



HEALTHY COMMUNITIES • SUSTAINABLE COMMUNITIES

July 31, 2017

Mr. Finn MacDonald,  
Policy Officer,  
Ministry of Natural Resources and Forestry,  
Policy Division,  
Natural Resources Conservation Policy Branch,  
Water Resources Section,  
300 Water Street,  
PETERBOROUGH ON K9J 8M5

**Subject: Bill 139, Schedule 4  
Amendments to the Conservation Authorities Act  
EBR Registry Number: 013-0561**

Dear Mr. MacDonald:

The Ontario Professional Planners Institute (OPPI) is pleased to provide comments on Schedule 4 of Bill 139, *Building Better Communities and Conserving Watersheds Act, 2017*, that was introduced at First Reading on May 30, 2017. OPPI also uses the companion document, "Conserving Our Future - A Modernized Conservation Authorities Act" to understand the proposed changes to the legislation and the process.

OPPI is the recognized voice of the Province's planning profession. Our almost 4,500 members from across Ontario work in government, private practice, universities and not-for-profit agencies in the fields of urban and rural development, community design, environmental planning, transportation, health, social services, heritage conservation, housing, agriculture, agri-food and economic development. Members meet quality practice requirements and are accountable to OPPI and the public to practice ethically and to abide by a Professional Code of Practice. Only Full Members are authorized by the *Ontario Professional Planners Institute Act, 1994*, to use the title "Registered Professional Planner" (RPP).

In considering this response, we have referred to and reflected upon our two previous submissions, dated October 19, 2015 and September 9, 2016, regarding the Conservation Authorities Act Review.

The following comments are submitted for consideration by the Ministry and the Legislature.

**Summary Submission**

OPPI supports the intent of the proposed legislative changes. We support the regulatory and administrative changes that are intended to clarify the roles and responsibilities of the Conservation Authorities and the Provincial Ministries with

regard to the implementation of the “conservation, restoration, development and management of natural resources in watersheds”.

OPPI has several comments with respect to the improvement of Conservation Authority practices in relation to municipal planning activities under the *Planning Act*. OPPI is prepared to work with the Ministry regarding the ongoing consultation in the establishment of regulations, standards and procedures relevant to *Planning Act* matters.

### **1. Implementation Timeline**

We support the Ministry’s commitment to phase the implementation process over a four year period. It is reasonable that the fundamental structural changes to the watershed conservation process are carefully considered with open discussion among the various stakeholders. Members of OPPI are familiar with the current process and will be vital participants in the emerging process. Our Members work in both municipalities and conservation authorities and support the modified Section 20(1) object of the authorities to provide programs and services in the area of jurisdiction of the conservation authority.

Since our Members, when dealing with conservation authority matters, whether employed in a conservation authority, a municipality, or private practice, work together to achieve similar objectives under different and related Acts, OPPI offers its experience and expertise to participate in the proposed Service Delivery Review Committee. Our Members are willing and able to support the Ministry in developing proposed policies and regulations. OPPI supports the following statement in “Conserving Our Future” (page 16): “Conservation authorities are anticipated to play an increasingly important role in assisting municipalities in delivering climate change mitigation and adaptation initiatives.” This relationship is reflected in the collaboration that takes place between many conservation authorities and municipalities where conservation authorities provide technical expertise assisting municipalities to implement shared objectives for sustainability.

### **2. Conservation Authority Objects**

OPPI supports that the focus of the objects of conservation authorities is to provide programs and services within their jurisdiction. In its September 9, 2016 submission, OPPI recommended that the legislation include a specific object to protect and restore the ecological health of watersheds and reflect the conservation authority’s role in flood remediation.

Including this object in Section 20(1) is one alternative to satisfy this concern, but we also note that the proposed Act will provide that the Province will enact regulations, under sections 21.1 (1) and (2) that will establish mandatory programs and services and implementation standards and requirements. In our opinion, these standards and requirements should include the protection and restoration of ecological health and the remediation of flood impacts.

### **3. Conservation Authority as Local Board**

In both of the previous submissions, OPPI submitted that there needs to be clarification regarding the status, in legislation, of the conservation authority as a Local Board. This is important since the conservation authority performs its function as a commenting agency to municipalities that are considering *Planning Act* applications. In the September 9, 2016 submission, OPPI made the following recommendation:

OPPI recommends the province consider changing the legislation to resolve whether the conservation authority is a "local board" pursuant to sections 3(5) and 3(6) of the *Planning Act* and section 4.2 of the *Provincial Policy Statement*. It will be helpful to establish whether the decisions and comments of conservation authorities are subject to these same responsibilities when dealing with planning matters.

