



**Ontario**  
Home Builders'  
Association

## Conservation Authorities Review

Proposed amendments to the Conservation Authorities Act  
As part of Bill (139), the  
Building Better Communities and Conserving Watersheds Act, 2017

**EBR – 013-0561**

BILD  
Bluewater  
Brantford  
Chatham-Kent  
Cornwall  
Greater Dufferin  
Durham Region  
Grey-Bruce  
Guelph & District  
Haldimand-Norfolk  
Haliburton County  
Hamilton-Halton  
Kingston-Frontenac  
Lanark-Leeds  
London  
Niagara  
North Bay & District  
Greater Ottawa  
Oxford County  
Peterborough &  
The Kawarthas  
Quinte  
Renfrew  
Sarnia-Lambton  
Simcoe County  
St. Thomas-Elgin  
Stratford & Area  
Sudbury & District  
Thunder Bay  
Waterloo Region  
Windsor Essex



**Submitted to: Hon Kathryn McGarry**  
**Minister of Natural Resources and Forestry**  
**July 31, 2017**



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## About OHBA

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The Ontario Home Builders' Association (OHBA) is the voice of the land development, new housing and professional renovation industries in Ontario. OHBA represents over 4,000 member companies, organized through a network of 29 local associations across the Province. Our membership is made up of all disciplines involved in land development and residential construction, including: builders, professional renovators, trade contractors, manufacturers, consultants and suppliers. Our members have built over 700,000 homes in the last ten years in over 500 Ontario communities. The residential construction industry employed over 336,000 people, generated \$19.8 billion in wages and contributed over \$56 billion to the Province's economy in 2016.

OHBA is committed to improving housing affordability and choice for Ontario's new home purchasers and renovation consumers by positively impacting provincial legislation, regulation and policy that affect the industry. Our comprehensive examination of issues and recommendations are guided by the recognition that choice and affordability must be balanced with broader social, economic and environmental issues

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## Background

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The *Conservation Authorities Act*, administered by the Ministry of Natural Resources and Forestry (MNRF), enables two or more municipalities in a common watershed to establish a Conservation Authority (CA) in conjunction with the province. The purpose of a CA is to deliver a local resource management program at the watershed scale for both provincial and municipal interests. CAs have played a significant role in Ontario's natural resource management landscape for nearly 70 years.

In order to ensure that the *Conservation Authorities Act* is meeting the needs of Ontarians in a modern context, the MNRF is undertaking a review of the legislation by seeking feedback regarding roles, responsibilities, funding and governance in resource management and environmental protection.

Bill (139), the *Building Better Communities and Conserving Watersheds Act* was introduced in the legislature on May 30, 2017, and Schedule 4 proposes amendments to the *Conservation Authorities Act* that will enable the regulatory and policy changes contained within the *Conserving our Future: A Modernized Conservation Authorities Act* which was posted by the MNRF outlining the suite of legislative, regulatory, policy and program changes proposed to be made as a result of the review.

OHBA previously submitted recommendations in October 2015 to the Environmental Registry 012-4509 posting and submitted further recommendations in September 2016 responding to the Environmental Registry 012-75-83 posting. Throughout the legislative review, OHBA members from a number of our local home builders associations had the opportunity to participate directly in the consultation process at workshops, technical consultations and workshops hosted by OHBA to foster collaboration and engagement with MNRF. OHBA appreciates the extensive consultation and direct engagement between MNRF and our local associations and members.

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## *Executive Summary*

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OHBA is pleased to respond to the provincial review of the proposed Bill 139 amendments to the *Conservation Authorities Act* and the *Conserving our Future: A Modernized Conservation Authorities Act*. Our members from across Ontario and the 36 Conservation Authority (CA) watersheds have extensive experience working with CAs and navigating the plan review and permitting process. OHBA shares similar broad priorities for modernization and renewal with the Ministry and appreciates the opportunity to present our views and recommendations to the MNRF.

The ongoing review of the *Conservation Authorities Act* provides a critical opportunity to strengthen oversight and accountability mechanisms including formalizing the role of other Ministries in providing provincial direction and oversight to CAs. The review is also an opportunity to clarify the roles and responsibilities of CAs within the broader provincial legislative framework. While CAs have an important role in watershed management, OHBA has become increasingly concerned that a number of CAs have extended their reach beyond a core mandate related to natural hazards (PPS section 3.1) and watershed management, which is adversely impacting a number of broader provincial goals and objectives. The roles and responsibilities of CAs need to be appropriately balanced with the broader legislative framework that CAs operate in, which allows planning authorities and our members to build strong, healthy communities.

