



Presentation to the Standing Committee on Finance and Economic Affairs

Kim Gavine, General Manager, Conservation Ontario

November 30, 2020

RE: Conservation Ontario's Submission on Bill 229, the *Protect, Support and Recover from COVID-19 Act (Budget Measures Act)*, 2020 with regard to Schedule 6 *Conservation Authorities Act*

Thank you for the opportunity to speak with you today. I am Kim Gavine, General Manager of Conservation Ontario. With me is Hassaan Basit, CEO for Conservation Halton and Bonnie Fox, Manager of Policy and Planning at Conservation Ontario.

To begin with, I'd like to inform you that we are calling for the withdrawal of Schedule 6 of Bill 229 and that we don't do this lightly.

In doing so, we stand with our conservation authority members, other organizations and Ontarians; as well as alongside the Association of Municipalities of Ontario, Ontario's Big City Mayors and many individual municipalities who have passed resolutions.

Conservation Ontario is a non-profit association which represents Ontario's 36 conservation authorities. We have made several presentations to various Standing Committees over the years and this recommendation to withdraw Schedule 6 is unprecedented in our relationship with Ontario's Legislature. We feel that there is really no alternative than to respectfully request that Schedule 6 be withdrawn so that fulsome consultation can occur. Careful consideration needs to be given to the operationalization of the proposed amendments in order to ensure there are no unintended consequences.

Due to time constraints, my comments today will not be able to address all our concerns. I will focus only on the proposed amendments that are of the most significant concern.

Concerns

Conservation authorities share the Government's commitment to improve consistency and transparency, reduce red tape and create conditions for growth while protecting public health and safety and the environment. We do not believe that Schedule 6 achieves these outcomes.

Generally, we feel that the amendments will actually weaken Ontario's use of the watershed approach. They will also create additional delays and add red tape to the permitting and municipal plan review processes and increase risk to the public and the environment.

Weakening watershed model –science and governance

One of our key concerns is that the proposed amendments weaken the conservation authority watershed model which, was praised by Ontario's Special Advisor on Flooding in 2019.

Conservation authorities use a watershed-based approach to identify and manage the impacts our activities have on Ontario's natural resources. They do this in order to protect people and property from flooding and other natural hazards, safeguard drinking water, and to prevent the loss of important local natural resources.

Conservation authority participation in the planning appeals process ensures that watershed science and data is being applied to planning and land use decisions. This is valued by our municipal partners. It allows us to assess the impacts of activities occurring in upstream municipalities in order to see whether or not they will create dangerous or costly impacts to downstream municipalities. We run the risk of relying on a piecemeal approach if we don't make these connections on a watershed basis. This could snowball over time, creating costly environmental problems, some of which may be very difficult, or even impossible to fix.

We also have concerns about some of the governance amendments including the proposed amendment of the Duty of Members which puts individual municipal interest above the interests of the conservation authority and the watershed. This amendment puts the Members in conflict with their fiduciary duty to represent the best interests of the organization they are overseeing.

Permits

We are aware of criticism directed to conservation authorities regarding too much red tape and a lack of timely approvals and transparency in the process. Our members have taken these comments very seriously. They have worked together with us - and the development and municipal sectors - to design client service and streamlining products and tools in support of the Housing Supply Action Plan. One of the outcomes of which we are particularly proud is that, to date in 2020, even with the challenges of COVID, more than 90% of CA permits in high growth CAs were issued within provincial guidelines.

Appeals

The new permit review and appeals processes being proposed in Schedule 6 will actually slow down the permitting process. The proposed combination of direct appeals to the Minister and appeals to the Local Planning Appeal Tribunal (LPAT) could add almost 200 days to the application process.

Relatively few permits are appealed to the Mining and Lands Tribunal because the current and affordable system is based on the natural hazard technical merits of the applicant's request.

In 2018, less than three percent of conservation authority permit decisions were appealed to the Mining and Lands Tribunal (MLT).

