



## **APPENDIX E**

### **MOU on CA DELEGATED RESPONSIBILITY**

**May 12, 2016**

**CONSERVATION ONTARIO,  
MINISTRY OF NATURAL RESOURCES &  
MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING**

**MEMORANDUM OF UNDERSTANDING ON PROCEDURES TO  
ADDRESS CONSERVATION AUTHORITY  
DELEGATED RESPONSIBILITY**

**PURPOSE OF THE MOU**

The MOU defines the roles and relationships between Conservation Authorities (CAs), the Ministry of Natural Resources (MNR), and the Ministry of Municipal Affairs and Housing (MMAH) in planning for implementation of CA delegated responsibilities under the Provincial One Window Planning System.

**BENEFITS TO SIGNATORY PARTIES**

It is beneficial for all parties to enter into this agreement because it clarifies the roles of CAs and the unique status of CAs in relationship to the Provincial One Window Planning System.

**DELEGATED RESPONSIBILITY FOR NATURAL HAZARDS**

CAs were delegated natural hazard responsibilities by the Minister of Natural Resources. A copy of the delegation letter is attached. This letter (dated April 1995) went to all CAs and summarizes delegations from the MNR including flood plain management, hazardous slopes, Great Lakes shorelines, unstable soils and erosion which are now encompassed by Section 3.1 "Natural Hazards" of the Provincial Policy Statement (1997). In this delegated role, the CA is responsible for representing the "Provincial Interest" on these matters in planning exercises where the Province is not involved.

This role does not extend to other portions of the PPS unless specifically delegated or assigned in writing by the Province.

## ROLES AND RESPONSIBILITIES

### Ministry of Natural Resources

- a) MNR retains the provincial responsibility for the development of flood, erosion and hazard land management policies, programs and standards on behalf of the province pursuant to the *Ministry of Natural Resources Act*.
- b) Where no conservation authorities exist, MNR provides technical support to the Ministry of Municipal Affairs and Housing on matters related to Section 3.1 of the Provincial Policy Statement in accordance with the “Protocol Framework – One Window Plan Input, Review and Appeals”.
- c) MNR, in conjunction with MMAH, co-ordinates the provincial review of applications for Special Policy Area approval under Section 3.1 of the PPS.

### Ministry of Municipal Affairs and Housing

- a) MMAH coordinates provincial input, review and approval of policy documents, and development proposals and appeals to the Ontario Municipal Board in accordance with the “Protocol Framework One Window Plan Input Review and Appeals”.
- b) Where appropriate, MMAH will consult conservation authorities as part of its review of policy documents and development proposals to seek input on whether there was “regard to” Section 3.1 of the PPS.
- c) Where there may be a potential conflict regarding a Conservation Authority’s comments on a planning application with respect to Section 3.1 of the PPS and comments from provincial ministries regarding other Sections of the PPS, the Ministry of Municipal Affairs and Housing will facilitate discussions amongst the affected ministries and the Conservation Authority so that a single integrated position can be reached.
- d) Where appropriate, MMAH will initiate or support appeals to the OMB on planning matters where there is an issue as to whether there was “regard to” Section 3.1 of the PPS.
- e) MMAH, in conjunction with MNR, coordinates the provincial review of application for Special Policy Area approval under Section 3.1 of the PPS.

### Conservation Authorities (CAs)

- a) The CAs will review policy documents and development proposals processed under the *Planning Act* to ensure that the application has appropriate regard to Section 3.1 of the PPS.
- b) Upon request from MMAH, CAs will provide comments directly to MMAH on planning matters related to Section 3.1 of the PPS as part of the provincial one window review process.
- c) Where there may be a potential conflict regarding a Conservation Authority's comments on a planning application with respect to Section 3.1 of the PPS and comments from provincial ministries regarding other Sections of the PPS, the Ministry of Municipal Affairs and Housing will facilitate discussions amongst the affected ministries and the Conservation Authority so that a single integrated position can be reached.
- d) CAs will apprise MMAH of planning matters where there is an issue as to whether there has been "regard to" Section 3.1 of the PPS to determine whether or not direct involvement by the province is required.
- e) Where appropriate, CAs will initiate an appeal to the OMB to address planning matters where there is an issue as to whether there has been "regard to" Section 3.1 of the PPS is at issue. CAs may request MMAH to support the appeal.
- f) CAs will participate in provincial review of applications for Special Policy Area approval.
- g) CAs will work with MMAH, to develop screening and streamlining procedures that eliminate unnecessary delays and duplication of effort.