OHBA has been actively involved throughout the current legislative review and previous *consultations* that have aimed to improve efficiencies in the planning and permitting review process. Beginning in 2007 OHBA, the Building Industry and Land Development Association (BILD) and the Hamilton-Halton Home Builders' Association (HHHBA) participated as members of the Conservation Authority Liaison Committee (CALC) along with municipalities, the province and other stakeholders. In 2010, MNRF and MMAH approved the *Policies and Procedures for Conservation Authority Plan Review and Permitting Activities* that would form part of MNRF's Policies and Procedures Manual. The proposed legislative amendment in Schedule 4 of Bill 139 and the priorities outlined in *Conserving Our Future* document create an opportunity for the MNRF to take a more assertive role and to clarify roles and responsibilities. Bill 139 sets initial steps to ensure CAs are more effectively delivering their core responsibilities and mandate while supporting the broader provincial policies established in the PPS, *Planning Act* and Growth Plan. OHBA is however concerned that the MNRF has not acted upon OHBA's recommendation to

enhance accountability for planning and permitting functions through an independent appeals process.

OHBA appreciates the opportunity to present our views and recommendations to the MNRF and looks forward to ongoing engagement with the province in updating the CA legislative framework and future regulatory consultations to more effectively and efficiently deliver their mandate. OHBA is also supportive of and looks forward to participating in the proposed “Multi-Stakeholder Service Delivery Committee”. A modernized legislative framework and updated funding model provides an opportunity to ensure that CAs are efficiently delivering on their core responsibilities, providing for consistency in programs and services and are implementing provincial policy objectives related principally to natural hazards and watershed management.

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### ***Priority #1: Strengthening Oversight and Accountability***

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OHBA strongly supports modernizing the *Conservation Authorities Act* to enhance accountability mechanisms within the legislation and through future regulations, including increasing the transparency and oversight of CA decision making. OHBA notes that the provincial planning framework has evolved significantly since the last major review of the *Conservation Authorities Act* and that the current legislative review should reflect the broader legislative framework.

#### **Updating Appointment Processes and Requirements**

- OHBA is generally supportive of the proposals for updating of the appointment process and requirements.
- OHBA supports term limits for appointments

#### **Updating CA Governance Practices**

- OHBA is also generally supportive of proposed updates to governance practices including enhancing transparency to require administrative by-laws to be made available to the public and requiring CA meetings to be open to the public.
- OHBA continued to recommend that as a Best Management Practice that CAs should be required to produce annual reports that include:
  - Financial statements;
  - Governance priorities and policy/service priorities CA is focused on;;

- Standardized review and response timelines for permitting functions and application processes as well as reporting on the effectiveness of achieving those reasonable review timelines;
- MOUs and delegated authorities;
- Revenues and expenses associated with MOUs and Delegated Authorities;
- Fees charged for planning and permitting reviews;
- Board Code of Conduct;
- Annual reports should make specific reference to the guidelines and performance monitoring policies set out in *Policies and Procedures for Conservation Authority Plan Review and Permitting Activities*.

#### **Enabling MNRF to Conduct Program and Operational Reviews**

- The MNRF currently has limited power to enforce compliance with the *Conservation Authorities Act*. OHBA previously recommended increasing direct oversight and monitoring by MNRF to enhance accountability, consistency and transparency in terms of governance as well as roles and responsibilities. OHBA is therefore supportive of proposed actions to update the authority of MNRF to review CA programs, services and operations. However, OHBA notes that any oversight roles and responsibilities must be clearly articulated and transparent to avoid confusion for the public, stakeholders and applications. OHBA believes these actions will assist the MNRF in providing more effective oversight.
- The Provincial Government should provide direct oversight and monitoring of CA Boards to ensure their operations are transparent and Board members are held accountable for decision making. OHBA further recommends that provincial oversight be expanded to also include technical guidelines, best practices and other support for CA Boards and staff including regular training for Boards and staff on the contents of the *Policies and Procedures for Conservation Authority Plan Review and Permitting Activities*.

