



Long Point Region Conservation Authority

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December 1, 2020

Hon. Jeff Yurek
Minister of Environment,
Conservation and Parks
5th Floor – College Park
777 Bay St
Toronto, ON
M7A 2J3

Hon. John Yakabuski
Minister of Natural
Resources and Forestry
Rm 6630 – Whitney Block
99 Wellesley St W
Toronto, ON
M7A 1W3

Hon. Rod Phillips
Minister of Finance
7th Floor – Frost Block
7 Queen's Park Cres
Toronto, ON
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Re: Long Point Region Conservation Authority'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*

Dear Ministers,

I am writing you on behalf of the Long Point Region Conservation Authority (LPRCA) to provide comments on the proposed amendments to the *Conservation Authorities Act* under Schedule 6 of *Bill 229, Protect, Support and Recover from COVID-19 Act (Budget Measures)*, 2020.

LPRCA is one of 36 conservation authorities in Ontario. Our watershed covers 2,782 square kilometers and is home to approximately 102,000 people in southwestern Ontario, on the north shore of Lake Erie. Since 1948, LPRCA and its preceding conservation authorities have worked in partnership with provincial and federal governments, partner municipalities, and the community to conserve our natural resources while protecting life and property from natural hazards such as flooding and erosion.

Over the past two years, LPRCA has participated in various consultations regarding proposed changes to Conservation Authorities (CAs) and their legislation. LPRCA supports the Government's commitment to define mandatory programs, and improve consistency and transparency of CA operations while protecting public safety and the environment. However, our review and analysis suggest Schedule 6 under *Bill 229* does not achieve this.

The proposed amendments will weaken Ontario's use of the watershed approach, create additional delays, add red tape to permitting and municipal plan review, and increase risks to public safety and the environment. **It is recommended that Schedule 6 under Bill 229, Budget Measures Act be withdrawn.** This letter highlights the significant issues with Schedule 6 under Bill 229 that have contributed to the request that it be withdrawn.

Watershed Model

In November 2019, Ontario released a report from its Special Advisor on Flooding that praised the watershed model. This model is used by CAs to identify and manage the impacts of activities to protect life and property from natural hazards. Impacts of activities are currently assessed on a watershed scale to determine if they will have costly or dangerous effects upon downstream municipalities and properties. Decisions and actions made without considering the entire watershed put downstream stakeholders at risk.

The proposed amendment to the *Conservation Authorities Act* requiring the Board of Directors to generally act on behalf of their respective municipalities is concerning. Good governance dictates that a Board of Directors act on behalf of their organization and in the public interest. The proposed amendment to put municipal interests above the conservation authority and its watershed puts members of the Board of Directors in conflict with their fiduciary duty to represent the best interests of their organization.

Land Use Planning & Permitting Public

Proposed changes to the *Planning Act* and Section 28 under the *Conservation Authorities Act* will jeopardize public safety and environmental protections. The proposed changes will also limit the ability for the conservation authority to undertake non-partisan, transparent, and technically-sound decision making and will allow individuals to circumvent the technical permitting process. The changes will result in more red tape, delays in approvals and increased legal costs for all stakeholders.

The proposed amendment to the *Planning Act* will remove the ability for CAs to appeal municipal planning decisions, unless it is through the Minister of Municipal Affairs and Housing. It is also unclear whether or how municipalities will circulate municipal planning act applications to the CA. This could result in planning decisions that fail to consider natural hazard risks and for which CA permits cannot be approved.

With the proposed amendment to the *Planning Act*, CAs will lose their right to appeal municipal planning decisions as a landowner. Conservation authorities are Ontario's second largest landowner and this decision will significantly limit their ability to manage their properties

Proposed changes under Section 28 will allow the Minister to issue an order, take over and decide on a permit application, or send applications to be determined by the Local Planning Appeals Tribunal (LPAT). It is unclear how permit applications will be evaluated in these situations. There is potential for decisions to be made without regard for local conditions, watershed context, or CA Board-approved policies creating a process that lacks transparency. Without the non-partisan and technical expertise of CAs it is unclear how risks to life, property or the environment will be evaluated.

Historically, individuals have been able to access the Mining and Lands Tribunal to adjudicate decisions of the CA at no cost to them, unless they chose to provide support for their application with technical experts or legal counsel. LPAT does have filing fees that may exceed the cost of the permit for individuals. While the development community is familiar with LPAT, it is the Mining and Lands Tribunal that has the history and experience in adjudicating *Conservation Authority Act* cases.

Finally, the proposed changes will result in increased legal costs borne by taxpayers, municipalities (municipal levy) and permit applicants. Instead of CA staff time being spent to review and process permit applications, more time will be consumed preparing for and attending LPAT hearings leading to a more burdensome process for all.

Given the significant impact the proposed measures will have on the Province, municipalities, the public and conservation authorities, LPRCA is aligned with stakeholder groups who are calling for the withdrawal of Schedule 6 from Bill 229 in its entirety. We encourage a comprehensive consultation preprocess on all proposed measures to avoid unintended consequences and implementation challenges and to ensure the protection of public safety and the environment.

I would be pleased to discuss any of the above with you in further details. Please contact me at the information below if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Judy Maxwell". The signature is fluid and cursive, with the first name "Judy" and last name "Maxwell" clearly distinguishable.

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