## **FURTHER CA ROLES IN PLAN INPUT, PLAN REVIEW AND APPEALS**

CAs also undertake further roles in planning under which they may provide plan input or plan review comments or make appeals.

### **1. Watershed Based Resource Management Agency**

CAs are corporate bodies created by the province at the request of two or more municipalities in accordance with the requirements of the *Conservation Authorities Act (CA Act)*. Section 20 of the *CA Act* provides the mandate for an Authority to offer a broad resources management program. Section 21 of the *CA Act* provides the mandate to have watershed-based resource management programs and/or policies that are approved by the Board of Directors.

CAs operating under the authority of the *CA Act*, and in conjunction with municipalities, develop business plans, watershed plans and natural resource management plans within their jurisdictions (watersheds). These plans may recommend specific approaches to land use and resource planning and management that should be incorporated into municipal planning documents and related development applications in order to be implemented. CAs may become involved in the review of municipal planning documents (e.g., Official Plans (OPs), zoning by-laws) and development applications under the *Planning Act* to ensure that program interests developed and defined under Section 20 and 21 of the *CA Act* are addressed in land use decisions made by municipal planning authorities. In this role, the CA is responsible to represent its program and policy interests as a watershed-based resource management agency.

### **2. Planning Advisory Service to Municipalities**

The provision of planning advisory services to municipalities is implemented through a service agreement with participating municipalities or as part of a CAs approved program activity (i.e., service provided through existing levy). Under a service agreement, a Board-approved fee schedule is used and these fee schedules are coordinated between CAs that “share” a participating municipality. The “Policies and Procedures for the Charging of CA Fees” (MNR, June 13, 1997) identifies “plan review” activities as being eligible for charging CA administrative fees.

The CA is essentially set up as a technical advisor to municipalities. The agreements cover the Authority’s areas of technical expertise, e.g., natural hazards and other resource management programs. The provision of planning advisory services for the review of *Planning Act* applications is a means of implementing a comprehensive resource management program on a watershed basis.

In this role, the CA is responsible to provide advice on the interpretation of the Provincial Policy Statement (PPS) under the terms of its planning advisory service agreement with the municipality. Beyond those for Section 3.1 “Natural Hazards” where CAs have

delegated responsibility, these comments should not be construed by any party as representing the provincial position.

### 3. CAs as Landowner

CAs are landowners and as such, may become involved in the planning process as a proponent or adjacent landowner. Planning Service Agreements with municipalities have anticipated that this may lead to a conflict with our advisory role and this is addressed by establishing a mechanism for either party to identify a conflict and implement an alternative review mechanism.

### 4. Regulatory Responsibilities

#### a) *CA Act* Regulations

In participating in the review of development applications under the *Planning Act*, CAs will (i) ensure that the applicant and municipal planning authority are aware of the Section 28 regulations and requirements under the *CA Act*, and, (ii) assist in the coordination of applications under the *Planning Act* and the *CA Act* to eliminate unnecessary delay or duplication in the process.

#### b) Other Delegated or Assigned Regulatory/Approval Responsibility

Federal and provincial ministries and municipalities often enter agreements to transfer regulatory/approval responsibilities to individual CAs (e.g., Section 35 Fisheries Act/DFO; Ontario Building Code/septic tank approvals). In carrying out these responsibilities and in participating in the review of development applications under the *Planning Act*, CAs will (i) ensure that the applicant and municipality are aware of the requirements under these other pieces of legislation and how they may affect the application; and, (ii) assist in the coordination of applications under the *Planning Act* and those other Acts to eliminate unnecessary delays or duplication in the process.

