

**POLICIES AND PROCEDURES FOR CONSERVATION  
AUTHORITY PLAN REVIEW AND PERMITTING  
ACTIVITIES**

## **POLICIES AND PROCEDURES FOR CONSERVATION AUTHORITY PLAN REVIEW AND PERMITTING ACTIVITIES**

The intent of this chapter is to describe the roles of Conservation Authorities (CAs) in the areas of municipal planning, plan review, and permitting related to development activity and the protection of environmental interests.

### **PART A - BACKGROUND**

#### **1.0 DESCRIPTION OF ACTIVITIES**

CAs are watershed-based natural resource management agencies, whose mandate includes a variety of responsibilities and functions in the land use planning and development application review process (for further detail, please refer to the MOU in Appendix 1).

- i. CAs are corporate bodies created by the province at the request of two or more municipalities in partnership with the province in accordance with the requirements of the *Conservation Authorities Act (CA Act)*. Each CA is governed by the CA Act and by a Board of Directors whose members are appointed by municipalities located within the CA's jurisdiction (i.e., the watershed) in accordance with the CA Act. CAs have regulatory authority for and may grant permission for certain activities in and adjacent to watercourses (including valley lands), wetlands, shorelines of inland lakes and the Great Lakes-St. Lawrence River System and other hazardous lands. Section 20 of the *CA Act* provides the legislative mandate to establish and undertake a resources management program. Section 21 of the *CA Act* provides the power to establish watershed-based resource management programs and/or policies. Such programs and/or policies are approved by the CA Board of Directors. Section 28 grants the power to CAs to create regulations under the area of its jurisdiction (as outlined in Section 2.0).
- ii. CAs have delegated responsibilities from the Minister of Natural Resources with respect to representing provincial interests regarding natural hazards encompassed by Section 3.1 of the *Provincial Policy Statement, 2005 (PPS, 2005)*. These delegated responsibilities require CAs to review and provide comments on policy documents (Official Plans and comprehensive zoning by-laws) and applications submitted pursuant to the *Planning Act* as part of the Provincial One-Window Plan Review Service.

- iii. CAs, as ‘public bodies’ pursuant to the *Planning Act*, are to be notified of policy documents and planning and development applications as prescribed under the Act. CAs may comment as per their mandate to the municipality/planning approval authority on these documents and applications.
- iv. CAs may perform a technical advisory role to municipalities, as determined under the terms of a service agreement with participating municipalities which may include, but is not limited to, matters related to the assessment or analysis of environmental impacts, watershed science and technical expertise associated with activities near or in the vicinity of: sensitive natural features such as wetlands, river and stream valleys, fish habitat or significant woodlands; hydrogeology and storm water studies; and, in some cases, septic system reviews.
- v. Individual CAs may enter into agreements with federal and provincial ministries and municipalities to undertake regulatory/approval responsibilities (e.g. *Fisheries Act* Section 35; septic tank approvals under the Ontario Building Code).
- vi. As outlined in the CO/MNR/MMAH Delegated Responsibilities MOU, “CAs are landowners, and as such, may become involved in the planning and development process, either as an adjacent landowner or a proponent. 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.”

## **2.0 LEGISLATION**

### **2.1 *Conservation Authorities Act***

2.1.1 Section 20 of the *CA Act* describes the objects of a CA, which are to establish and undertake, in the area over which it has jurisdiction, a program designed to further the conservation, restoration, development, and management of natural resources other than gas, oil, coal, and minerals.

2.1.2 Section 21 of the *CA Act* lists the powers which CAs have for the purpose of accomplishing their objects. The objects identified in the *CA Act* relevant to this chapter include:

- (a) to study and investigate the watershed and to determine a program whereby the natural resources of the watershed may be conserved, restored, developed and managed;
- (e) to purchase or acquire any personal property that it may require and sell or otherwise deal therewith;

- (l) to use lands that are owned or controlled by the authority for purposes, not inconsistent with its objects, as it considers proper;
- (m) to use lands owned or controlled by the authority for park or other recreational purposes, and to erect, or permit to be erected, buildings, booths and facilities for such purposes and to make charges for admission thereto and the use thereof;
- (m.1): to charge fees for services approved by the Minister (see Policies and Procedures manual chapter on CA fees);
- (n): to collaborate and enter into agreements with ministries and agencies of government, municipal councils, local boards and other organizations.
- (q) generally to do all such acts as are necessary for the due carrying out of any project. R.S.O. 1990, c. C.27, s. 21; 1996, c. 1, Sched. M, s. 44 (1, 2); 1998, c. 18, Sched. I, s. 11.

2.1.3 Pursuant to Section 28 Regulations of the *CA Act*, under Ontario Regulation 97/04 “Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses” (Generic or Content Regulation), subject to the approval of the Minister, each CA has developed individual regulations that regulate certain activities in and adjacent to watercourses (including valley lands), wetlands, shorelines or inland lakes and the Great Lakes-St. Lawrence River System and other hazardous lands.

**28. (1)** *Subject to the approval of the Minister, an authority may make regulations applicable in the area under its jurisdiction, (subsection 28 (1) (b)) prohibiting, regulating or requiring the permission of the authority for straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse, or for changing or interfering in any way with a wetland;*

*Subsection 28(1) (c) grants CAs, subject to the approval of the Minister, the power to make regulations applicable in the area under its jurisdiction prohibiting, regulating, or requiring the permission of the authority for development if, in the opinion of the authority, the control of flooding, erosion, dynamic beaches or pollution or the conservation of land may be affected by the development.*

- 2.1.4 Section 28 Subsection 25 of the *CA Act* defines development as meaning:
- a) the construction, reconstruction, erection, or placing of a building or structure of any kind
  - b) any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure
  - c) site grading
  - d) the temporary or permanent placing, dumping, or removal of any material originating on the site or elsewhere

**Note:** This definition for “development” differs from the definition that is contained in the *PPS, 2005* (see Section 2.2.5), the relevant definition needs to be applied to the appropriate process.

