

## **REPORT**

**REPORT TO:** Mayor Bonnette and Members of Council

**REPORT FROM:** Keith Hamilton, Planner - Policy

**DATE:** May 14, 2019

**REPORT NO.:** PLS-2019-0036

**RE:** Provincial Review of the Endangered Species Act and  
Conservation Authorities Act – Halton Area Planning Partnership  
Joint Submission

### **RECOMMENDATION:**

THAT Report PLS-2019-0036, dated May 14, 2019, regarding the Halton Area Planning Partnership (HAPP) Joint Submissions on the Provincial Review of the Endangered Species and Conservation Authorities Acts, be received;

AND FURTHER THAT Council endorse the comments on the Provincial Review contained in the Joint Submissions attached as Schedules One and Two to this report, previously submitted to the Province to meet the commenting deadlines of May 18-21, 2019;

AND FURTHER THAT a copy of this report be forwarded to the Ministry of the Environment, Conservation and Parks, the Ministry of Natural Resources and Forestry, the Region of Halton, the Local Municipalities of Burlington, Milton and Oakville, Conservation Halton, Credit Valley Conservation and the Grand River Conservation Authority.

### **PURPOSE OF THE REPORT**

The purpose of this report is to:

- Provide an overview of the Province's 10<sup>th</sup> Year Review of the Endangered Species Act and Proposed Amendments to the Conservation Authorities Act and Regulations for Development Permits;
- Provide an overview of the Halton Area Planning Partnership's comments to the Ministry of Environment, Conservation and Parks (MECP) on the 10th Year Review of the Endangered Species Act; and,
- Provide an overview of the Halton Area Planning Partnership's comments to the Ministry of Natural Resources and Forestry (MNR).

## **BACKGROUND:**

### **1.0 10<sup>th</sup> Year Review of the Endangered Species Act**

In January of 2019 the Province began a review of the Endangered Species Act through the release of the “10<sup>th</sup> Year Review of the Endangered Species Act: Proposed Changes.” Through this review, the Province considered updates to the legislation that would help improve effectiveness using a program that would include modern approaches to enforcement while ensuring protection for species at risk. Initial consultation for this review came in the form of public comment period from January 18<sup>th</sup> to March 4<sup>th</sup>, 2019 (45 days). To assist with soliciting comments, the Province released a discussion paper at the start of the review period outlining challenges with the current Endangered Species Act (ESA). From this consultation, four (4) broad changes were proposed, including:

- Enhancing government oversight and enforcement powers to ensure compliance with the act;
- Improving transparent notification of new species listings;
- Appropriate consultation with academics, communities, organizations and Indigenous people across Ontario on species at risk recovery planning; and,
- Creating new tools to streamline processes, reduce duplication and ensure costs incurred by clients are directed towards actions that will improve outcomes for the species or its habitat.

On April 18<sup>th</sup>, 2019 the Province posted its proposed changes to the ESA on the Environmental Registry of Ontario website (<https://ero.ontario.ca/notice/013-5033>). The deadline for submitting comments on the proposal was set for May 18<sup>th</sup>, to provide a 30 day window for all those interested. The proposal was organized into five (5) categories into which the above-noted changes could be implemented:

- Assessing species at risk and listing them on the Species At Risk Ontario (SARO) list;
- Defining and implementing species and habitat protections;
- Developing species at risk recovery policies;
- Issuing Endangered Species Act permits and agreements, and developing regulatory exemptions; and,
- Enforcing the Endangered Species Act.

After the release of the proposed changes to the ESA, members of the Halton Area Planning Partnership (HAPP) began drafting a joint statement to be submitted to the Province prior to the May 18<sup>th</sup> deadline. This submission is discussed in greater detail in the Comments section.

## **2.0 Proposed Amendments to the Conservation Authorities Act and Regulations for Development Permits**

In 2015, a three-stage review of the Conservation Authorities Act was initiated by the Ministry of Natural Resources and Forestry (MNRF). The purpose of this review was to address roles, responsibilities, funding and governance of conservation authorities in resource management and environmental protection. The review sought comments from a broad range of stakeholders, including municipalities and the public.

In July of 2017 the Halton Area Planning Partnership (HAPP) made a joint submission on proposed amendments made under Stage 3 of the review. These proposed amendments were part of the Province's Bill 139: Building Better Communities and Conserving Watersheds Act. This submission, summarized in Halton Hills Staff Report PLS-2017-0019, supported the overall objectives of the Conservation Authorities Act Review, but highlighted concerns with:

- A lack of detail on forthcoming regulations to revise Conservation Authority (CA) roles and responsibilities; and,
- Appropriate Provincial funding levels to sustain current and future provincially mandated CA programs and services.