## **CANCELLATION OR REVIEW OF THE MOU**

The terms and conditions of this MOU can be cancelled within 90 days upon written notice from any of the signing parties. In any event, this document should be reviewed at least once every two years to assess its effectiveness, its relevance and its appropriateness in the context the needs of the affected parties. “Ed. Note: 90 days is to provide time for the parties to reach a resolution other than cancellation”.

**MEMORANDUM OF UNDERSTANDING ON PROCEDURES TO ADDRESS  
CONSERVATION AUTHORITY DELEGATED RESPONSIBILITY**

I hereby agree to support the provisions contained in this Memorandum of Understanding as an appropriate statement of the roles and responsibilities of relevant Ministries and Conservation Authorities in the implementation of the Provincial Policy Statement.

**Jan 19, 2001: Original signed by**

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David de Launay  
Director  
Lands and Waters Branch  
Ministry of Natural Resources

\_\_\_\_\_  
Date

**Feb 12, 2001: Original signed by**

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Audrey Bennett  
A/Director  
Provincial Planning and Environmental Services Branch  
Ministry of Municipal Affairs and Housing

\_\_\_\_\_  
Date

**Jan 01, 2001: Original signed by**

\_\_\_\_\_  
R.D. Hunter  
General Manager  
Conservation Ontario

\_\_\_\_\_  
Date



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Resources

Minister

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APR 19 1995

95-01252-MIN

Mr. Donald Hocking  
Chair  
Upper Thames River Conservation Authority  
R.R. #6  
London, Ontario  
N6A 4C1

Dear Mr. Hocking:

This letter is with regard to the responsibilities of Conservation Authorities in commenting on development proposals.

The Government of Ontario is continuing to move forward on reforms promoting greater local involvement in decision-making, streamlining of municipal planning and other approval processes, and improved environmental protection. Ontario's Conservation Authorities continue to be important partners in this process.

In 1983, Conservation Authorities were delegated commenting responsibility on flood plain management matters. This was followed in 1988 by a similar delegation of commenting responsibility for matters related to flooding, erosion, and dynamic beaches along the shorelines of the Great Lakes-St. Lawrence River system.

At present, the Ministry and Conservation Authorities continue to independently review and provide input to municipalities and the Ministry of Municipal Affairs on development matters related to riverine erosion, slope, and soil instability. Although Authorities and the Ministry share similar objectives, this overlap and duplication of efforts have occasionally led to differences in comments which, in turn, have sometimes resulted in confusion, delays and expense for development proponents. As part of the current Planning Reform initiative, there is an opportunity to clarify the roles and responsibilities related to these important hazard management issues.



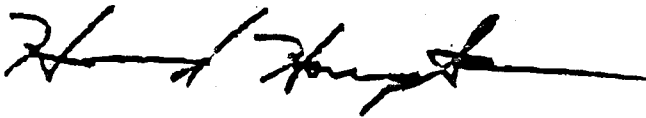
Through their flood plain, watershed and Great Lakes-St. Lawrence River shoreline management planning initiatives, Conservation Authorities have made good progress in streamlining approval processes and strengthening provincial-municipal partnerships. By extension, I believe that it would be appropriate to recognize the well-developed expertise and capabilities of Conservation Authorities in the evaluation of riverine erosion, slope and soil instability matters and to formally confirm Conservation Authorities as the lead commenting agency. This would result in further streamlining of approval processes, the promotion of environmentally sound development, and the provision of an economic stimulus for the province.

As of March 29, 1995, Conservation Authorities, where they exist, will have sole commenting responsibilities on development proposed in areas subject to riverine erosion, slope instability and soil instability, such as in areas of high water tables, organic or peat soils, and leda, or sensitive marine clay, soils. Implementation of this policy by authorities would continue to be eligible for provincial grant. Where Conservation Authorities exist, I have asked Ministry staff to focus their comments on all other matters of direct interest and concern to the Ministry. Where Conservation Authorities do not exist, the Ministry will continue its commenting role on these matters.

