

November 30, 2023

Heritage Branch, Ministry of Citizenship and Multiculturalism
400 University Avenue, 5th Floor
Toronto, ON M7A 2R9

To Whom It May Concern;

**RE: City of Kawartha Lakes Heritage Planning Staff Comments: Bill 139
Amendments to the Ontario Heritage Act and Its Regulations**

City of Kawartha Lakes Heritage Planning staff have reviewed the proposed amendments to the Ontario Heritage Act and its associated regulations through Bill 139, the Proposed Less Red Tape, More Common Sense Act. A review of the proposed amendments raises a number of concerns from a municipal perspective, particularly with regard to the new level of complexity the Ministry is proposing for applications regarding religious buildings that serves neither municipal staff nor applicants. These comments represent review and commenting by both municipal staff and the Municipal Heritage Committee. Answers to the specific questions regarding regulatory impact are also included.

- **Lack of clarity regarding application:** The application of the legislative and regulatory amendments is not clear and additional clarification as to when an organization would be eligible to apply through this stream is seriously required. What does it mean for an alteration to be required for religious practice or for attributes to be connected to religious practice? The interpretation of what this means could vary wildly from municipality to municipality or applicant to applicant. It is not clear if these conditions apply solely to liturgical features with specific functions and theological purposes, such as rood screens and alters, or to features which are more loosely connected to religious activities such as pews. The Ministry needs to provide significantly more direction on when and where these new conditions would be applicable. The lack of clarity is a disservice to both applicants and municipalities.
- **Revised timelines:** The new 30-day timeline is too short to review and approve an application. While there are certainly some straightforward applications which could be reviewed and approved within this timeline, this would not be the case for many applications where there may be complexity to them or where the application should be denied. In the City of Kawartha Lakes, once staff have

received and processed applications, the Municipal Heritage Committee reviews applications related to individually designated properties prior to approval. The Committee only meets once per month, meaning that it may be a challenge for the application to go onto a Committee agenda depending on when it is received. Similarly, applications which involve the removal of heritage attributes and would be classified as a demolition or those which staff and the Committee should be denied must be reviewed and approved by Council, as per the regulations of the Act. The steps to approve or deny such as application, including receipt of an application, review by staff, review by the Municipal Heritage Committee and then review by Council is under no circumstances achievable under this new timeline.

- **Approvals without conditions:** The ability to issue conditional approvals is extremely important in the review and approval of heritage applications and the Committee is very concerned that this ability will be taken away for certain types of applications. Conditional approvals are frequently used to help come to a consensus with the property owner, while still signalling that a project can go ahead but usually with minor modifications. Conditional approvals is a method of working with the property owner to come to a good and collaborative solution that both assists a property owner in undertaking the work they would like to do while still ensuring that heritage attributes are preserved. It is likely that, without conditional approvals, more applications will just be denied which will be a detriment to property owners and create more challenges in getting their applications approved and projects completed.
- **Increase in complexity:** The new application requirements for applications that fall under the amendments are substantially more complex than the applications requirements under the regular stream. The addition of new information that must be provided by the applicant goes above and beyond what most applicants need to provide and are not necessary to process heritage permit applications. Further, they increase the complexity and time required for staff and the Municipal Heritage Committee to review these applications, increasing delays and creating more opportunities for applications to be declared incomplete.
- **Application to Indigenous communities:** The addition of Indigenous communities to the amendments and associated regulations feels like an afterthought and additional information is needed on how and under what circumstances these amendments would apply to applications made by Indigenous communities. Kawartha Lakes is committed to reconciliation and

working closely with Indigenous groups and communities but does not feel that these amendments adequately address how they apply to Indigenous communities or what benefit would be derived from them. It is extremely important that any amendments to the OHA that impact Indigenous communities are undertaken with fulsome and appropriate consultation and there is no evidence that this has occurred.

Reponses to MCM Questions RE: Regulatory Impact

Question: Is 30 days a sufficient time for municipalities to process applications and determine if they are complete? No. See above.

Question: Are there any further conditions that should be applied to these types of applications? There needs to be additional clarity as to what benefiting an Indigenous community or religious organization actually means. This is extremely subjective and is neither helpful for applicants or municipal approvers.

Questions: Is the list of information and materials required as part of complete application sufficient? Are there any materials or information that is missing or should be removed? In relation to the proposed amendments, the list of information and materials is fine, although it needs to be noted that by creating two application streams, it massively complicates processes for municipal staff and applicants who may not know what stream that can apply through and, by extension, what information to submit.

Questions: For municipalities:

1. How many applications do you receive each year from municipally designated heritage properties that are primarily used for religious practices or Indigenous spiritual or religious practices requesting an alteration to identified heritage attributes connected to those practices? Generally, we would receive one or two of these per year although it is likely to increase given the increase in individual designations due to Bill 23.
2. How long does it typically take to review such an application (in hours)? How long do you believe it would take under the revised process and requirements? Review of these applications include: meeting with the application, receiving and checking an application for completeness, entering the application into CityWorks (our application management software), writing a report for the Municipal Heritage Committee, reviewing it with the Municipal Heritage Committee, speaking to the applicant about any issues, and issuing the permit. Depending on the type of application, it may also require review by Council which would include

the writing of a report and discussion by Council. On average, an application such as this may take 4 to 6 hours to process. It is likely that the review time would increase due to the new submission requirements and verifying the documents submitted and the eligibility of the project for the application stream as well as the likelihood that more things would be going to Council to be denied. This may result in 6 to 8 hours of additional work.

