



May 16, 2019

To: Minister of the Environment, Conservation and Parks

From: London Development Institute (LDI)

Submission: Comments to the proposed changes to the Conservation Authorities Act

Introduction:

LDI would like to thank the Minister for the opportunity to provide input on the proposed changes to the Conservation Authorities Act. We believe a review of the legislation governing Conservation Authorities is long over due.

The London Development Institute (LDI) is a member-based organization representing most land developers in the London area. LDI has been the leading voice on development issues in our City for more than 40 years. Our goal, working with our partners in local government and the community, is to build a better London.

Our membership has direct involvement with Conservation Authorities throughout the Province of Ontario and most often with the Upper Thames River Conservation Authority in London. Our comments are based on the day-to day interface our members have and continue to experience with Conservation Authorities.

Our comments to the Key Elements:

- clearly define the core mandatory programs and services provided by conservation authorities to be, natural hazard protection and management, conservation and management of conservation authority lands, drinking water source protection (as prescribed under the *Clean Water Act*), and protection of the Lake Simcoe watershed (as prescribed under the *Lake Simcoe Protection Act*)

LDI agrees that clear definitions of core mandatory programs and services is required. Scope creep has been occurring well beyond the CA's mandate for many years. This is an impediment to providing appropriate service to the public as our members need clarity and consistency when working with CA's.

We believe that clear definitions should focus on the hydrologic function of the watershed and not the ecological function. In addition, the definitions guiding CA's must be consistent with the definitions in the Provincial Policy Statement. We need consistency!

- increase transparency in how conservation authorities levy municipalities for mandatory and non-mandatory programs and services. Update the *Conservation Authorities Act* an Act introduced in 1946, to conform with modern transparency standards by ensuring that



municipalities and conservation authorities review levies for non-core programs after a certain period of time (e.g., 4 to 8 years)

LDI supports increased transparency for CA's on several fronts. We believe that MOU's between a municipality and a CA should be made public. As two public sector organizations there is no justification for these agreements to remain a secret. A review of the levies must be done on a consistent timeframe.

Also, we would suggest the development of a mediation process that proponents of applications could engage prior to a decision being made by a CA. This would allow for the opportunity to avoid appeals of CA decisions and focus on finding solutions to outstanding issues.

- establish a transition period (e.g. 18 to 24 months) and process for conservation authorities and municipalities to enter into agreements for the delivery of non-mandatory programs and services and meet these transparency standards

LDI supports the concept of a transitional period to allow CA's to adjust to the new legislative environment in which they would now operate. Our suggestion, however, is that this should be a 8 to 12 month process and not 2 years.

- enable the Minister to appoint an investigator to investigate or undertake an audit and report on a conservation authority

LDI supports the ability of the Minister to audit CA operations. The audit needs to be an operational audit and not just a financial audit. It is important that CA's operate in a financially sound manner but just as important to LDI is their operations in delivering their mandate. Are they operating outside their mandate? Are they hitting their customer service targets? Are there bottlenecks that need to be removed? These are just some of the questions an operational audit needs to address.

- clarify that the duty of conservation authority board members is to act in the best interest of the conservation authority, similar to not-for profit organizations.

LDI supports good governance practises for all public bodies including CA's

Finally, LDI recently developed a White Paper entitled "Changes to Land Use Planning Legislation and Policy in Ontario". In this paper we suggest several improvements to the Planning Act, Provincial Policy Statement, Conservation Authorities Act and the Local Planning Appeals Tribunal. I have included the summary below, from our White Paper, as it relates to the Conservation Authorities Act.



CONSERVATION AUTHORITIES ACT

Ontario Conservation Authorities are overstepping their mandates and using their authority under Section 28 of the *Conservation Authorities Act* to deliberately slow down or stop development from occurring in municipalities. Recent changes to the *Act* (which have not yet come in to force and effect) fail to address the lack of accountability and transparency in Conservation Authority operations. To address these issues, the Provincial government must repeal Bill 139 and incorporate the following principles into new legislation:

- Make the *Conservation Authorities Act* subservient to the *Planning Act*, so Conservation Authorities can be held accountable for their land-use planning decisions by a third-party tribunal;
- Direct planning authorities to consider the PPS in its entirety, rather than prioritizing Natural Heritage policies, to restore a balanced approach to PPS interpretation;
- Establish development fee schedules and acceptable exceptions for open meetings at the Provincial level to prevent local abuses of power;
- Define the term “development activities” in the *Conservation Authorities Act* to establish reasonable boundaries for Conservation Authority jurisdiction;
- Curtail Conservation Authority enforcement officers’ powers, and uphold individuals’ constitutional rights to be protected against unreasonable search and seizure;
- Stipulate deadlines for authorities to review and respond to information and submissions provided through the planning application process to prevent unreasonable and excessive delays; and
- Implement a more efficient dispute resolution mechanism for owners to appeal or question unreasonable or vague requests for additional information during the planning application process.

If you have any questions or wish to consult with the London Development Institute in further detail on any of the issues raised, please do not hesitate to contact us. We are more than willing to meet with the Minister, his staff or a Standing Committee of the Government of Ontario.

Thank you for your consideration.

Mike Wallace
Executive Director
London Development Institute