The Ministry of Natural Resources will continue as lead administrative Ministry having overall Government responsibility for hazard management policies and programs. In this regard, the Ministry will continue to provide leadership, policy direction and advisory assistance to the Conservation Authorities.

Your continued participation in the delivery of this important component of the overall provincial hazard management program will serve to strengthen the partnership between the Ministry and the Conservation Authorities.

Yours sincerely,



Howard Hampton  
Minister

# Lakes and Rivers Improvement Act

## ONTARIO REGULATION 454/96

### CONSTRUCTION

**Consolidation Period:** From January 1, 2018 to the [e-Laws currency date](#).

Last amendment: 452/17.

Legislative History: 160/07; 452/17.

***This is the English version of a bilingual regulation.***

1. In this Regulation,

“channelize” means to alter the alignment, width, depth, sinuosity, conveyance or bed or bank material of a river or stream channel; (“canaliser”)

“water crossing” means a bridge, culvert or causeway that is constructed to provide access between two places separated by water but that also holds back, forwards or diverts water. (“ouvrage de franchissement de cours d’eau”) O. Reg. 454/96, s. 1; O. Reg. 160/07, s. 1.

2. (1) For the purpose of subsection 14 (1) and section 16 of the Act, approval is required,

- (a) to construct or decommission a dam that holds back water in a river, lake, pond or stream to raise the water level, create a reservoir to control flooding or divert the flow of water;
- (b) to make alterations, improvements or repairs to a dam that holds back water in a river, lake, pond or stream to raise the water level, create a reservoir to control flooding or divert the flow of water, if the alterations, improvements or repairs may affect the dam’s safety or structural integrity, the waters or natural resources; or
- (c) to do any of the following things outside the area of jurisdiction of a conservation authority, or within the area of jurisdiction of a conservation authority that has in effect a regulation governing development, interference with wetlands and alteration to shorelines and watercourses if the area in which the work will be done does not form part of the area covered by the regulation:
  - (i) Constructing a water crossing draining an area greater than five square kilometres, unless construction is undertaken by a Ministry or municipality on lands owned by the Crown or the municipality undertaking the construction.
  - (ii) Channelizing a river or stream that may harmfully alter fish habitat or impede the movement of fish in a river, stream or lake, except for the installation or maintenance of a drain, subject to the *Drainage Act*;
  - (iii) Enclosing or covering a length of river or stream for greater than 20 metres in length.
  - (iv) Installing, if the installation may result in damming, forwarding or diverting water, a cable or pipeline into the bed of a river, stream or lake except for the installation of heat loops, water intakes and service cables for private residences.
  - (v) Installing a temporary dam for the purpose of removing water or water flow from an area during construction of any of the works described in subclauses (i) to (iv). O. Reg. 160/07, s. 2 (1).

(1.1) Despite clause 2 (1) (b), no approval is required to make alterations, improvements or repairs to a dam in the circumstances described in that clause if, at the time the alterations, improvements or repairs are carried out, the Minister has entered into an agreement with the dam owner that is still in effect and,

- (a) sets out the nature and extent of the alterations, improvements or repairs to the dam;
- (b) includes terms to address the dam’s safety and structural integrity and the potential impacts of the alterations, improvements or repairs on the waters and natural resources; and
- (c) states that the proposed alterations, improvements or repairs do not require approval under section 16 of the Act. O. Reg. 452/17, s. 1.

(2) For the purpose of section 16 of the Act, approval is required before a person operates a dam in a manner different from that contemplated by plans and specifications approved by the Minister under section 14 or 16 of the Act. O. Reg. 160/07, s. 2 (2).

**3.** No approval is required under section 14 or 16 of the Act for a water crossing to which the *Public Lands Act* applies or that has been constructed as part of a forest operation to which the Forest Operations and Silviculture Manual prepared under the *Crown Forest Sustainability Act, 1994* applies. O. Reg. 452/17, s. 2.

Français

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