#### **Updating Guidance on the Use of Dispute Resolution Mechanisms**

- OHBA is concerned by the lack of accountability associated with CA permit refusals and non-decisions. There is a lack of tension in the system that allows some CAs to

- operate under unreasonably long timelines and without an appropriate appeal mechanism. To enhance accountability OHBA previously recommended that Section 28(15) of the *Conservation Authorities Act* be amended to include the ability to appeal non-decisions on permit approvals and set standardized timelines.
- OHBA is disappointed that the province has only proposed to update guidance on the use of existing dispute resolution mechanisms. OHBA very strongly recommends the province reconsider this approach and enhance accountability and transparency through the implementation of an independent third party appeals process.
  - OHBA had previously recommended and continues to advocate for the *Conservation Authorities Act* to be included in the *Consolidated Hearings Act* Schedule to enhance accountability and transparency through independent third party appeals for planning and permitting roles as well as fee schedules. Furthermore, Section 28(15) of the *Conservation Authorities Act* should be amended to include the ability to appeal non-decisions on permit approvals. CA comments must be timely and be legislated as part of the planning application review process. OHBA recommends that failure to provide comments on an application within 180 days should be made appealable to an independent third party tribunal.
  - CAs must be governed by and follow other provincial legislation and policies such as the PPS and *Planning Act*.

### **Confirming Expectations for CA Restructuring Decisions**

- OHBA has no specific comments on this section.

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### ***Priority #2: Increasing Clarity and Consistency***

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- OHBA strongly supports clarifying and confirming the CA mandate, providing greater consistency in programs and services and offering some degree of standardization in program and policy design and implementation. OHBA notes that the *Conserving Our Future* document specifically states that, “increasing clarity and consistency in roles and responsibilities and regulatory requirements emerged as a top priority area for improvement.” Clarification of the mandate of CAs should allow for priorities to be streamlined to ensure they are better positioned to effectively deliver on their core

functions. In some cases, CAs are engaging in work that is redundant to municipalities, other ministries and institutions that are better positioned to undertake this work. OHBA believes that MNRF must better align CA mandates with the current legislative and planning framework as well as broad provincial public policy objectives and local city building objectives.

- OHBA is supportive of outlining the scope of provincially mandated roles and responsibilities in regulation, which will serve to embed provincial expectations for the delivery of these programs and services into the CA Act legislative framework.
- OHBA is supportive of the proposed “purpose” statement [Section 0.1 of the Act]. However the purpose statement falls short of OHBA’s recommendation to clearly define the roles and responsibilities of CAs, municipalities, the federal government and various Ministries. Modernized legislation should clearly define the CA core mandate to be prioritized around the achievement of the Natural Hazard policies of the PPS and watershed management. The Province should also ensure clarity on areas outside the scope of CA Authority (i.e. approvals for SWM)

#### **Clarifying the Role of Conservation Authorities**

- OHBA is supportive of updating the Act to reflect modern legislative structures including adding a purpose statement to the Act and regulations defining the roles and responsibilities of all parties involved in overseeing and ensuring the accountability of CA operations, programs and services. The purpose statement should clearly outline core responsibilities and operational programs supported by municipalities through MOUs or through provincially delegated authority.
- OHBA is supportive of the CA role related to natural hazards (PPS section 3.1) and related watershed management activities, as well as the technical expertise they provide in their planning/permitting functions within the scope of the *Conservation Authorities Act* and O.Reg 97/04. However, throughout the review process, OHBA has consistently expressed concern that some CAs have expanded their areas of activity beyond their jurisdiction by their own discretion (rather than through a municipal MOU or provincially delegated authority). CA roles and responsibilities should not extend beyond the scope of the *Conservation Authorities Act* and Ontario Regulation 97/04, unless an additional role is clearly defined in a publically posted MOU.



- OHBA is generally supportive of the proposals in Bill 139 and *Conserving Our Future* to clarify the roles of CAs in the management of Ontario's natural resources. OHBA is however specifically concerned by the proposal: *Clarifying that conservation authorities are permitted to provide additional programs and services determined by the authority as being advisable to further their objects*. OHBA is concerned that this proposal will lend itself to further scope creep and duplication for services that are legislated to other approval authorities.

