



November 13, 2020

Lake Simcoe Watershed CAOs
(via email distribution list)

Dear Lake Simcoe Watershed CAOs:

Re: Provincial Bill 229, Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020

I am writing on behalf of the Lake Simcoe Region Conservation Authority to seek your municipality's support to address several changes introduced by the Province to the *Conservation Authorities Act* and the *Planning Act* in [Bill 229, Protect, Support and Recover from COVID-19 Act \(Budget Measures\), 2020](#).

These changes significantly limit the ability of conservation authorities to protect Ontario's environment, ensure people and property are safe from natural hazards and to apply watershed-based decisions on development. Ultimately, these changes in many ways, remove much of conservation authorities' ability to influence the overall health and protection of Ontario's citizens and the environment.

In 2018, the Province began to review Conservation Authority operations with three key goals in mind:

- Improve consistency and transparency of the programs and services that conservation authorities deliver,
- Provide additional oversight for municipalities and the province, and
- Streamline conservation authority permitting and land use planning reviews to increase accountability, consistency, and transparency.

Since the launch of the review, conservation authorities have been working to meet Provincial expectations regarding consistency and transparency of programs and services and to streamline planning and permitting processes. Since that time, authorities have worked collectively to:

- Adopt consistent By-Laws by December of 2018,
- Implement best management practices regarding governance and administration,
- Voluntarily reduce timelines for issuance of permits, and
- Initiate client centric service training and monitoring protocols to document improvements in service delivery.

Conservation authorities have demonstrated their willingness to work with the Province and change to meet provincial expectations. Unfortunately, the current changes introduced by the Province show no regard for these efforts and many of the proposed changes have consequences which are counterproductive and will increase red tape, cost taxpayers more, and place Ontario's residents and environment at risk.

The following is a summary of our concerns and a resolution that we would respectfully ask you to bring forward to your mayor and council to support.

Summary of Concerns

Provincial Bill 229 changes to both the *Conservation Authorities Act* and the *Planning Act* eliminates the conservation authorities' science-based watershed approach which currently protects Ontario's environment.

- Conservation authorities are important agencies who help protect Ontario's environment. Their science-based watershed information helps to steer development to appropriate places where it will not harm the environment or create risks to people.
- CAs bring watershed science and information to the various tables where development and growth are being reviewed and discussed.
- Provincial changes limit conservation authorities' ability to provide input to municipal planning applications and to permit decisions and appeals.
- The conservation authority watershed model has served Ontario well and is relied upon by many levels of government, businesses, and residents to protect the environment from upstream to downstream.
- Conservation authorities undertake watershed-scale monitoring, data collection, management and modelling; watershed-scale studies, plans, assessments and strategies; and watershed-wide actions including stewardship, communication, outreach and education activities that protect our environment on a watershed basis.

Bill 229 changes will create more costs, delays and red tape around permit and planning applications and appeals.

- There are new appeal processes proposed which will significantly slow down the permitting process, creating delays and more red tape. This will also result in additional costs which would need to be recovered by increasing permit fees or through increases to municipal levies.
- If applicants are not satisfied with decisions made by the Hearing Boards (CA Board of Directors and/or Executive), the new changes will allow applicants to appeal directly to the Minister, who could make his or her own decision and issue a permit.
- Alternatively, or in addition, the applicant can appeal a decision of the conservation authority to the Local Planning Appeal Tribunal (LPAT).
- These changes could add as many as 200 days to the application process.

Bill 229 changes will remove conservation authorities' ability to independently appeal decisions made around permits and municipal planning applications. This will put more people and infrastructure at risk of flooding and other natural hazards as well as add additional stressors to Ontario's biodiversity.

- Conservation authorities' regulatory role is not always a popular one, but it is very important. Being able to participate in appeal processes ensures that the watershed lens is being applied to planning and land use decisions and that people and their property are protected from natural hazards such as flooding.

- Without the ability to look at development applications on a watershed basis, we run the risk of the plan review process being piecemeal and exacerbate risks associated with natural hazards and for cumulative negative environmental impacts.

Bill 229 changes will remove the responsibility for municipally appointed CA Board members to represent the interests of the Conservation Authority.

- The Province has changed the 'Duty to Members' section of the Conservation Authorities Act to have municipal representatives on CA Boards act in the interests of their own municipality rather than the conservation authority's interests.
- This contradicts the fiduciary duty of board members to represent the best interests of the corporation they are overseeing. It puts an individual municipal interest above the conservation authority interests.
- It is contrary to a recent recommendation by the Auditor General that states Conservation Authority Board Members should act in the interest of the Conservation Authority and not their municipality.
- This change undermines the ability of Conservation Authority Boards to address the broader environmental and resource management issues facing our watersheds today. It limits discourse on these issues and other programs and services that address watershed-wide issues spanning municipal boundaries in a time of increasing climate change.