## 2.2 *Planning Act*

2.2.1 Section 3(1) of the *Planning Act* provides for the issuance of policy statements on matters relating to municipal planning that are of provincial interest (e.g. *PPS, 2005*). Through the Minister’s delegation letter and accompanying Memorandum of Understanding (MOU)(Appendix 1), specific responsibilities have been delegated to CAs to ensure that development application decisions made pursuant to the *Planning Act* are consistent with the natural hazard policies of the *PPS, 2005*.

2.2.2 Section 3(5) of the *Planning Act* requires that decisions of the council of a municipality, a local board, a planning board, a minister of the Crown and a ministry, board, commission or agency of the government, including the Ontario Municipal Board, shall be consistent with provincial policy statements that are in effect on the date of the decision and conform with and not conflict with provincial plans (e.g. Greenbelt Plan, Growth Plan for the Greater Golden Horseshoe, Oak Ridges Moraine Conservation Plan, Central Pickering Development Plan, Lake Simcoe Protection Act etc.) that are in effect on that date (See Appendix 3 for listing).

2.2.3 Section 26 of the *Planning Act* requires municipalities to revise Official Plans every five years to ensure the Municipal Official Plans conform with or do not conflict with provincial plans, have regard to provincial interests in Section 2 and are consistent with provincial policy statements issued under Section 3 (1).

2.2.4 Development, as defined in the *PPS*, means the creation of a new lot, a change in land use, or the construction of buildings and structures, requiring approval under the *Planning Act*, but does not include:

- a) activities that create or maintain *infrastructure* authorized under an environmental assessment process
- b) works subject to the *Drainage Act*, or
- c) for the purposes of policy 2.1.3(b), underground or surface mining of *minerals* or advanced exploration on mining lands in *significant areas of mineral potential* in Ecoregion 5E, where advanced exploration has the same meaning as under the *Mining Act*. Instead, those matters shall be subject to policy 2.1.4(a).

## 2.3. Other Acts

While the primary purpose of this chapter is to address the roles of CAs under the *Planning Act* and the *CA Act*, CAs may have responsibilities under additional

pieces of legislation, including the *Fisheries Act* and the *Clean Water Act*. In addition to these pieces of legislation, there are various authorizations, approvals, permits, etc., which may be required from other agencies. It should be noted that a CA Section 28 permission, if granted for work, does not exempt the applicant from complying with any or all other approvals, laws, statutes, ordinances, directives, regulations, etc. that may affect the property or the use of same.

### 2.3.1 *Fisheries Act*

CAs may have individual agreements with Fisheries and Oceans Canada (DFO) to review proposed works for its potential harmful alteration, disruption or destruction (HADD) of fish habitat pursuant to Section 35 of the federal Fisheries Act. There are three different levels of agreements: Level 1 screening where the CA conducts the initial review of the project to identify any impacts to fish and fish habitat and if potential impacts to fish and fish habitat are found, the project is forwarded to the local DFO district office for further review; Level 2 screening and mitigation planning where in addition to the above, the CA determines how the proponent can mitigate any potential impacts to fish and fish habitat and if mitigation is not possible the project is forwarded to the local DFO district office for further review; and, Level 3 full mitigation and compensation planning, where in addition to all of the above, the CA works with the proponent and DFO to prepare a fish habitat compensation plan and the project is then forwarded to the local DFO office for authorization under the *Fisheries Act*.

CAs do not possess the authority to grant an authorization for a HADD of fish habitat. Applications requiring an authorization for a HADD are referred to DFO by the CA for final approval.

### 2.3.2 *Clean Water Act*

CAs have a regulatory role in the Ministry of the Environment (MOE) led provincial initiative under the *Clean Water Act* (CWA)(2006) in exercising and performing the powers and duties of a source protection authority for a source protection area established by CWA regulation. In acting as source protection authorities under the CWA, during the Source Protection Plan development phase, tasks include:

- Collection, analysis and compilation of technical and scientific information and data (watershed characterizations, water budgets.)
- Local engagement, consultation, information management and communications
- Key supporting role to respective Source Protection Committees which includes funding
- Coordinating technical work with municipalities and others

Once a first Source Protection Plan is approved, the Minister of the Environment will specify a date by which a review of the plan must begin and the Source Protection Authority ensures that the review and those that follow are conducted in accordance with the CWA and the regulations

As implementation of the *Clean Water Act*, moves forward, linkages with CA plan review and permitting roles may become clearer. (This document will be amended to address policies and procedures in this regard, as and when appropriate.)

### 2.3.3 Environmental Assessment Act (EA Act)

Conservation Authorities review and comment on Class and Individual Environmental Assessments that occur within their jurisdiction under the EA Act. It is a requirement for proponents to consult with CAs on proposed works that require Environmental Assessments. The purpose of the Environmental Assessment Act is the betterment of the people of the whole or any part of Ontario by providing for the protection, conservation and wise management in Ontario of the environment.