#### **Clarifying Expectations for Provincially Mandated Programs and Services**

- OHBA strongly supports the MNRF proposal to provide for greater clarity in the programs and services being mandated by the province and provincial expectations for the delivery of those services.
- OHBA supports enabling the LGIC to make regulations outlining the programs and services CAs are required to provide and requiring CAs to provide such provincially mandated services in accordance with any standards or requirements outlined in the regulation.
- OHBA notes that over the past decade the Greenbelt, PPS, Growth Plan, *Planning Act*, *Endangered Species Act*, Source Water Protection Plans and other planning related legislation have been implemented and/or updated. OHBA has expressed concern that many CAs are commenting on planning matters outside their scope of review stemming from a lack of clarity in roles and responsibilities - this extension of power results in duplication, a slow approvals process, unnecessary costs and conflict. OHBA is therefore supportive of the provincial intent to create a new regulation outlining roles and responsibilities of CAs in reviewing planning documents for consistency with the PPS including policies related to natural hazard policies. OHBA recommends that this regulation be based on the CALC supported *Policies and Procedures for Conservation Authority Plan Review and Permitting Activities*. OHBA further supports creating a new regulation outlining the roles and responsibilities of CAs in managing water related natural hazards.
- OHBA is however concerned by the proposal to work with a multi-ministry working group to identify additional areas where mandated programs and services could be developed to support other areas of provincial interest. It is important that future

- areas of CA programs and services not duplicate other areas of provincial or municipal jurisdiction.
- OHBA continues to recommend that MNRF should carefully consider CA roles and responsibilities that may be more efficiently handled elsewhere. For example, the question remains of whether CAs are the most appropriate agency to undertake research initiatives, operate recreational facilities and maintain infrastructure assets. Additional clarity of the CA mandate should clearly define what priorities should be and, where CAs should invest limited resources would strengthen the focus on delivering the core mandate more effectively.
  - OHBA is generally supportive of enhanced technical guidance related to the surveying and mapping of flood hazards and the consideration of climate change.
  - The clarification of expectations for provincially mandated programs and services should look beyond guidelines in the *Policies and Procedures for Conservation Authority Plan Review and Permitting Activities* and consider standardizing timelines, fee structures and appeal mechanisms in legislation to improve accountability.

### **Clarifying Expectations for Municipally Assigned Programs and Services**

- Many CAs have undertaken additional responsibilities and technical services through MOUs with municipalities. There is currently a lack of clarity for evaluating if CAs are operating within the scope of those MOUs or if they are branching out into other areas on their own initiative. OHBA previously recommended that MOUs need to clearly and publically define the roles and responsibilities of CAs and municipalities to ensure that they can be held accountable for their specific roles and responsibilities.
- OHBA notes that the *Conserving Our Future Document* specifically states that, “feedback provided during the review indicated that it is not always clear when CAs are fulfilling these roles and responsibilities on behalf of municipalities and that this lack of clarity can serve to perpetuate the view that CAs are exceeding their mandate or creeping into the mandate of others. For example, it may be unclear if comments provided by an authority on a planning matter are advisory in nature through their role as a local public commenting body, if they are issued on behalf of a municipality as part of a service agreement and must be addressed, or some combination of the two.” Municipal staff

often do not know if comments are advisory in nature, therefore CAs should either not be permitted to make advisory comment or must be required to explicitly state that the comments are advisory in nature. This is a key issue for OHBA members that must be addressed.

- OHBA is concerned that the lack of clarity in roles and responsibilities has resulted in some municipalities choosing to circulate “everything” for comment thus resulting in some CAs becoming inundated with circulations for minor items they shouldn’t be reviewing. OHBA suggests that higher quality screening maps could assist to reduce duplication and unnecessary reviews as CAs should not be circulated on applications outside of the O.Reg 97/04 area.
- OHBA is supportive of the following actions being proposed by the MNRF to clarify municipally-assigned programs and services (Sec 21.1):
  - Developing policies and procedures outlining standard expectations for the scope, content, use and review of MOUs between CAs and participating municipalities;
  - Clarifying that programs and services being provided by CAs on behalf of municipalities should be outlined within a Memorandum of Understanding (MOU) between the authority and the municipality;
  - Requiring MOUs between CAs and municipalities to be made publically available. OHBA recommends that MOUs be posted online;
  - Requiring MOUs between CAs and municipalities to be periodically reviewed.
- OHBA believes that formalizing the use of MOUs will help to provide additional clarity for the public and all stakeholders as to “who does what” between CAs and municipalities. Therefore, OHBA recommends that all MOUs outline which agency is responsible for specific items. OHBA strongly believes that a lack of oversight has resulted in mandate creep, unnecessary duplication, lack of consistency and eroding service standards. As such, municipal MOUs need to garner greater scrutiny from the Ministry.

