

North Bay-
Mattawa
Conservation
Authority

Jan. 3, 2023

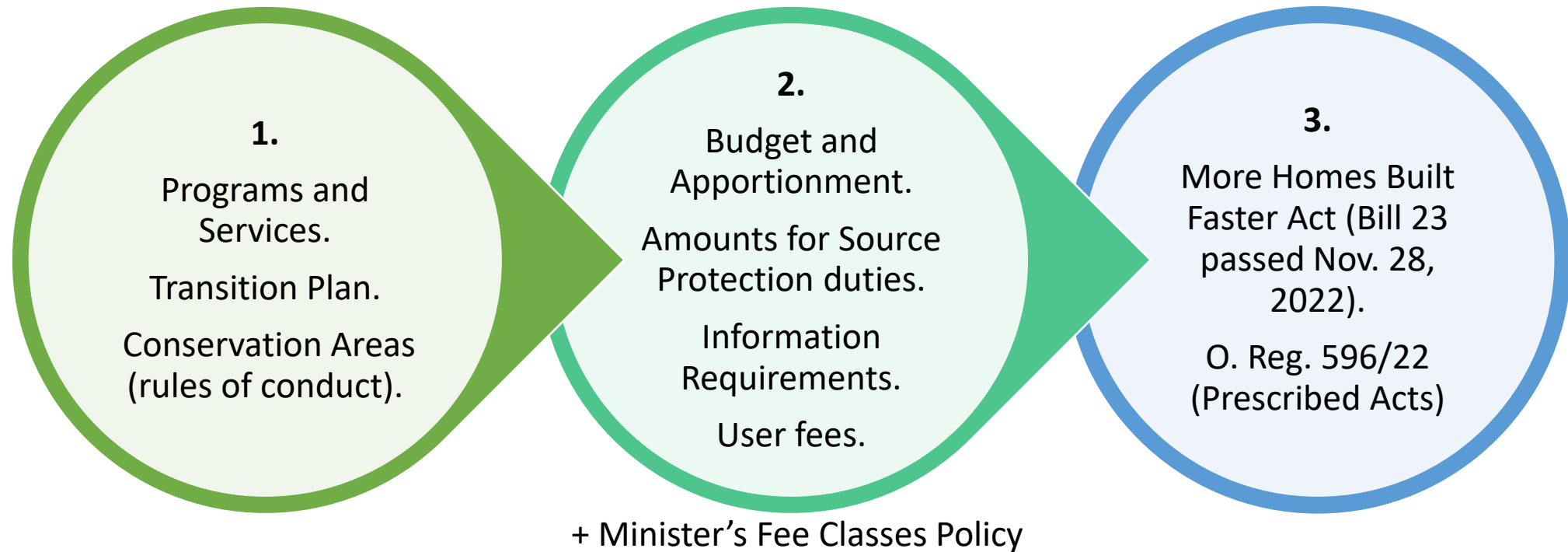
**Overview of Bill 23: More Homes
Built Faster Act, 2022**

**As it relates to the Conservation
Authorities Act**



Conservation Authorities Act

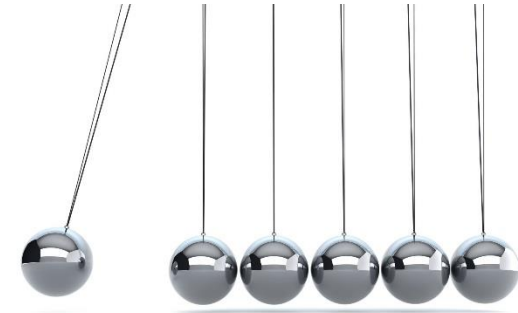
Overview of Related Changes - 2021 Onwards



Conservation Authorities Act & Bill 23: More Homes Built Faster Act, 2022

Four Key Areas of Amendments in Bill 23:

1. Section 28 Permits
2. CA Role in Plan Review
3. Freezing of Fees
4. Conservation Lands



Bill 23 received Royal Assent on November 28, 2022.

Other legislation changes include:

- Ontario Wetland Evaluation System
- Ontario Building Code – including Section 8 sewage systems

Conservation Authorities Act & Bill 23: More Homes Built Faster Act, 2022

TIMING

All of these changes come into effect:

- On the day of Royal Assent of Bill 23, i.e. November 28, 2022; or
- On January 1, 2023; or
- On a day to be named by proclamation of the Lieutenant Governor

(including when related un-proclaimed sections from previous amending acts are proclaimed, for example amendments from Bill 229, Protect, Support, and Recover from COVID-19 Act (Budget Measures) and Building Better Communities and Conserving Watersheds Act, 2017).