As proposed in Schedule 6, applicants will now be able to appeal a decision of the conservation authority to the Local Planning Appeal Tribunal (LPAT) instead of the Mining and Lands Tribunal. According to last year's annual report of Tribunals Ontario, the LPAT currently meets its timeline objectives 72% of the time while the Mining and Lands Tribunal meets theirs 97% of the time. As well the LPAT had a significant backlog of over 1000 cases while the Mining and Lands Tribunal had none.

Plan review

The proposed amendment to the *Planning Act* is a significant concern. Conservation authorities have been regulating development for over 60 years and have learned that early involvement in the planning process is necessary to avoid future disappointment.

If a municipality and developer were unknowingly designing a project to go in an area that would create or exacerbate hazardous conditions such as flooding, conservation authorities would not be able to issue a permit when it finally got to this stage. Unfortunately, this would be *after* a lot of time and money had been spent already. The likely outcome is that more permits will be appealed, further exacerbating the backlog at the LPAT.

Additionally, this proposed amendment would also remove the conservation authorities' right to appeal *Planning Act* decisions as a landowner. Given that conservation authorities are the second largest

landowner in province, this proposal will significantly limit their ability to conserve and manage their own lands.

Costs

New delays created through this revised planning and regulatory system will mean more costs for developers, CAs, taxpayers and the Province in order to manage what we believe will be an excessive appeal system.

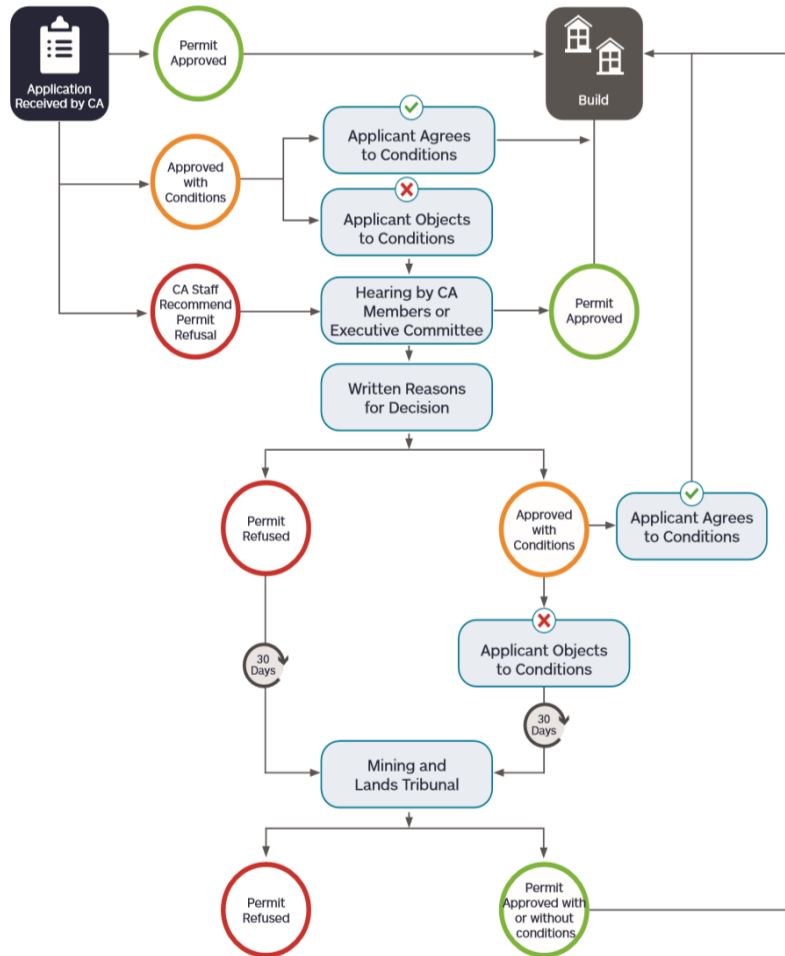
Costs will also rise with fewer enforcement tools. For example, Schedule 6 proposes to remove the use of stop work orders which would enable conservation authority officers to more quickly stop unpermitted work already in progress. Without this tool, there will continue to be additional costs for court injunctions and prosecutions as well as increased costs for remediation and restoration work to repair environmental damages.