### 2.3.4 Aggregate Resources Act (AR Act)

Conservation Authorities review proposals for aggregate activities and comment in an advisory capacity to municipalities making decisions on application approvals. The purposes of this Act are to provide for the management of the aggregate resources of Ontario; to control and regulate aggregate operations on Crown and private lands; to require the rehabilitation of land from which aggregate has been excavated; and to minimize adverse impact on the environment in respect of aggregate operation.

## 3.0 MEMORANDUM OF UNDERSTANDING

Through the Minister's delegation letter and under the accompanying MOU signed in 2001, Conservation Ontario (CO), the Ministry of Natural Resources (MNR) and the Ministry of Municipal Affairs and Housing (MMAH) agreed to support the provisions of the MOU as an appropriate statement of the roles and responsibilities of the relevant Ministries and CAs in the implementation of the *PPS, 2005*.

Pursuant to the delegation letter and MOU, CAs have been delegated the responsibility to review policy documents and planning and development applications submitted pursuant to the *Planning Act* to ensure that they are consistent with the natural hazards policies Section 3.1 of the *PPS, 2005*. These delegations do not extend to other portions of the *PPS, 2005* unless specifically

delegated or assigned in writing by the Province. For further detail, please refer to the MOU in Appendix 1.

Note: At the time of signing, the 2001 CO/MNR/MMAH MOU stipulates that plan review was to determine whether application had “regard to” section 3.1 of the PPS, 1997, while the PPS, 2005 changes this wording, “to be consistent with” the policies outlined in the PPS, 2005.

## **PART B – POLICY**

### **4.0 GENERAL**

4.1 CAs have a mandate to protect people and property from the potential impacts of natural hazards and have delegated responsibilities to review policy documents and applications under the *Planning Act* to ensure that they are consistent with the natural hazards policies Section 3.1 of the *PPS, 2005*. However, unless specifically designated through agreement with the province, CAs do not have delegated responsibilities to represent or define other provincial interests on behalf of the Province under the *Planning Act*, the *PPS, 2005* or other provincial legislation (e.g. *Endangered Species Act, 2007*) or provincial plans (e.g. Oak Ridges Moraine Conservation Plan).

4.2 Under the CO/MNR/MMAH delegation MOU, CAs have a key role in related approval processes regarding new or amended ‘Special Policy Areas’ for flood plains under Section 3.1.3 of the *Provincial Policy Statement, 2005*. Special Policy Areas (SPAs) are areas within flood plain boundaries of a watercourse where exceptions to the development restrictions of the natural hazards policy (3.1) in the Provincial Policy Statement (PPS), 2005, may be permitted.

CAs provide supportive background and technical data regarding existing and proposed Special Policy Areas. CAs do not have a delegated authority to give final approval for the creation of new Special Policy Areas or the amendment and/or deletion of existing ones. New Special Policy Areas and any proposed changes or deletions to existing boundaries and/or policies are approved by both the Ministers of Natural Resources and Municipal Affairs and Housing prior to being designated by a municipality or planning approval authority.

4.3 CAs are considered public bodies pursuant to Section 1 of the *Planning Act* and regulations made under the *Planning Act*. As such, CAs must be notified of policy documents and applications as prescribed. To streamline this process, CAs may have a screening protocol with municipalities, normally through service agreements, which identifies those applications that CAs should receive notice of and comment on.

4.4 As outlined in the CO/MNR/MMAH Delegated Responsibilities MOU (Appendix 1), in their role as watershed based, natural resource management agencies, CAs review policies, planning documents and applications pursuant to the *Planning Act* as a commenting agency. To inform their review of *Planning Act* applications, CAs may develop policies and strategies related to their mandates and/or agreements for technical services with municipalities and other levels of government. Policies developed by CAs are advisory unless they are incorporated into an Official Plan. When providing comments to municipalities/planning approval authorities, CAs should identify the role and/or legislative authority under which they are doing so (e.g. *PPS, 2005, CA Act* Section 28 regulations, *Fisheries Act*, advisory etc.).

4.5 Where CAs have entered into an agreement with municipalities or other levels of government for any technical services, they should provide the technical services (e.g. providing natural heritage advice), as prescribed by the agreement. Technical service agreements with municipalities may cover a broad range of issues, including stormwater management, natural heritage, groundwater, etc.

4.6 CAs may negotiate with their municipalities to ensure that service agreements with municipalities include future environmental analysis .

4.7 In some cases, provincial plan (e.g. Oak Ridges Moraine Conservation Plan; Greenbelt Plan; Lake Simcoe Protection Plan, Central Pickering Development Plan) requirements may exceed CA regulatory requirements and such greater requirements take precedence. For example, the provincial plans may have greater requirements for vegetation buffers or more restrictions on the uses permitted than the CA regulatory requirements. A typical requirement of the legislation for those plans is that comments, submissions, or advice provided by conservation authorities, that affect a planning matter within those areas, shall conform with the provincial plan. As a best practice, CAs should advise municipalities and applicants of the requirement to meet greater provincial plan standards. Similarly, where there are regulations (including *CA Act* Section 28 and the *Fisheries Act*) that are more restrictive than those contained in these provincial plans, the more restrictive provision prevails.

4.8 The “principle of development” is established through *Planning Act* approval processes, whereas the CA permitting process provides for technical implementation of matters pursuant to Section 28 of the *CA Act*. CAs should ensure that concerns they may have regarding the establishment of the “principle of development” are conveyed to the municipality/planning approval authority during the *Planning Act* approvals process and are not normally addressed through the CA permitting process. It is recognized that there may be historic planning approval decisions that were made in the absence of current technical information which could now preclude development under the *Conservation Authority Act* regulations. If an issue remains unresolved, the CA should work with the proponent to arrive a resolution.