Conservation Authorities Act & Bill 23:

1. Changes to Section 28 Permits (DIA)

In effect as of November 28, 2022:

- **Require** CAs to issue a permit for Community Infrastructure and Housing Accelerator (CIHA) Orders under the Planning Act Section 34.1.
- **Require** CAs to issue a permit for Minister's Zoning Orders (MZOs) under the Planning Act Section 47.
- **Note** that NBMCA has not encountered any MZO or CIHA Orders to date in the watershed.

CA: Conservation Authority

Conservation Authorities Act & Bill 23:

1. Changes to Section 28 Permits (DIA)

Yet to come into effect:

- **Consolidate** 36 regulations into one regulation under the CA Act
- **Remove** “conservation of land” and “control of pollution” tests. Replace with “control of unstable soil or bedrock”
- **Limit** conditions in the permit to conditions that mitigate:
 - effects that the development project is likely to have on the control of flooding, erosion, dynamic beaches or unstable soil or bedrock; and
 - conditions or circumstances created by the development project that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property.
- **Update** “watercourse” definition
 - From: an identifiable depression in which water regularly or continuously flows,
 - To: a defined channel having a bed and banks or sides, in which a flow of water regularly or continuously occurs.
- **Update** “other areas” where development is prohibited to be within 30 m of all wetlands (*see slide on Wetlands for more info*).

(note that this is not an exhaustive list)

Conservation Authorities Act & Bill 23:

1. Changes to Section 28 Permits (DIA)

Yet to come into effect:

Streamline approvals for
low-risk activities.

- May exempt from need of a permit, if certain requirements or conditions are met (registering activity with the CA).

(note that this is not an exhaustive list)

- Accessory structures
- Unenclosed detached deck or patio
- Minimal fill
- Seasonal/floating dock
- Installation of a fence, well, utility pole
- Installation and maintenance of tile drain, offline pond for livestock, agricultural erosion control measures, driveway
- Maintenance and repair of existing municipal drains

Conservation Authorities Act & Bill 23:

1. Changes to Section 28 Permits (DIA)

Yet to come into effect:

- **Require** CA to have a policy for timelines, complete application requirements, etc.
- **Require** CA to show maps of where permit applies; public consultation for significant changes
- **Provide** flexibility for CA to issue permit to max. limit of 60 months and issue extensions as necessary
- **Exempt** from Section 28 permits: development under the Planning Act in certain municipalities
- Non-decisions by a CA can be **appealed** within 90 days (rather than 120 days).

(note that this is not an exhaustive list)

Conservation Authorities Act & Bill 23:

2. CA Role in Plan Review

In effect Jan. 1, 2023 per new Ontario Regulation 596/22:

The **Prescribed** Acts that NBMCA will not be able to perform a review and commenting role under (aside from natural hazards), include:

- **The Planning Act**
- The Aggregate Resources Act
- The Condominium Act
- The Drainage Act
- The Endangered Species Act
- The Environmental Assessment Act
- The Environmental Protection Act
- The Niagara Escarpment Planning and Development Act
- The Ontario Heritage Act
- The Ontario Water Resources Act.

Conservation Authorities Act & Bill 23:

2. CA Role in Plan Review

PPS 2020

In effect Jan. 1, 2023 due to the new Ontario Regulation 596/22 for prescribed acts (CA Act Sections 21.1.1 (1.1) and 21.1.2(1.1)):

Municipalities are **no longer able** to use the NBMCA to undertake planning application review* and commenting related to CA Act Category 2 & 3 programs and services, including:

- Wise Use and Management of Resources (PPS Section 2.0)
 - PPS Section 2.1 Natural Heritage, i.e. Species At Risk (SAR), fish habitat
 - PPS Section 2.2 Water, i.e. lakes at capacity, groundwater, sensitive surface water
 - PPS Section 2.3 Agriculture, i.e. Minimum Distance Separation (MDS)
 - PPS Section 2.4 Minerals and Petroleum
 - PPS Section 2.5 Mineral Aggregate Resources, MECP D-series guidelines (separation distances from industrial facilities)
 - PPS Section 2.6 Cultural Heritage and Archaeology.
- Hazardous forest types for wildland fires (PPS Section 3.1.8)
- Human-Made Hazards, i.e. mine hazards, mineral aggregate operations (PPS Section 3.2)