### **Clarifying Expectations for Watershed Specific Programs and Services**

- OHBA appreciates the language in *Conserving Our Future* regarding expectations for watershed-specific programs and services. While the MNRF seeks to clarify that CAs have the ability to develop their own suite of programs and services, OHBA is concerned that in some cases these programs and services duplicate or create confusion with the mandate, programs, policies and services provided by municipalities, the province and other agencies, boards or commissions.
- The province has proposed language in *Conserving Our Future* that, “clarifying that CAs are permitted to provide programs and services beyond those mandated by the province and municipalities.” While OHBA respects the legislative jurisdiction for CAs to provide programs and services, the MNRF should provide additional clarify regarding concerns that have been raised by OHBA and other stakeholders with respect to the mandate of CAs and duplication of services.
- OHBA has previously expressed concern that in addition to duplication, “mandate creep” can also lead to slightly different or contradictory opinions and comments being provided on the same application that cannot be reconciled by the applicant. Greater clarity in legislative roles and responsibilities should assist with the issue of escalating approvals and contradictory opinions that simply paralyze the approvals process when multiple agencies are involved. OHBA is concerned that the “clarifying expectations for watershed-specific programs and services” section of *Conserving Our Future* does not address these concerns and may further exasperate CA involvement in planning and permitting beyond the scope of their provincial mandate and municipal MOUs.

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### ***Priority #3: Increasing Clarity and Consistency in Regulatory Requirements***

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OHBA is generally supportive of the proposals to provide additional clarity and consistency in regulatory requirements established by the Province under the authority of the Act. OHBA notes that the *Conserving Ontario* document specifically states that, “feedback provided during the course of the review indicated a high-degree of multi-sector support for increasing clarity in consistency in regulatory requirements across Ontario’s 36 CAs – including increasing clarity and consistency in the type of activities subject to regulation and the information and approval requirements that needed to be met in order to obtain permission from an authority to proceed with regulated activities.” OHBA is generally supportive of the proposed action to be taken by the MNRF to increase clarity and consistency in the regulatory requirements.

#### **Clarifying the Scope of Activities Subject to Conservation Authority Approval**

- OHBA is supportive of the MNRF Clarifying and confirming the activities currently subject to conservation authority approval;
- OHBA has expressed concern that a lack of clear delineation of roles and responsibilities has resulted in both municipalities and CAs becoming involved in duplicative processes. The legislation and future regulations should provide clarity and specify where different agencies become involved in the approvals process and strive to eliminate duplication in the review and approval process.
- OHBA continues to recommend that clarity and consistency be enhanced to ensure CA roles do not extend beyond the scope of the *Conservation Authorities Act* and Ontario Regulation 97/04, unless an additional role is clearly defined in a publically posted MOU or by delegated authority. Furthermore, clear delineation is needed between what their authority is under the regulation and what their commenting role is under the *Planning Act*. To provide clarity in the delineation of responsibilities, OHBA recommends that when providing comments on a planning matter, CAs should be required to preface comments clearly indicating that the comments are “advisory” and not as an extension of their legislative authority and that municipalities should not hinder the progression of an application as a result of these comments.

- OHBA is supportive of the MNRF taking a stronger leadership role through transferring the authority to make regulations concerning development and interference with watercourses or wetlands from individual CAs to the Minister. To enhance accountability, there must be a transparent and public consultation process regarding any such regulations;
- OHBA is supportive of establishing greater clarity and consistency through transferring the prohibitions and corresponding requirements to obtain CA approval for certain development activities and interference with water courses or wetlands from individual regulations to the Act;
- OHBA is supportive of enabling the Minister to make regulations, in collaboration with other ministries, defining “development activity”, “hazardous land”, “pollution”, “watercourse” and “wetland”. OHBA looks forward to being consulted on these future regulations.
- OHBA is supportive of enabling the Minister to make regulations that would establish exemptions for activities carried out in accordance with rules in regulation. OHBA notes that a rules in regulation approach has been effectively implemented by the MNRF and the MOECC for certain low-risk activities (e.g. Permits To Take Water);
- OHBA is also supportive of the proposal to enable the Minister to establish exemptions for activities carried out within specific areas within an authority’s jurisdiction provided that they are carried out in accordance with rules in regulation. OHBA recommends additional consultation regarding this proposal
- OHBA has previously and continues to recommend that CAs be excluded from participating in the site plan review and consent process. Site Plan Review should only be conducted by a municipality where the CA has already had the opportunity to review and comment on the Plan of Subdivision. A second review through the site plan review process should be exempted as it is a duplicative process.