The scope of matters that are subject to CA regulations is limited to the activities in areas set out under Section 28(1) and Section 28(5) of the *CA Act*.

4.9 CAs may provide a number of other programs and services (extension services, community relations/information/education services/permissions under other legislation) that may or may not be linked to applications made pursuant to the *Planning Act* or *CA Act* regulation permissions. These programs and services are not governed by this chapter.

## 5.0 CONSULTATION

5.1 CAs should give public notice and undertake public and/or stakeholder consultation prior to submission for Board approval all proposed policies, watershed/subwatershed plans, guidelines or strategies that are intended to influence future land use and land use planning and/or inform CA review of applications made pursuant to the *Planning Act*. The Conservation Authority is only responsible for consultation where it has the lead for the watershed/subwatershed planning processes.

5.2 CAs should give public notice and undertake public consultations prior to submission for Board approval proposed service delivery policies and procedures for *CA Act* Section 28 permit applications (e.g. complete applications).

5.3 The public should be provided the opportunity to speak to the proposed policies and guidelines referenced in 5.1 and 5.2 at the relevant CA Board meetings.

5.4 CAs should make any agreements between the CA and municipalities or other government agency publicly accessible (e.g. posted on the CA's website where available).

## 6.0 APPLICATION PROCESSES

Attached are **three charts** which illustrate the application processes under both the *Planning Act* and the *Conservation Authorities Act* and practices to promote effective and efficient processes:

- municipal planning application process with CA review (e.g. stand-alone site plan control) (Appendix 2a)
- municipal planning application process (e.g. subdivision) with CA review and requirement for CA permit(s) (Appendix 2b)
- stand-alone CA "Development, Interference with Wetlands, Alterations to Shorelines and Watercourses" permit application process (Appendix 2c)

## 7.0 PLAN REVIEW

7.1 While it is a CA's responsibility to weigh a property owner's interests against the public interest as it relates to flooding, erosion, dynamic beaches, pollution and the conservation of land, it is the municipality or planning approval body's responsibility to weigh or consider these matters against the relative merits of economic, social and other natural environment implications. CAs should develop watershed management plans to inform Official Plan policies. In addition, CAs 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.

7.2 CAs should collaborate with municipalities to incorporate policies and provisions into Official Plans and Comprehensive Zoning By-Laws that are complementary to their CA Board-approved policies and other planning documents to ensure that municipal land use decisions address them.

7.3 CAs should collaborate with municipalities to incorporate Official Plan policies for complete planning application requirements so that information or studies needed by the CA for reviewing *Planning Act* applications is addressed early in the process.

7.4 CAs should ensure that all concerns relevant to their delegated responsibilities for natural hazards are made available to municipalities and planning approval authorities under the *Planning Act* during the application review process. In participating in the review of development applications under the *Planning Act*, CAs should, at the earliest opportunity, (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.

7.5 Recognizing that there is no requirement for municipalities to invite CAs to pre-consultation meetings, CAs 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*. Technical service agreements between municipalities and individual CAs may formalize arrangements for CA involvement in pre-consultation. As coordinated by the municipality/planning approval authority, depending on the scope of the project, pre-consultation could include staff from the following parties: CAs, the municipality (for example, planning and engineering staff), the applicant,

consultants, the developer/owner, and may be supplemented by staff from provincial ministries, Parks Canada and any other government agencies.

7.6 If providing a technical advisory role CAs should establish formal technical service agreements with municipalities. CAs should ensure that the service agreement with a municipality addresses obligations of the CA to participate in pre-consultation and other meetings and how the CA may participate in OMB hearings or other tribunals, and limits on the CA's ability to represent the municipality's interests. Service agreements/contracts should specify that regular reviews by the parties of the agreement/contract are required and should be publicly accessible (i.e. posted on the respective CA and municipal websites).

7.7 CAs should operate in accordance with the provisions of the CO-MNR-MMAH MOU when undertaking their roles in plan review. This will include informing a municipality as to which of their CA comments/input, if any, pertain to the CA's delegated responsibilities for the provincial interest on natural hazards and which set of comments are provided on an advisory basis or through other authority (e.g. as a resource management agency or as an advisor to the municipality, as set out in the MOU).

7.8 MNR has responsibility under the, *PPS, 2005*, and some provincial plans (as outlined in appendix 3) for the delineation of natural heritage systems, the identification or approval of certain natural heritage features as significant or key features, or the identification of criteria related to these features. As part of the CA commenting function, some CAs identify natural heritage features through the initial plan review process. Where service agreements are in place with their member municipalities, CAs are encouraged to collaborate with local MNR District offices in this regard. MNR is responsible for notifying municipalities and CAs when there is new information about a feature for which MNR has responsibilities, for example, a wetland is evaluated and approved as a provincially significant wetland (PSW), so that advice can be given and decisions made accordingly.

7.9 Under service agreements with their member municipalities, CAs work with their municipal partners on matters of 'local interest' with respect to natural heritage and liaise with the MNR regarding natural heritage interests including and beyond those covered by 7.8 (those of "provincial interest") to promote sharing of most up-to-date natural heritage information and to promote coordinated planning approaches for these interests.

## **8.0 SECTION 28 PERMITTING**

### **8.1 Background Information**

Pursuant to Section 28 Regulations of the *CA Act*, under Ontario Regulation 97/04 "Development, Interference with Wetlands, and Alterations to Shorelines

and Watercourses” (Generic Regulation), each CA has developed individual regulations that identifies and regulates certain activities in and adjacent to watercourses (including valley lands), wetlands, shorelines of inland lakes and hazardous lands’. In general, permits (permissions) may be granted where, in the opinion of the CA, the control of flooding, erosion, dynamic beaches, pollution or the conservation of land is not affected.