**Note that municipalities, as the approval authority, are still required to provide this review.*

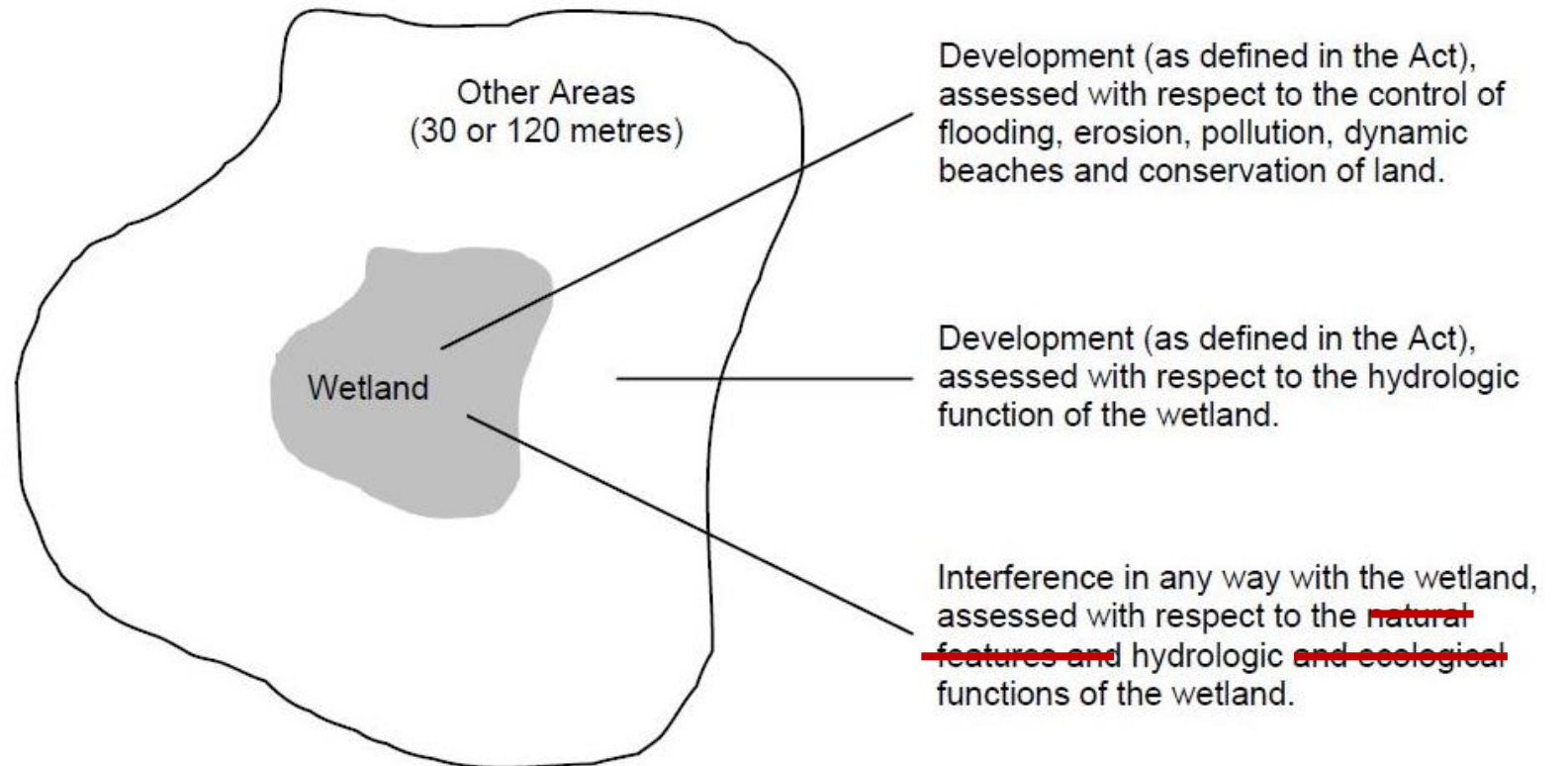
PPS: Provincial Policy Statement:

<https://www.ontario.ca/page/provincial-policy-statement-2020>

Conservation Authorities Act & Bill 23:

2. CA Role in Plan Review - Wetlands

- **In effect Jan. 1, 2023 due to the new Ontario Regulation 596/22:** NBMCA will no longer review Planning Act applications for natural heritage features related to wetlands.
- **NBMCA continues to:** provide comments on Planning Act applications and Environmental Impact Studies (EIS) as it relates to CA regulated areas including wetlands, based on the control of flooding, erosion, dynamic beaches, unstable soils and based on hydrologic function.
- **Note** that proposed changes to Section 28 of the CA Act, once proclaimed, will further scope NBMCA's role (such as: the pollution test and 120 meters of other areas would be removed, and the picture below will be updated and reshared at that time).