It should be noted that the HAPP municipalities and conservation authorities differed on their view of CA roles and responsibilities for the Bill 139 submission. As a result the conservation authorities did not participate in that submission.

In April of 2019, under the new Provincial government, another review of the Conservation Authorities Act (CAA) was initiated under two (2) Environmental Registry of Ontario postings:

- ERO Posting 013-5018: Modernizing conservation authority operations – Conservation Authorities Act; and,
- ERO Posting 013-4992: Focusing conservation authority development permits on the protection of people and property.

## **2.1 Modernizing Conservation Authority Operations**

Changes proposed to the CAA under this posting fall under five (5) categories, including:

- Define core mandatory programs and services of CAs as natural hazard protection, management of CA lands, drinking water source protection, and protection of the Lake Simcoe watershed;
- Sustainable funding for CA programs and services, including how CAs levy municipalities for mandatory and non-mandatory services;
- Establish transition periods (18-24 months) for CAs and municipalities to enter into agreements for non-mandatory programs and services;

- Enabling Minister (MNRF) to appoint an investigator to audit and report on a conservation authority; and,
- Proclaim all un-proclaimed provisions of the Conservation Authorities Act.

After the release of the proposed changes to the CAA, members of HAPP began drafting a joint statement to be submitted to the Province prior to the May 20<sup>th</sup> deadline. This submission is discussed in greater detail in the Comments section.

## **2.2 Focusing Conservation Authority Development Permits on the Protection of People and Property**

Changes proposed to Conservation Authorities Act regulations fall under four (4) categories, including:

- Consolidating the existing 36 individual CA regulations into one (1) MNRF-approved regulation, where consideration will still be given for flexibility based on local conditions;
- Defining key regulatory terms to better align with other Provincial policy and add previously undefined terms (e.g. 'interference' and 'conservation of land');
- The exemption of low-risk activities from permits; and,
- Requiring CAs to consult on, monitor and notify the public on changes to policies, mapping changes and service delivery standards.

After the release of the proposed changes to the CAA regulations, members of HAPP began drafting a joint statement to be submitted to the Province prior to the May 21<sup>st</sup> deadline. This submission is also discussed in greater detail below.

### **COMMENTS:**

In order to meet the May 2019 deadlines for the submission of comments to the Province on these reviews, member municipalities, conservation authorities, and the Region of Halton followed a strict timeline for drafting the joint submissions.

## **1.0 10<sup>th</sup> Year Review of the Endangered Species Act – HAPP Comments**

The HAPP joint submission on proposed changes to the Endangered Species Act (ESA) is attached to this report as Schedule One. Key points made in this submission are organized into five (5) categories:

- **Review time:** the submission stresses a 60 day minimum review time is needed to facilitate a more detailed review process, and provide municipalities and conservation authorities' time to brief their Council and Boards.
- **Implementation improvements:** the submission expresses concern over a shift from maintaining protections to minimizing impacts of the ESA. It is also

suggested more attention be paid to consistent application of the existing Act and efficient integration with planning approvals processes.

- **Lack of clarity on proposed changes:** a lack of clarity is noted in several instances in the comments table in Schedule One. As part of their general comments, HAPP has requested the Province release a more detailed description of proposed changes to the ESA and extend the consultation period for this review.
- **Transition from MNRF to MECP as administrator of the ESA:** in April of 2019, the Province began transitioning responsibility for the Act to the Ministry of Environment, Conservation and Parks (MECP). HAPP have suggested the Province postpone the review until MECP staff have had more time to adjust to this change.
- **Guidelines and communication:** should the proposed changes be passed, HAPP is asking that the Province release a guideline communicating the implications of the amended Act for applications under the Planning Act.

The Halton Area Planning Partnership concluded the joint statement by requesting the Province not rush the review and recommended potential amendments given that consequences could lead to possible species extinction. HAPP are hoping that the Province will consider their comments and extend the review period prior to making any proposed changes permanent.

## **2.0 Proposed Amendments to the Conservation Authorities Act and Regulations for Development Permits – HAPP General Comments**

HAPP provided one joint submission (attached as Schedule Two to this report) for the Environmental Registry of Ontario postings noted in the Background Section 2.0. General comments related to both postings included:

- A request for a 60 day comment period to provide for a more detailed review process;
- Concern that the absence of formal draft policy amendments is a constraint in providing meaningful feedback; and,
- A request for more details on implementation of proposed changes to better assess the impacts they will have.

### **2.1 Modernizing Conservation Authority Operations – HAPP Comments**

The HAPP joint submission on proposed changes to the Conservation Authorities Act (CAA) is attached to this report in Schedule 2. Key points made in this submission are organized into five (5) categories:

- **Defining the core mandatory programs:** HAPP supports the general intent of this proposal. As noted in the HAPP comments (Schedule 2) specific to this portion of the proposal, the conservation authorities have chosen to submit additional comments directly to the Minister on this matter.