An application for a permit is made, usually by the landowner, and the regulations set out certain information required to support an application as outlined in Appendix 3.

When the Section 28 Regulation (the Generic Regulation) was developed, three related procedural guidelines were prepared to assist in delivering the individual CA regulations:

1. Guidelines for developing schedules of regulated areas
2. Section 28(12) *CA Act* Hearings Guideline
3. Approvals Process Guideline

A Peer Review and Implementation Committee, set up by MNR/CO to guide Section 28 implementation, has been formed to assist with ongoing implementation issues to ensure a consistent approach to mapping updates and to undertake regional training workshops.

## 8.2 Pre-consultation on Permit Applications

8.2.1 Pre-consultation is encouraged to provide clarity and direction, to facilitate receipt of complete applications and to streamline the permitting process. To meet these objectives, depending on the scale and scope of the project, pre-consultation may include staff from the following parties: CAs, the municipality (for example, planning and engineering staff), the applicant, consultants, the developer/owner, and may be supplemented by staff from provincial ministries, Parks Canada and any other appropriate government agencies; and may occur concurrently with *Planning Act* pre-consultation.

8.2.2 CAs may request pre-consultation, prior to the submission of a permit application, to provide an opportunity for CAs and applicants to determine complete permit application requirements for specific projects. Applicants are encouraged to engage in pre-consultation with CAs prior to submitting an application.

8.2.3 Applicants may request CAs to undertake pre-consultation, prior to the submission of a permit application, to provide an opportunity for CAs and applicants to determine complete permit application requirements for specific projects. CAs should engage in pre-consultation in a timely manner so as to not delay the proponent’s ability to submit an application.

8.2.4 In order to determine complete application requirements, applicants should provide a minimum amount of information for pre-consultation, such as property information (lot number, concession number, township, etc.) and a description of what is being proposed (i.e. what is being planned and when the work will take place).

8.2.5 CAs should identify/confirm complete permit application requirements for specific projects, in writing, within 21 days of the pre-consultation meeting. However, substantial changes to a proposal or a site visit after pre-consultation may warrant further pre-consultation and/or necessitate changes to the complete permit application requirements.

### 8.3 Complete Permit Application

8.3.1 CAs 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 (see Appendix 3 for examples of Section 28 Regulation information requirements).

8.3.2 CAs 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.

8.3.3 If a permit application is deemed incomplete, CAs should provide the applicant with a written list of missing/needed information when notifying the applicant that the application has been deemed incomplete.

8.3.4 If not satisfied with the determination in 8.3.2 the applicant can request an administrative review by the CA General Manager/CAO and then if not satisfied, by the CA Board of Directors.

8.3.5 During the review of a 'complete application', a CA may request additional information if the CA deems a permit application does not contain sufficient technical analysis. The CA should make every effort to work with the applicant in obtaining the required information in a timely manner.

### 8.4 Decision Timelines for Permits

8.4.1 From the date of written confirmation of a complete application, CAs 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.

Major applications may include those that:

- are highly complex, requiring full technical review, and need to be supported by comprehensive analysis
- do not conform to existing CA Board-approved Section 28 policies

8.4.2 If a decision has not been rendered by the CA within the appropriate timeframe (i.e. 30 days for minor applications / 90 days for major applications) the applicant can submit a request for administrative review by the General Manager / CAO and then if not satisfied, by the CA Board of Directors.

## 8.5 Hearings and Appeals

If the decision is “referred to a Hearing” the *MNR/CO Hearings Guidelines* (approved 2005) referenced in Section 8.1 will be followed.

As per the guidelines and subsections 28 (12), 28 (13), 28 (14) and 28 (15) of the *CA Act* and in summary:

After holding a hearing, the authority shall: refuse the permission; grant the permission with conditions; or, grant the permission without conditions. If the authority refuses permission or grants permission subject to conditions, the authority, shall give the person who requested permission written reasons for the decision.

A person who has been refused permission or who objects to conditions imposed on a permission may, within 30 days of receiving the written reasons appeal in writing to the Minister of Natural Resources.

The Office of the Mining and Lands Commissioner (OMLC) has been delegated the authority, duties and powers of the Minister of Natural Resources under the *Ministry of Natural Resources Act* to hear appeals from the decisions of CAs made under the *CA Act* regarding a refusal to grant permission to a property owner for the development of lands within floodplains, hazardous lands, dynamic beaches and wetlands or with respect to conditions imposed on a permission granted by the CA. The Mining and Lands Commissioner (MLC) may: refuse the permission; or, grant the permission, with or without conditions.

If the applicant does not agree with the MLC decision, under the Mining Act an appeal can then be made to the Divisional Court, a Branch of the Superior Court of Justice.

## 8.6 Expiry of Permits

By regulation, a permission shall not be extended. The maximum period of validity of a permission (i.e. permit) is 24 months. If the works covered by the

application are not completed within the legislated timeframe, the applicant must reapply and delays in approval may result. Typically, the policies in place at the time of the re-application will apply.