Conclusion

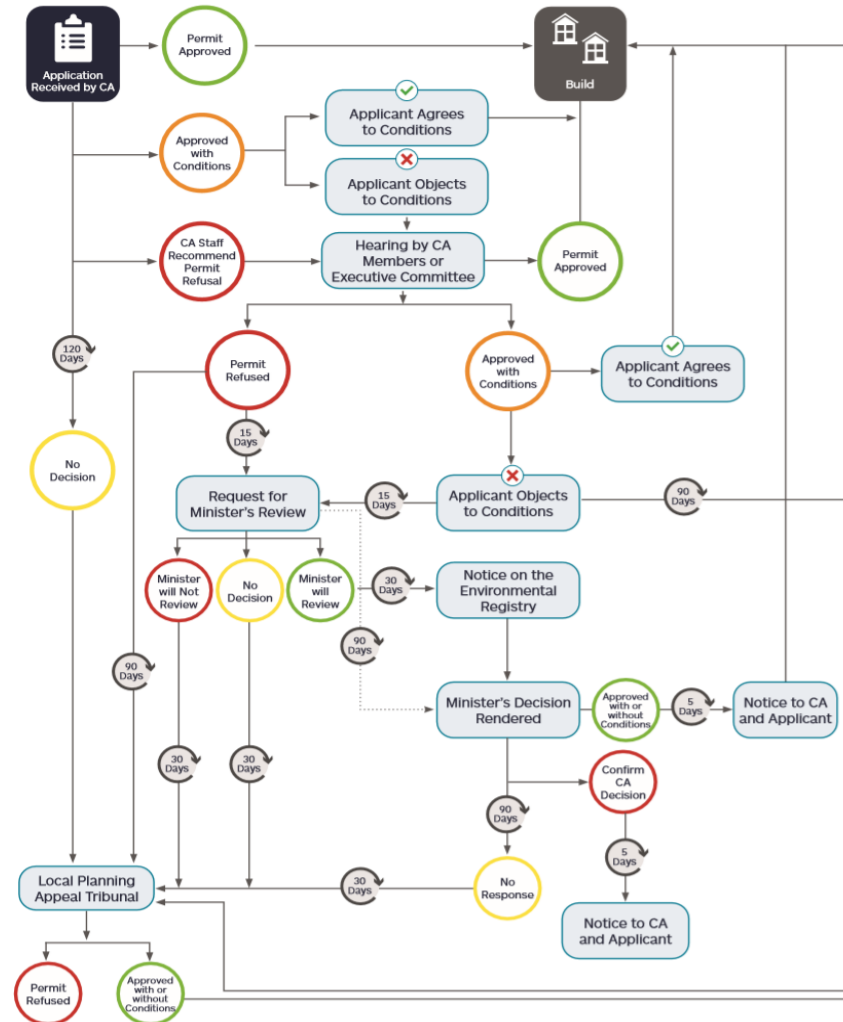
In short, these are not small changes as I've described. We value the long-standing partnerships among the conservation authorities, the Province and municipalities. Our working relationships are central to ensuring that we protect people from flooding and natural hazards, protect drinking water sources, and deliver watershed-based programs that will conserve Ontario's natural resources. So, I'd like to repeat myself: we don't make the request to withdraw Schedule 6 of Bill 229 lightly.

We understand that the province has a desire to improve conservation authorities. We are open to change and we need the Province to work with conservation authorities and municipalities on the refinement of these amendments. We need to ensure they are actually effective in reducing red tape and costs for all concerned; and that they help to stimulate growth without jeopardizing our fundamental ability to protect people and the environment.

Proposed Changes to Appeals Process Will Increase Timelines



Current S.28 Process



Proposed S.28 Process