- **Sustainable funding for CA programs and services:** HAPP supports proposed changes by the Province on this matter, but has requested clear definitions of core and non-mandatory programs moving forward.
- **Agreements for the delivery of non-mandatory programs and services:** HAPP supports this proposal with a request for clarity on the process for agencies entering into agreements for the delivery of non-mandatory programs.
- **Governance and accountability:** HAPP supports a proposal enabling the Minister to appoint an auditor to report on CAs.
- **Proclamations of un-proclaimed provisions of the Conservation Authorities Act:** HAPP supports this proposal with a request that the Province addresses recommendations made in the previous CAA submission (reported on in Halton Hills Staff Report PLS-2017-0019).

## 2.2 Focusing Conservation Authority Development Permits on the Protection of People and Property – HAPP Comments

The HAPP joint submission on proposed changes to regulations under the Conservation Authorities Act (CAA) is also attached to this report in Schedule 2. Key points made in this submission are organized into four (4) categories:

- **Conservation Authority Regulations:** HAPP supports the consolidation of the existing 36 CA regulations into one approved regulation, where flexibility for local conditions is present.
- **Defining key regulatory terms:** HAPP supports this proposal, with the request that the Province consider providing supporting research for definition changes and additions in the future.
- **Exemption of low-risk development activities:** HAPP supports this proposal and its intent to expedite approvals processes.
- **Consultation and monitoring:** HAPP supports efforts to improve the public notification and engagement process. However, where notification of changes is already occurring through a municipal consultation process, HAPP recommends the notification responsibility remain with the municipalities to avoid duplication of process.

## 3.0 Next Steps

It is recommended that staff be directed to report back to Council with further detailed information on any potential implications for the Town's land use planning processes, which will take place when additional clarification and information is released by the Province.

**RELATIONSHIP TO STRATEGIC PLAN:**

This report relates directly to the implementation of the entire Town Strategic Plan, but in particular Strategic Direction I: Provide Responsive, Effective Municipal Government, the Goal to provide strong leadership in the effective and efficient delivery of municipal services, and the following Strategic Objectives:

- I.6 To participate fully in Region-wide initiatives to protect and promote the Town's objectives.
- I.7 To foster a greater understanding of the Town's roles and responsibilities and relationships with other orders of government.

**FINANCIAL IMPACT:**

There is no financial impact associated with this report.

**CONSULTATION:**

The Halton Area Planning Partnership consisting of the Region of Halton, the four Local Municipalities, Credit Valley Conservation, Conservation Halton, and Grand River Conservation Authority participated in the preparation of the Joint Submission that is the subject of this report.

**PUBLIC ENGAGEMENT:**

No public engagement was undertaken for this report.

**SUSTAINABILITY IMPLICATIONS:**

The Town is committed to implementing our Community Sustainability Strategy, Imagine Halton Hills. Doing so will lead to a higher quality of life. The relationship between this report and the Strategy is summarized below:

Do the report's recommendations advance the Strategy's implementation? N/A

Which pillar(s) of sustainability does this report support? N/A

In Summary, the Sustainability Implications of this report are as follows: N/A

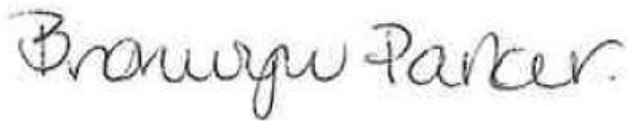
**COMMUNICATIONS:**

A copy of this report will be forwarded to the Ministry of the Environment, Conservation and Parks, Ministry of Natural Resources and Forestry, the Region of Halton, the Local Municipalities of Burlington, Milton and Oakville, Conservation Halton, Credit Valley Conservation and the Grand River Conservation Authority.

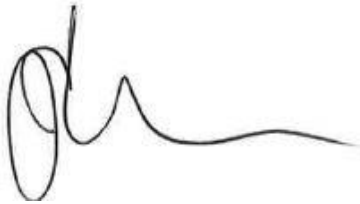
**CONCLUSION:**

This report has provided an overview of the contents of the Halton Area Planning Partnership Joint Submissions on the 10<sup>th</sup> Year Review of the Endangered Species Act and Proposed Amendments to the Conservation Authorities Act and Regulations for Development Permits. It is recommended that Council endorse the comments contained in the Joint Submission in order to complete the Town's involvement in the Review of the Endangered Species Act and Conservation Authorities Act.

Reviewed and Approved by,

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**Bronwyn Parker, Manager of Planning Policy**

A handwritten signature in black ink, appearing to be "John Linhardt". It is a stylized, cursive signature.

**John Linhardt, Commissioner of Planning and Sustainability**

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**Brent Marshall, Chief Administrative Officer**