## 8.7 Permit Approvals

8.7.1 CA approval procedures should be determined in such a manner as to ensure applicants receive due process.

8.7.2 When developing approval procedures, CAs should consider:

- the “best practices” and procedures used by neighbouring CAs, to promote consistency
- the nature and level of procedures used by local municipalities and other agencies and ministries for related approvals to prevent duplicative procedures and to promote consistency
- the setting of approval procedures is dependent on the complexity of applications and the level of effort required to administer the application

## 9.0 SERVICE DELIVERY ADMINISTRATION

9.1 CAs should develop policies, procedures and guidelines for their plan review activities and permitting activities (i.e. administration of the regulation and review of applications) with regard to the best practices outlined in this Policy and Procedure chapter. The CA documents should be approved by their Board of Directors and made available to the public.

### 9.2 Fees

See separate chapter regarding fees in the Policies and Procedures Manual.

9.2.1 Fees for planning services should be designed and administered in conjunction with the appropriate planning authorities, and in accordance with the applicable Section of the *Planning Act*.

9.2.2 For permitting activities, a CA sets fee structures designed to recover but not exceed the costs associated with administering and delivering the services on a program basis.

## 10.0 ADHERENCE TO POLICIES

10.1 All CAs are required to adhere to these policies and procedures.

10.2 MNR reserves the right to audit CAs for adherence to these policies and procedures.

## APPENDIX

Information to be placed in appendix, as identified in body of the chapter:

- 1. MNR-MMAH-CO MOU**
- 2. Schematics (3)**
- 3. Information Requirements – Section 28 Regulation Application**

## **Appendix 1: CO/MNR/MMAH – DELEGATED RESPONSIBILITIES MOU**

### **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**

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
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



Ministry of  
Natural  
Resources

Minister

Ministère des  
Richesses  
naturelles

Ministre

Queen's Park  
Toronto, Ontario  
M7A 1W7  
416 / 314-2301

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.

- 2 -

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.

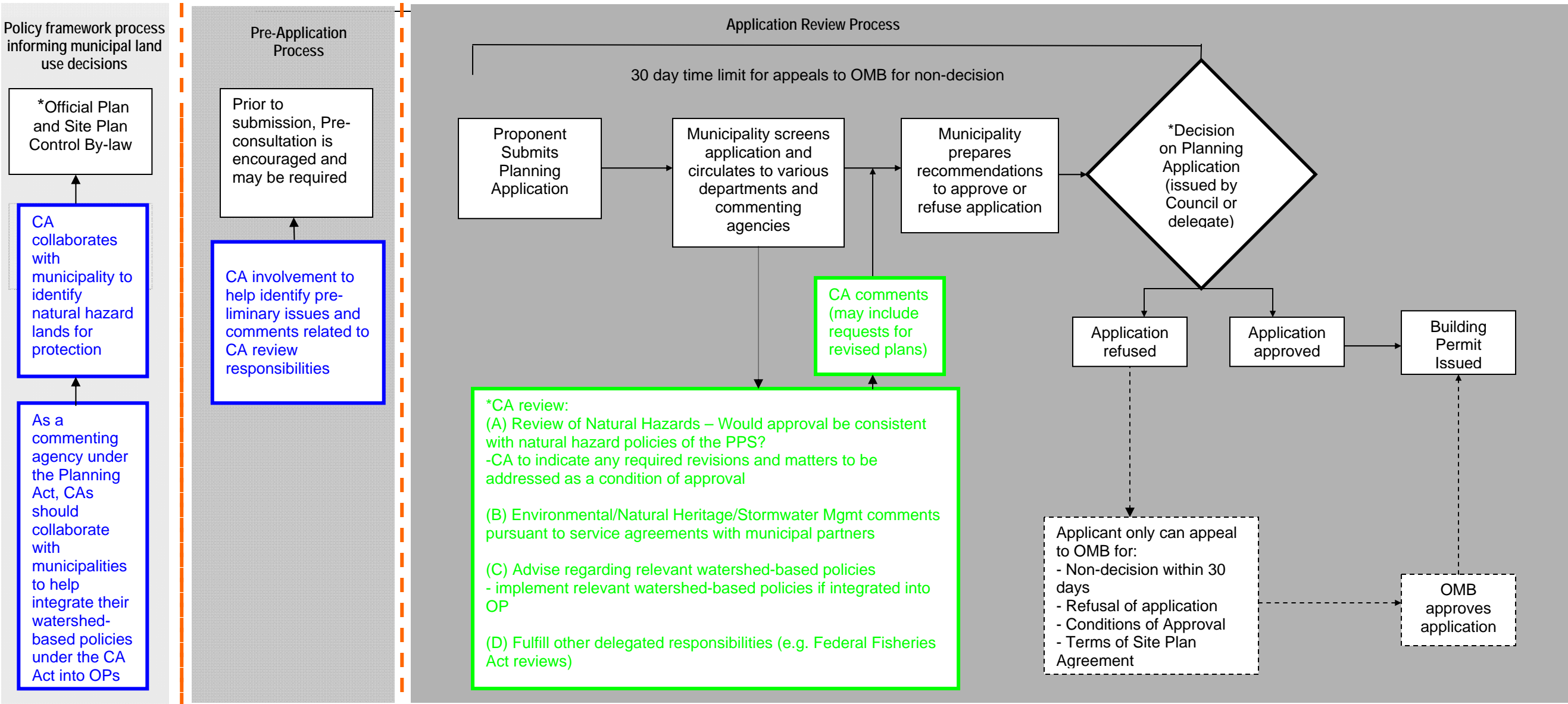
Yours sincerely,



Howard Hampton  
Minister

**Appendix 2: Schematics of Application processes under both the *Planning Act*  
and the *Conservation Authorities Act***

**Appendix 2(a): Municipal Planning Application process (e.g. Site Plan Control) with CA Review in a Non-regulated Area (i.e. Section 28 does not apply)**