3. What level of employee in your organization typically undertakes this work (e.g., administrative staff, management)? Review is undertaken by the City's heritage planner (non-union mid-level staff position).

In general, City staff are of the opinion that the proposed amendments would hinder, rather than help, applicants and the processing of applications within a timely manner as it adds unnecessary complexity to applications and removes the collaborative process that can be initiated through a conditional approval. It is highly likely that the proposed amendments will lead to more denied applications where there are solvable issues with an application which does not serve the applicants. Over the past several years, the City has worked to streamline its application process to make it easier for applicants to navigate and submit successful applications and these amendments will do the opposite. The added complexity for both applicants and municipal staff will create more challenges in providing good and timely service to our residents and property owners.

Staff have also received comments directly from the Kawartha Lakes Municipal Heritage Committee in the form of a letter from the Committee Chair. A copy of this letter is attached.

Sincerely,



Emily Turner, MA PhD
Economic Development Officer – Heritage Planning
City of Kawartha Lakes
Development Services
eturner@kawarthalakes.ca

November 30, 2023

Emily Turner
Economic Development Officer – Heritage Planning
City of Kawartha Lakes
180 Kent Street West
Lindsay ON K9V 2Y6

Dear Ms. Turner;

The Kawartha Lakes Municipal Heritage Committee has reviewed the proposed amendments to the Ontario Heritage Act and its associated regulations through Bill 139, the Less Red Tape More Common Sense Act. The Committee has significant concerns regarding these amendments and would like to offer its comments for submission to the Environmental Registry of Ontario alongside comments from City staff.

The Committee's concerns can be summarized as follows:

- **Lack of clarity regarding application:** The application of the legislative and regulatory amendments is not clear and the Committee feels that additional clarification as to when an organization would be eligible to apply through this stream is seriously required. What does it mean for an alteration to be required for religious practice or for attributes to be connected to religious practice? The interpretation of what this means could vary wildly from municipality to municipality or applicant to applicant. It is not clear if these conditions apply solely to liturgical features with specific functions and theological purposes, such as rood screens and alters, or to features which are more loosely connected to religious activities such as pews. The Ministry needs to provide significantly more direction on when and where these new conditions would be applicable. The lack of clarity is a disservice to both applicants and municipalities.
- **Revised timelines:** The new 30-day timeline is too short to review and approve an application. While there are certainly some straightforward applications which could be reviewed and approved within this timeline, the Committee has significant concern that this would not be the case for many applications where there may be complexity to them or where the application should be denied. In the City of Kawartha Lakes, the Municipal Heritage Committee reviews applications related to individually designated properties prior to approval. The Committee only meets once per month, meaning that it may be a challenge for the application to go onto a Committee agenda depending on when it is received. Similarly, applications which involve the removal of heritage attributes

and would be classified as a demolition or those which staff and the Committee should be denied must be reviewed and approved by Council, as per the regulations of the Act. The steps to approve or deny such as application, including receipt of an application, review by staff, review by the Municipal Heritage Committee and then review by Council is under no circumstances achievable under this new timeline.

- **Approvals without conditions:** The ability to issue conditional approvals is extremely important in the review and approval of heritage applications and the Committee is very concerned that this ability will be taken away for certain types of applications. Conditional approvals are frequently used to help come to a consensus with the property owner, while still signalling that a project can go ahead but usually with minor modifications. The Committee views conditional approvals as a method of working with the property owner to come to a good solution. It is likely that, without conditional approvals, more applications will just be denied which will be a detriment to property owners and create more challenges in getting their applications approved and projects completed.
- **Increase in complexity:** The new application requirements for applications that fall under the amendments are substantially more complex than the applications requirements under the regular stream. The addition of new information that must be provided by the applicant goes above and beyond what most applicants need to provide and are not necessary to process heritage permit applications. Further, they increase the complexity and time required for staff and the Municipal Heritage Committee to review these applications, increasing delays and creating more opportunities for applications to be declared incomplete.
- **Application to Indigenous communities:** The addition of Indigenous communities to the amendments and associated regulations feels like an afterthought and the Committee would like additional information on how and under what circumstances these amendments would apply to applications made by Indigenous communities. The Committee is committed to reconciliation and working closely with Indigenous groups and communities but does not feel that these amendments adequately address how they apply to Indigenous communities or what benefit would be derived from them.

The Committee is also confused as to why these regulations have come about. They are extremely niche as they only apply to religious groups and do not appear to have any real benefit to property owners or municipalities. It appears that the Ministry is trying to fix a problem that does not exist and, as a result, making the alteration application process substantially more difficult for all parties. The Committee would appreciate additional clarity from the Ministry as to the rationale for these new regulations to better understand their impact and purpose.

Sincerely,

A handwritten signature in cursive script that reads "Athol Hart". The signature is written in black ink and is positioned below the word "Sincerely,".

Athol Hart
Chair, Kawartha Lakes Municipal Heritage Committee