Conservation
Authorities Act &
Bill 23:

2. CA Role in Plan Review

NBMCA will continue to review and comment on planning applications with regard to:

- Natural Hazards (PPS Section 3.1 and CA Act Section 28 related) including flooding, erosion, steep slopes, dynamic beaches, etc.
- Drinking Water Source Protection (Clean Water Act)
- Septic systems (Ontario Building Code Part 8 Sewage Systems)



Conservation Authorities Act & Bill 23

2. CA Role in Plan Review

Plan Review Agreements

Plan Review Agreements

- Current Plan Review Agreements, status quo with the exception of changes in effect as noted earlier in the slide deck
- Future Plan Review Agreements must be finalized by December 31, 2023
 - Category 1 programs and services do not require an agreement



Conservation Authorities Act & Bill 23:

3. Fees

In effect Jan. 1, 2023 per “Minister’s Direction to Not Change Fees” under Section 21.1.3 (1) of the CA Act

Freezing of Fees:

- The Minister has directed CAs not to change fee amounts from January 1, 2023 to December 31, 2023.
- The CA may not be able to recover costs of administering and delivering Programs including Section 28 Permits.
- The CA cannot implement NBMCA Board’s direction to annually increase the Programs fees at a rate of inflation based on the Consumer Price Index (CPI).
 - The CPI is at 6.8 % year over year November 2022 (Statistics Canada)
https://www.statcan.gc.ca/en/subjects-start/prices_and_price_indexes/consumer_price_indexes

Conservation Authorities Act & Bill 23:

4. CA Lands

In Effect Jan 1, 2023: Conservation Lands:

- Under CA Act Section 21, there is a streamlined process for a CA to sever and dispose of land; also simplified disposition process for lands acquired through provincial grants (per Section 39 of the CA Act).
- Under O. Reg. 686/21: the CA land inventory due by December 31, 2024 must identify CA-owned properties that can support housing development. Considerations: whether or not the parcel or a portion of the parcel is suitable for the purposes of housing and housing infrastructure development, including identifying,
 - i. any applicable zoning by-law passed under section 34 or 38 of the Planning Act or any predecessor of them,
 - ii. if the parcel or a portion of the parcel augments any natural heritage located within the authority's area of jurisdiction, and
 - iii. if the parcel or a portion of the parcel integrates with other provincially or municipally owned lands or other publicly accessible lands and trails within the authority's area of jurisdiction.

Conservation Authorities Act & Bill 23: 2023 View



2023 NBMCA plans include:

- Comprehensive Fee Review 2023, all NBMCA programs and services
- Finalize Plan Review Agreements (sewage system review)
- Watershed Resource Management Strategy work initiation



Conservation Authorities Act & Bill 23:

Wetlands Evaluation System in Ontario

In effect Jan. 1, 2023: Ontario Wetlands Evaluation System (OWES) Changes

- The OWES is the official procedure to determine the wetlands that are significant and the boundaries of significant wetlands.
- A decision was made by the Ontario government on December 22, 2022 to proceed with their proposed revisions to OWES:

<https://ero.ontario.ca/notice/019-6160#decision-details>

- Wetlands are still required to be evaluated. If a new evaluation or re-evaluation is needed or desired, the wetland will be evaluated according to the revised OWES manual.
- All existing evaluated wetlands retain their status (i.e., significant or not) until there is a need to re-evaluate them.
- Wetland units that are part of a provincially significant wetland (PSW) complex can be re-evaluated individually.
- New evaluations are not to include complexes.
- An evaluation is considered final once a trained evaluator attests that they have undertaken the evaluation in accordance with OWES.
- Evaluators are required to send the final wetland boundary mapping and wetland status to the MNRF within 30 days for upload to the Land Information Ontario (LIO), the provincial database for geographic information.
- Evaluators are required to notify landowners that a wetland evaluation is being conducted on their property.

Bill 23 Consultation Timelines

Topic	Posting	Environmental Registry Ontario (ERO) Public Consultation
Section 28 (DIA permits)	Bill 23, Schedule 2 Discussion Paper	ERO 19-6141, 45 days (Dec. 9): https://ero.ontario.ca/notice/019-6141 ERO 19-2927, 66 days (Dec. 30): https://ero.ontario.ca/notice/019-2927
Plan Review	Bill 23, Schedule 2 Bill 23, Schedule 9 Other Postings <ul style="list-style-type: none"> • Wetlands • Septic systems 	ERO 19-6141, 45 days (Dec. 9): see above ERO 19-6141, 45 days (Dec. 9): see above ERO 019-6162, Nov 24. to Dec. 30: https://ero.ontario.ca/notice/019-6162 <ul style="list-style-type: none"> • ERO 19-6160, 30 days (Nov. 24): https://ero.ontario.ca/notice/019-6160 • ERO 19-6211, 45 days (Dec. 9): https://ero.ontario.ca/notice/019-6211
Fees	Bill 23, Schedule 2	ERO 19-6141, 45 days (Dec. 9): see above
Conservation Lands	Bill 23, Schedule 9 Reg Amendment	ERO 19-6163, 45 days (Dec. 9): https://ero.ontario.ca/notice/019-6163 ERO 19-6141 45 days (Dec. 9): see above

Note: the description of proposed changes in this slide deck are paraphrased and not to be construed as legal advice.

Thank you.

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