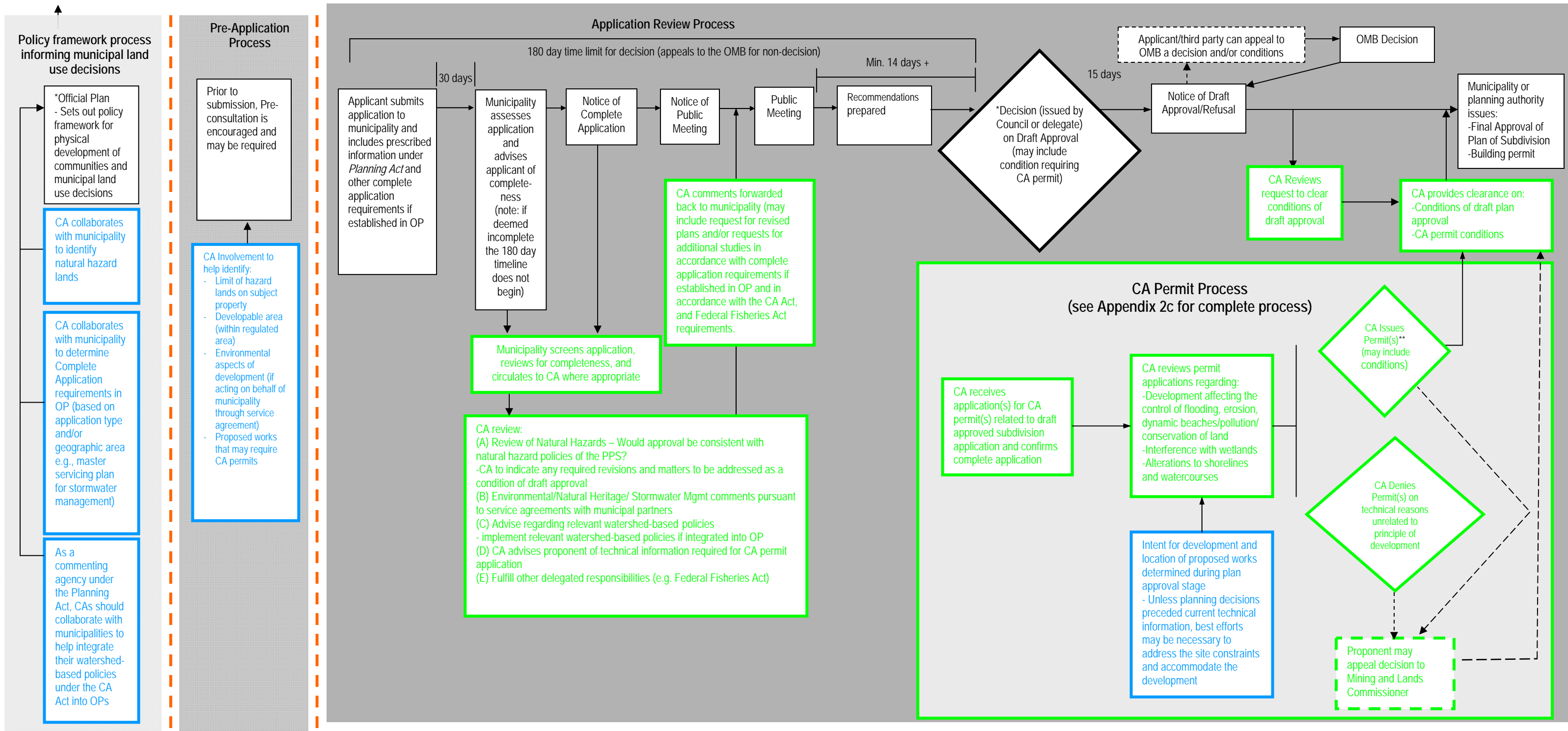
\*OPs are required to conform to and not conflict with applicable legislation and provincial plans.

Note: Not all OPs have been updated to reflect the PPS 2005 and provincial plans, yet advice and decisions on planning matters must be consistent with this policy and conform to applicable provincial plans

Black - current system under the Planning Act  
 Green highlight – current CA role/input  
 Blue highlight – proposed best practices

**NOTE:** For interpretation of this flowchart reference should be made to the full Policies and Procedures chapter

**Appendix 2(b): Municipal Planning Application Process (e.g. Plan of Subdivision) with Conservation Authority Review and Requirement for CA Permit(s)**



\* OPs are required to conform to and not conflict with applicable legislation and provincial plans.