#### **Clarifying the Scope of Conservation Authority Review**

- OHBA is very supportive of the proposals by the MNRF to clarify the scope of a CA review of permit applications. OHBA is also supportive of the regulation making authority for the Minister to update the scope of a CA’s review. OHBA is however disappointed that the MNRF is not taking the additional step to provide enhanced

accountability and transparency through an independent third party appeals process. OHBA strongly recommends that the MNRF implement an independent third party appeals process.

- OHBA is generally supportive of clarifying that an authority may refuse to issue a permit, or attach conditions to a permit, if the activity is likely to jeopardize public safety or result in the damage or destruction of property;
- OHBA is generally supportive of confirming that an authority may refuse to issue a permit, or attach conditions to a permit, if the activity is likely to adversely affect the flooding, erosion, dynamic beaches, pollution or the conservation of land;
- OHBA is also generally supportive of proposals that enable the Minister to establish additional criteria for refusing or attaching conditions to a permit in regulation; enable the Minister to outline the information to be provided to a CA when requesting a permit; and enable regulations made under the Act to adopt documents by reference.
- OHBA further recommends that modernized legislation should ensure CAs be mandated to be consistent with municipal Official Plans and provincial policy across Ontario. A provincial oversight mechanism, specifically through the MNRF must be established to pro-actively monitor and review all policies, guidelines, standards and activities for consistency with provincial policies and initiatives.

#### **Updating Compliance and Enforcement Tools**

- OHBA is generally supportive of the proposed updated compliance and enforcement tools in Bill 139 (and as described in *Conserving Our Future*). OHBA has reservation with respect to the proposal to increase maximum fines that can be imposed, as the MNRF has not proposed any specific fines for stakeholders to be consulted on.

#### **Enabling the Province to Regulate other Activities with the Area of a CA in the future**

- OHBA is generally supportive of flexibility being built into the legislative framework to be responsive to both current and future pressures including climate change. Therefore, OHBA is supportive of enabling the LGIC to make regulations governing other activities which may impact the conservation, restoration, development or management of natural resources within the area of jurisdiction of an authority.

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## ***Priority #4: Enhancing Collaboration and Engagement***

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OHBA is strongly supportive of utilizing the current legislative review of the *Conservation Authorities Act* to improve collaboration and engagement involving CAs and a broad set of stakeholders, interest groups and members of the public.

### **Increasing Indigenous, Public and Stakeholder Outreach and Engagement**

- OHBA is strongly supportive of developing best management practices for Indigenous, public and stakeholder engagement – including guidance on when to undertake engagement, and the use of advisory committees as a tool for integrating broader participation into the development and delivery of CA programs and services.
- With respect to advisory committees, OHBA recommends that as a best practice, larger CAs in jurisdictions experiencing significant population growth establish Liaison Committees with their local home builders associations.
- OHBA is supportive of the legislative proposal to enable the Minister to make regulations establishing minimum standards for consultation with the public, local communities and stakeholders;
- OHBA is also supportive of enabling the LGIC to make regulations that could require authorities to establish advisory boards – including the ability to prescribe their composition, functions, powers and duties.

### **Increasing Indigenous Community Participation in CAs**

- OHBA has no specific recommendations.

### **Increasing Coordination Between Provincial Ministries**

- OHBA is strongly supportive of the proposal to establish a multi-ministry working group to advise the ministry on the development and implementation of the regulatory, policy and program changes outlined within this document, and other items as they arise.



### **Increasing Collaboration between CAs and the Province**

- OHBA is generally supportive of the proposal to explore the establishment of an MOU between the MNRF and Conservation Ontario.