Bill 229 will reduce the ability for enforcement of the Section 28 Regulation, putting residents and the environment at risk by not providing Conservation Authorities the necessary tools to control illegal activities.

- The current revisions significantly limit a Conservation Authority's ability to enforce the regulation. Conservation authorities will have to continue to rely on search warrants to gain entry to a property where infractions/compliance is a concern taking time and costing money. Reasonable grounds for obtaining a search warrant now cannot be obtained unless the activity can be viewed without entry onto the property (i.e. from the road). This will protect would be violators of the regulation.
- The ability to issue Stop (work) Orders has been repealed. This is an important enforcement tool that conservation authorities have been requesting for years. Without this tool, conservation authorities must obtain an injunction to stop unauthorized activities. Obtaining injunctions takes further staff time and Authorities will incur significant costs for legal and court fees. Given the lack of Provincial funding this cost will be borne by our municipalities and ultimately the taxpayers. The time needed to obtain such an order can be lengthy resulting in unnecessary and significant damage to the environment, or alteration of a floodplain which then puts people at risk.
- This unintended consequence is contrary to the Province's Made in Ontario Plan which references getting tough with polluters. Illegal filling, dumping of contaminated materials, destruction of wetlands and significant habitat as identified in the Lake Simcoe Protection Plan are happening. Without the necessary tools, the public and environment are at risk.

Draft Resolution of Support

The following is a draft resolution of support for your consideration:

WHEREAS the Province has introduced Bill 229, Protect, Support and Recover from COVID 19 Act - Schedule 6 – Conservation Authorities Act;

WHEREAS the Legislation introduces several changes and new sections that could remove and/or significantly hinder conservation authorities' role in regulating development, permit appeal process and engaging in review and appeal of planning applications;

WHEREAS we rely on the watershed expertise provided by local conservation authorities to protect residents, property, and local natural resources on a watershed basis by regulating development and engaging in reviews of applications submitted under the *Planning Act*;

WHEREAS the changes allow the Minister to make decisions without conservation authority watershed data and expertise;

WHEREAS the Legislation suggests that the Minister will have the ability to establish standards and requirements for non-mandatory programs which are negotiated between the conservation authorities and municipalities to meet local watershed needs;

WHEREAS municipalities require a longer transition time to put in place agreements with conservation authorities for non-mandatory programs;

WHEREAS municipalities believe that the appointment of municipal representatives on conservation authority boards should be a municipal decision; and the Chair and Vice Chair of the conservation authority boards should be duly elected;

WHEREAS the changes to the 'Duty of Members' contradicts the fiduciary duty of a conservation authority board member to represent the best interests of the conservation authority and its responsibility to the watershed;

WHEREAS conservation authorities have already been working with the Province, development sector and municipalities to streamline and speed up permitting and planning approvals through Conservation Ontario's Client Service and Streamlining Initiative;

WHEREAS changes to the legislation will create more red tape and costs for the conservation authorities, their municipal partners, and potentially result in delays in the development approval process;

AND WHEREAS municipalities value and rely on the natural habitats and water resources within conservation authority jurisdictions for the health and well-being of residents; municipalities value conservation authorities' work to prevent and manage the impacts of flooding and other natural hazards; and municipalities value conservation authorities' work to ensure safe drinking water;

THEREFORE, BE IT RESOLVED

- THAT the Province of Ontario work with conservation authorities to address their concerns by repealing and/or amending changes to the *Conservation Authorities Act* and the *Planning Act* set out in Bill 229;
- THAT the Province of Ontario delay enactment of clauses affecting municipal concerns;
- THAT the Province of Ontario provide a longer transition period up to December 2022 for non-mandatory programs to enable coordination of conservation authority municipal budget processes;
- THAT the Province respect the current conservation authority/municipal relationships;
- AND THAT the Province embrace their long-standing partnership with the conservation authorities and provide them with the tools and financial resources they need to effectively implement their watershed management role.

Thank you for your consideration and we look forward to continuing to work with your municipality into the future.

Sincerely,

A handwritten signature in blue ink that reads "Mike Walters". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mike Walters
Chief Administrative Officer
m.walters@lsrca.on.ca

cc: Regional and Municipal Clerks