that development does not put communities at risk from flooding and other climate change impacts through loss of wetlands, woodlands and farmland.

The changes proposed in Schedule 6 will reduce or constrain the mandate of Conservation Authorities, and are therefore contradictory to the interests of the people of Ontario who are facing enormous risks and costs as a result of climate change and ongoing biodiversity loss. The roles and responsibilities of Conservation Authorities are critical in protecting the lands, waters and wildlife which benefit businesses and communities across Ontario, and upon which our health and well-being ultimately depend.

I urge you to remove Schedule 6 in its entirety from Bill 229.

8. Other Business

9. Adjournment