### **Increasing Collaboration and Engagement on Service Delivery Standards**

- OHBA strongly supports establishing a “Multi-Stakeholder Service Delivery Review Committee” tasked with advising the ministry on ways to improve the establishment, tracking and achievement of service delivery standards and other roles as assigned.
- OHBA has previously recommended that the MNRF should improve collaboration and engagement with stakeholders and revisit the *Policies and Procedures for Conservation Authority Plan Review and Permitting Activities* through a reconstituted Conservation Authorities Liaison Committee (CALC). OHBA recommends that the new Multi-Stakeholder Service Delivery Review Committee include the same industry representation as CALC: OHBA, the Building Industry and Land Development Association (BILD) and the Hamilton Halton Home Builders' Association (HHHBA) as well as expanding industry representation to include SW Ontario and Ottawa.
- The *Policies and Procedures for Conservation Authority Plan Review and Permitting Activities* has been a positive tool to clarify roles, responsibilities, pre-submission consultation procedures, timelines and how the principle of development is established through the planning process. Ultimately, there should be a certain degree of service standards across all CAs to improve accountability. To achieve this, OHBA would support greater collaboration through additional CA staff training and education with respect to policies and procedures as well as clarification for their responsibilities under the Act. Training manuals should be published for greater accessibility and transparency.
- To further improve collaboration and engagement, OHBA recommends establishing liaison committees between individual CAs and stakeholders, including the public and development industry.

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## *Priority #5: Modernizing Funding Mechanisms*

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It is important that CAs are both fiscally sustainable and fiscally responsible in carrying out their services and when investing in capital projects. OHBA is supportive of modernizing CAs fiscal framework such that CAs can effectively and efficiently carry out their roles and responsibilities.

### **Updating How Costs are Appropriated Among Participating Municipalities**

- Municipalities carry out a significant role in funding CAs through municipal levies (\$140 million in 2015).
- OHBA notes that municipalities are not permitted, nor should be permitted to utilize development charges to fund their municipal levy.
- Given the significant role of municipalities in funding CAs and to enhance accountability and transparency for services, programs and operations to the public who contribute funding to CAs through property taxes and the municipal levy, OHBA continues to recommend that the municipal levy should be listed as a separate item on property taxes. Similar to some services and utilities delivered in some municipalities such as water and/or garbage that are separately itemized, the municipal levy separately on property taxes would increase public awareness and direct accountability for how tax dollars are being allocated.
- For clarity, OHBA supports modernizing the language referencing the kinds of costs to be apportioned among participating municipalities as “capital costs” and “operating expenses”;
- To enhance accountability, OHBA is supportive of the legislative proposal to enable the Province to make regulations governing how capital costs and operating are apportioned by CAs;
- OHBA supports enabling regulations to be made regarding appeals from municipalities on the apportionment of costs, to be heard by an appeal body prescribed in the regulations. This is an important mechanism to enhance accountability and transparency

### **Increasing Clarity and Consistency in the Development and Use of Fees**

- In a previous submission, OHBA expressed concern regarding the transparency and consistency of how planning and permitting review costs are determined. OHBA is supportive of the principles set out in the MNRF's *Policies and Procedures for Charging Conservation Authority Fees*, specifically:
  - Parity with neighbouring CAs to promote consistency;
  - Prevention of duplicative fees charged by local municipalities, and other agencies and ministries for related services;
  - Consistency in fee schedules with local municipalities, and other agencies and ministries for related services; and
  - Fees shall be reflective of the complexity of the application and level of effort required to administer the application.
- OHBA is therefore strongly supportive of updating the ministry's Policies and Procedures for the Charging of CA Fees to provide CAs with additional guidance on the development of fee schedules;
- OHBA has consistently recommended that MNRF should legislate a consistent fee schedule (Sec 21.2) with clearly defined service categories that can be applied by all CAs (individual CA fees would be differentiated, but categories and definitions would be consistent). OHBA is therefore supportive of the legislative proposal to require CAs to develop a fee administration policy that includes a fee schedule, a process for public notification about the establishment of or any proposed changes to fee schedules, a clearly defined review and revision process, and OHBA is very strongly supportive of the proposal for a process for appeals for fees that are proposed or in place. OHBA recommends that the OMB would be the appropriate appeals body for disputes regarding fees.
- OHBA also supports the proposal to require fee administration policies to include a timeframe for under taking a review of the fee administration policy at a frequency to be determined by the CA and participating municipalities. CAs should be open about the financial inputs and calculations used to create fee schedules. OHBA recommended that This should include a background study process similar to the development charges by-law review process as legislated by the *Development Charges Act*. This will allow

stakeholders to ensure that planning fees are appropriate and are not being duplicated by other agencies.