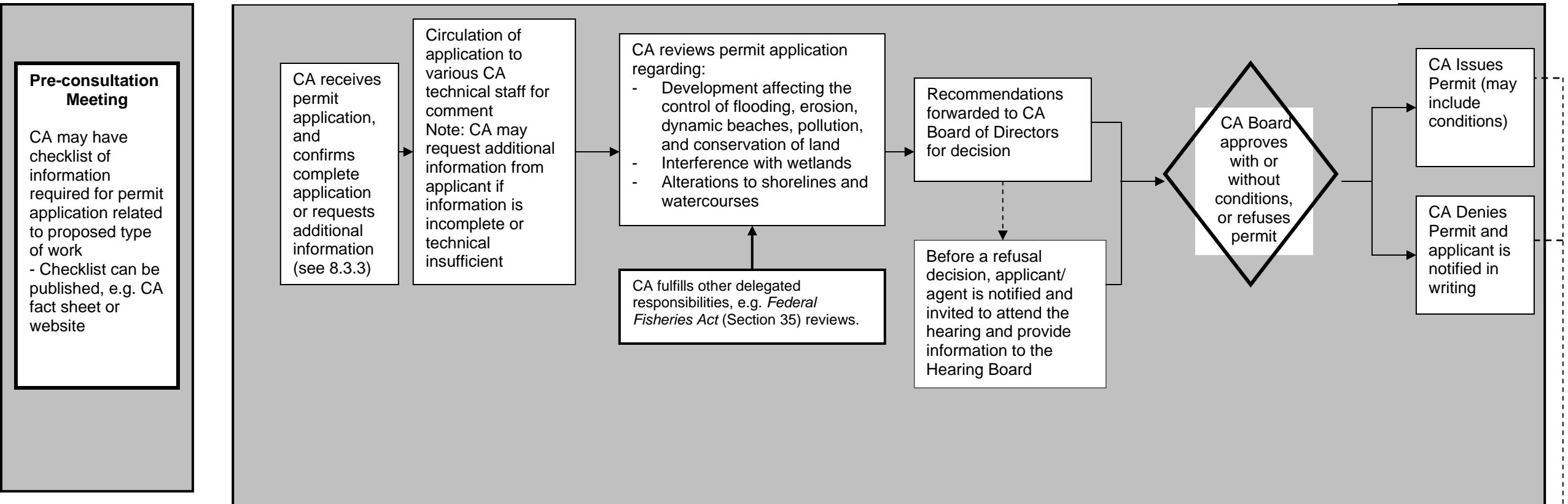
Note: Not all OPs have been updated to reflect the PPS 2005 and provincial plans, yet all advice and decisions on planning matters must be consistent with this policy statement and conform to applicable provincial plans.

\*\* Under legislation, CA permits cannot be issued or re-issued for extensions for periods longer than 24 months. If a developer has not acted on the application within 24 months of the issuance of a permit, they must reapply and delays in approval may result.

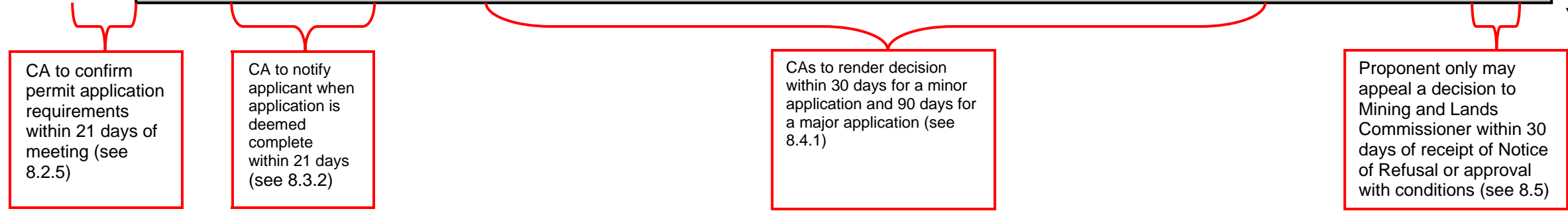
Black - current system under the Planning Act  
 Green highlight – current CA role/input  
 Blue highlight – proposed best practices

NOTE: For interpretation of this flowchart reference should be made to the full Policies and Procedures chapter

## Appendix 2(c): Stand-Alone Conservation Authority “Development, Interference with Wetlands, Alterations to Shorelines and Watercourses”



**Timeline**



**Note:** Under the legislation, CA permits cannot be issued for periods longer than 24 months. If a developer has not completed the works covered by the application within 24 months of the issuance of a permit, he/she must reapply and delays in approval may result. Typically the policies in place at the time of reapplication will apply.

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**Appendix 3: Information Requirements – Section 28 Regulation Application**

As set out in the Section 28 (Generic) Regulation, specific information is required from the applicant in support of an application. **Two examples are set out below.**

*Permission to Develop*

A signed application may contain, but is not limited to the following information:

1. four copies of a plan of the area showing the type and location of the development
2. the proposed use of the buildings and structures following completion of the development
3. the start and completion dates of the development
4. the elevations of existing buildings, if any, and grades and the proposed elevations of buildings and grades after development
5. drainage details before and after development
6. a complete description of the type of fill proposed to be placed or dumped
7. Signed land owner authorization for the CA to enter the property
8. Technical studies/plans as required (NOTE: this is dependant on the proposed extent of intrusion into a regulated area and/or the associated potential negative impacts. Major applications generally require more complex technical studies).

When all of the information listed above is received in a form satisfactory to the CA, and a pre-consultation or site assessment is conducted as necessary, an application will then be deemed to be complete. An application can be put “on hold” or returned to the applicant pending the receipt of further information.

*Permission to Alter*

An authority may grant a person permission to straighten, change, divert, or interfere with an existing channel of a river, creek, stream, or watercourse or to change or interfere with a wetland. A signed application may contain, but is not limited to the following information:

1. four copies of a plan of the area showing plan view and cross-section details of the proposed alteration
2. a description of the methods to be used in carrying out the alteration
3. the start and completion dates of the alteration
4. a statement of the purpose of the alteration
5. Signed land owner authorization for the CA to enter the property
6. Technical studies/plans as required (NOTE: this is dependant on the proposed extent of intrusion into a regulated area and/or the associated potential negative impacts. Major applications generally require more complex technical studies).

When all of the information listed above is received in a form satisfactory to the Conservation Authority, and a pre-consultation or site assessment is conducted as necessary, an application will then be deemed to be complete. An application can be put “on hold” or returned to the applicant pending the receipt of further information.