Subsections 3(5) and 3(6) of the *Planning Act* establish that a decision of a "local board" and comments provided by a "local board" shall be consistent with Provincial Policy Statement 2014. Subsection 4.2 of PPS2014 directs the same level of consistency.

Bill 139, Part 1 of Schedule 1, revises the wording of the existing definition, in the *Planning Act*, of "local board". The definition states that a "local board" is established under or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes of a municipality or part of a municipality". OPPI recommends that for purposes of providing effective comments to a municipality, this definition should include "a conservation authority established under the *Conservation Authorities Act*".

#### **4. Conservation Authority as Commenting Agency**

The proposed Act is silent on the role and responsibility of the conservation authority as a commenting agency to municipalities that are considering *Planning Act* applications. The conservation authority serves an important role as a third-party agency that has a role and responsibility under section 20 of the Act. As stated above, OPPI believes that the conservation authority must provide comments that are consistent with PPS2014 and in conformity with provincial plans, to the municipality. This focus will strengthen the importance and efficacy of the conservation authority's interests in the municipal planning process.

The proposed Act provides in subsection 21.1(1)1, that the LGIC will establish Regulations "Requiring authorities to provide those programs and services and respecting standards and requirements applicable to those programs and services". We are encouraged that the Ministry, in the "Conserving Our Future" document, clearly states the following commitment:

Creating a new regulation outlining the roles and responsibilities of conservation authorities in reviewing planning documents for consistency with the *Provincial Policy Statement* (PPS), including policies related to natural hazard policies and land use and development patterns that promote climate change adaptation and mitigation.

OPPI recommends that this commitment be extended to include not only documents, such as official plan policies, but to comments by conservation authorities on planning applications and matters that are under consideration by municipalities, and to comments on applications under the *Ontario Building Code*, when requested by the Chief Building Official.

OPPI will be pleased to work with the Ministry in developing these regulations under subsection 21.1(1)1.

#### **5. Conservation Authority Regulations**

OPPI supports the legislative intent to replace Section 28 Regulations made by conservation authorities with Regulation(s) enacted by the Province. We anticipate that this approach may establish new section 28 prohibitions, exemptions and permit administration tailored to the implementation capacity of individual authorities. In previous submissions, OPPI raised the concern that under the existing section 28 provisions, there is conflicting objectives regarding development as a responsibility of municipalities under the *Planning Act* and the prohibition of development under the *Conservation Authorities Act*.

We understand the proposed new section 28 to function as follows:

- A person or person is prohibited from altering existing watercourses or interfering with a wetland; and
- Development activities are prohibited in specific natural area features.

The details of the nature of these development activity prohibitions are to be established by regulation for the following purposes:

- The limits of river or stream valleys;
- The areas adjacent to or close to the shoreline of the Great Lakes-St. Lawrence River system or to an inland lake;
- The activity or type of activity or development activity to which the prohibitions do not apply or are carried out;
- The definition of a "development activity";
- The definition of a "watercourse";
- The definition of "hazardous land";
- The definition of "wetland".

OPPI encourages the Ministry to carefully consider the definition of "development activity" in order that it does not conflict with the role and responsibility of the municipality to regulate and plan for "development" under the *Planning Act* and that is intended to be consistent with PPS2014. OPPI continues to be concerned that the prohibitions, exemptions and permits administration will take precedence over the municipality's *Planning Act* statutory responsibilities and continue to create the conflict.

In its submission, dated October 19, 2015, OPPI recommended that the new legislation should include a definition of "conservation of land". In proposed subsection 28.1(4)(b) of Bill 139, the authority may attach conditions to a permit or refuse a permit if "the activity is likely to affect the control of flooding, erosion, dynamic beaches or pollution or the conservation of land". This is unchanged from the existing Act and the Generic regulation. If there is no definition of "conservation of Land" in the *Conservation Authorities Act* and consequently in the regulations, then we anticipate that the authority's interpretation of the term "conservation of land" may continue to conflict with the municipality's planning responsibilities regarding land use and development.

OPPI would be pleased to work with the Ministry in developing these definitions and the required Minister's regulations under section 40(3)(e) and (f) of the proposed Act, as well as the regulations for roles and responsibilities of conservation authorities in reviewing and commenting on planning documents and applications.

OPPI continues to support the provincial initiative to update and improve the *Conservation Authorities Act*. We welcome the opportunity to meet with you and staff to discuss this submission and to further explore these ideas and recommendations.

To schedule a meeting or for further information, please contact me at 416-668-8469 or by email at [L.ryan@ontarioplanners.ca](mailto:L.ryan@ontarioplanners.ca).

Sincerely,

A handwritten signature in black ink, appearing to be 'L. Ryan' with a horizontal line extending to the right.

Loretta Ryan, RPP, CAE  
Director, Public Affairs  
Ontario Professional Planners Institute