- OHBA is supportive of requiring fee administration policies to be made publically available;
- OHBA is also supportive of the legislative proposal to enable the Minister to make regulations respecting the amounts of fees that maybe charged, including the manner in which fees are calculated. CAs should be mandated to establish fair and reasonable rules with respect to development application review fees for permits. These fees should be linked to the anticipated costs to the conservation authorities in terms of processing each type of application provided for in the fee.

### **Exploring Options for Updating Provincial Funding Levels**

- OHBA notes that the *Conserving Our Future* document states that there is, “continued multi-sector support for increasing provincial funding levels to promote greater consistency in CA programs and services.”
- Recognizing the current fiscal reality that the Province faces, OHBA had previously recommended that the legislative review should address the provincial funding formulae to support the basic operational capacity of CAs.
- CAs that provide services based on provincial policy objectives should receive provincial funding that reflects their provincial policy undertakings and delegated authorities. If CAs are undertaking provincial roles and responsibilities, financial arrangements must be transparently reported in financial statements and annual reports. Funding models should be reviewed for delegated responsibilities from other ministries to ensure that the funding of roles and responsibilities is directly correlated. This same sentiment applies to any federal roles and responsibilities CAs may undertake.
- OHBA is therefore supportive of the proposal in *Conserving Our Future* to assess the adequacy of funding currently being provided to conservation authorities in support of delivering existing Provincially mandated programs and services;
- *Conserving Our Future* notes that MNRF will explore options to assess the funding required to support the delivery of any new programs and services that may be prescribed by the Province in regulation. OHBA recommends that in order to avoid

- additional financial burdens to current municipal funders and stakeholders, any delegation of additional provincial programs and services to CAs must be accompanied with financial resources from the provincial government to fully fund any new delegated responsibilities.
- OHBA is also supportive of assessing ways in which Provincial funding levels could be reallocated to help address disparities in resources and capabilities between CAs with large and small population bases;
  - OHBA is supportive of measures under the *Infrastructure for Jobs and Prosperity Act, 2015* to establish mechanisms that encourage evidence-based and strategic long-term infrastructure planning. OHBA therefore recommends that the MNRF consider assets owned, operated and managed by CAs and require CAs to conduct infrastructure Asset Management Plans (AMP) on a regular basis to ensure greater accountability and transparency for infrastructure related decisions. Asset management planning could also provide insight into whether there should be some disposition of assets to third parties, such as recreational facilities and heritage sites to achieve more efficient management.
  - Lastly, OHBA would further recommend provincial consideration to potentially delegate responsibilities to other entities where CAs currently have roles and responsibilities if such other entities would be better positioned to deliver upon those roles and responsibilities in a more effective and efficient manner.

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## Conclusion

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OHBA looks forward to continuing to work with the Provincial Government through the legislative process for modernizing the *Conservation Authorities Act* under Bill 139. The legislative review and future regulatory consultation provides an opportunity to clearly outline the scope of CA roles and responsibilities which will help to reduce duplication and overlap of various agencies. OHA is generally supportive of the broad direction of MNRF to enhance clarity and implement legislative amendments to improve accountability and



transparency. The MNR must undertake a much stronger and more active role in the direct oversight of CAs to ensure consistency in programs and services, some degree of standardization in program policy design as well as the implementation of their mandate specific to their roles and responsibilities.

OHBA strongly believes that the legislative review should result in a clearly defined mandate for CAs that clearly delineates between provincial, municipal and CA roles and responsibilities. It is critical that both the planning and permitting functions as well as the fee schedules be made appealable to independent third parties and greater direct Ministry oversight be established in legislation. Service delivery and fees levied on the industry for extensive, duplicative and uncertain service timelines must be resolved.

OHBA is supportive of proposed regulation under a modernized *Conservation Authorities Act* to include reasonable approval and review timelines that require CAs to be accountable for the services they deliver. Expenditure and revenue reporting requirements through annual reports must also be enhanced to strengthen oversight and accountability. Proposed regulations to achieve consistency in fee structures across CAs should be a priority.

Thank you once again for the opportunity to provide our feedback. OHBA is supportive of the proposal to revive the Conservation Authorities Liaison Committee (CALC) as the "Multi-Stakeholder Service Delivery Committee" and looks forward to the opportunity to participate in productive and solution oriented discussion in the future. As the review process for the *Conservation Authorities Act* and subsequent regulations continues into the next stages, we trust the MNR will take OHBA's comments and recommendations with thoughtful consideration.