



STAFF REPORT

Date: December 11, 2009

Meeting No.: 11/09

To: The Chair and Members of the Board of Directors

From: Chris Hibberd, Director of Planning

Subject: MNR Policies and Procedures for Conservation Authority Plan Review and Permitting Activities, October 21, 2009 version (CALC Report)

Recommendation:

That the Board of Directors endorses the overall direction of the "MNR Policies and Procedures for Conservation Authority Plan Review and Permitting Activities Report", dated October 21, 2009 as it provides clarity around the Conservation Authority role and responsibilities, consistent with the current CA mandated roles and responsibilities and furthermore the Board supports staff's recommendation for report clarification as follows;

- A glossary of terms should be included to aid users of the document.
- Section 4.8: Clarification should be provided regarding the "principle of development" and *Planning Act* approval processes
- Section 8.3.4: The request for an administrative review of a complete permit application by the CAO or board of Directors should be in writing

Background:

MNR Policies and Procedures for Conservation Authority Plan Review and Permitting Activities (October 21, 2009 version) were posted on the Environmental Bill of Rights registry on November 25, 2009 for a 47 day public review.

In 2007, the Ministry of Natural Resources (MNR), Ministry of Municipal Affairs and Housing (MMAH) and the Ministry of Energy and Infrastructure (MEI), embarked upon an initiative to clarify the roles of Conservation Authorities in both the development plan review and Conservation Authorities Act (Section 28) regulatory permitting processes.

A Conservation Authority Liaison Committee (CALC) was formed to facilitate dialogue amongst stakeholders in order to clarify interrelated roles and promote efficient delivery of mandates for provincial interest. CALC membership includes MNR, MMAH, MEI, Conservation Ontario, and select Conservation Authorities, representatives from the development industry, municipal sector and environmental groups.

The CALC has reviewed and provided input to the content of a proposed new chapter for the Conservation Authorities Policies and Procedures Manual entitled: "Policies and Procedures for Conservation Authority Plan Review and Permitting Activities". The objective of this new chapter is to provide clarity about the roles and responsibilities of Conservation Authorities in municipal planning and Regulatory permitting processes while establishing more consistency in Conservation Authority decision-making through plan review and permit process improvements.

The proposed new chapter includes a compilation of relevant current legislation regarding conservation authority roles, as well as new policies related to applicant pre-consultation, complete application requirements, timelines associated with permit decision-making and permit appeals processes.

Purpose:

The report is intended to clarify the roles of Conservation Authorities in the areas of municipal plan review and permitting related to development activity and is proposed to be included as a new chapter in the existing Conservation Authorities Policies and Procedures Manual, 1997.

Key Messages:

The draft document identifies that Conservation Authorities (CAs) are local resource management organizations that operate on a watershed basis across Ontario. Under the Conservation Authorities Act (CA Act) (1946), initiated over 50 years ago, municipalities within a watershed could join with the province to form a conservation authority for the purposes of resource management.

In addition, the report also notes that CAs have varying roles and responsibilities in the development process as outlined under the Planning Act, the Conservation Authorities Act (Section 28) and associated regulations, as well as some delegated roles and responsibilities as assigned under the Clean Water Act and the Federal Fisheries Act. These roles and responsibilities include: a decision making role in regulation of development near rivers, streams, watercourses, Great Lakes and large inland lake shorelines and wetlands; commenting roles on municipal plan and development application reviews; technical review and advisory commenting services for municipalities, as a well as other delegated responsibilities as outlined under service agreements (e.g. Fisheries Act application reviews).

Proposed Policies or Policy Implications/recommendations:

Policy recommendations contained within the draft document include:

- Under the Planning Act CA's should develop policies and strategies related to their mandates including agreements for technical services with municipalities and other levels of government.
- CA's should develop watershed management strategies to support/influence Official Plan policies. In addition, CA's should identify natural hazard lands for protection in Official Plans and Comprehensive Zoning By-Laws. The understanding by all parties with respect to the establishment of the "principle of development" and the location of proposed works at the planning stage allows the CA to focus on technical requirements and site constraints at the CA Act permitting review process.
- CA's should also collaborate with municipalities, where appropriate, to ensure that they are involved in pre-consultation and attend the associated meeting on Planning Act applications, especially where such applications may trigger a related permit application under the CA Act.

- CA's are considered public bodies pursuant to Section 1 of the Planning Act and regulations made under the Planning Act. As such, CA's must be notified of policy documents and applications as prescribed. To streamline this process, CA's may have a screening protocol with municipalities, normally through service agreements, which identifies those applications that CA's should receive notice of and comment on.
- CA's are encouraged to develop written, Board-approved, publicly accessible, procedures and guidelines or checklists that define the components of a complete permit application, and reflect recommended timelines to process applications and provide comments in response.
- CA's are to notify applicants, in writing, within 21 days of the receipt of a permit application, as to whether the permit application has been deemed complete or not.
- From the date of written confirmation of a complete application, CA's are to make a decision (i.e. recommendation to approve or referred to a Hearing) with respect to a permit application and pursuant to the CA Act within 30 days for a minor application and 90 days for a major application.

Staff Comments:

Overall the report supports the current roles, functions and responsibilities that the NVCA currently carries out. Our role as environmental planning specialists pertaining to natural hazards is clearly identified throughout the document. Our role as a watershed management agency including our expertise in natural heritage matters is also noted. To further strengthen the document staff would suggest to the MNR the following:

- A glossary of terms should be included to aid users of the document.
- Section 4.8: Clarification should be provided regarding the "principle of development" and Planning Act approval processes. More specifically, what happens if a significant amount of time has passed (e.g. 5-10 years) between planning approvals and receipt of a CA permit application? Also, what if new technical information has been produced during this time period (e.g. updated flood plain studies, newly identified wetlands, etc.)?
- Section 8.3.4: The request for an administrative review of a complete permit application by the CAO or Board of Directors should be in writing.

Budgeting and Workload Implications:

Implementing the provisions of the report is not expected to result in any revisions to the 2010 budget. Staff would note that the complete permit application process is expected to add to the workload of staff and potentially the Board of Directors, initially as the process is established but should save time over the long term.

Summary:

Staff recommends that the Board of Directors endorse the proposed MNR Policies and Procedures for Conservation Authority Plan Review and Permitting Activities, October 21, 2009 version and support the recommendations for clarification as provided by staff.

Respectfully submitted by;

Reviewed and approved by;

Chris Hibberd
Director of Planning

Wayne R. Wilson
CAO/Secretary-Treasurer