**Submission on ERO-019-6141 and 019-2927**

**Legislative and Regulatory Proposals Affecting Conservation Authorities to Support the Housing Supply Action Plan 3.0**

December 9, 2022

**FRIENDS OF THE GOLDEN HORSESHOE**

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**FRIENDS OF THE GOLDEN HORSESHOE –** ERO-019-6141 and 019-2927

This proposal will clearly result in negative impacts on the environment and Ontarians. It should be withdrawn in its entirety.

These proposed legislative and regulatory changes continue the Government’s blatant assault on Ontario’s Conservation Authorities (CAs) with the stated goal of “focusing conservation authorities on their intended purpose” – which the Government confines to natural hazards and flooding. This is an extremely narrow understanding of what CAs do for the people of Ontario. It furthers the dismantling of 75 years of progressive CA management and stewardship of Ontario’s watersheds.

The proposed changes indicate worrisome unfamiliarity or, worse, conscious misrepresentation of the purpose of the Conservation Authorities Act, which is crystal clear — “to further the ***conservation***, restoration, development and ***management of natural resources*** in Ontario’s ***watersheds.***” This purpose is one of the three core founding principles of the original 1946 Conservation Authorities Act.

This deliberate dismantling of environmental protection comes at a time when the need for holistic watershed management is greater than ever. The ravages of climate change are increasing rapidly while the CA Report Cards provide irrefutable evidence that all of the region’s urbanizing sub-watersheds have poor to very poor forest, surface and groundwater conditions. With CAs possessing a vast, long-accumulated cross-section of expertise, local knowledge, and massive science-based databases, it makes absolutely no sense to restrict their mandate as the government now seeks to do.

There is no entity able to fill the gap left by restricting the CA roles as the Ministries of Natural Resources and the Environment have virtually no on-the-ground presence in watershed planning and management, while the Auditor General concludes staff in those ministries feel the Government is not adhering to its natural resource and environmental protection responsibilities which it does have. The Golden Horseshoe and other regions are less protected than they have been for generations.

CAs provide the most cost- effective method of watershed management — offering data, expertise and services under one roof to multiple municipalities – lessening risk and liabilities via their expertise and watershed-based data bases/knowledge. Municipalities – particularly with the abolition of upper tier planning - are not positioned to fill the gap as their mandates are limited and they lack expertise, resources and data – a fact and major concern even BILD has raised in response to this posting.

It is inconceivable that the Regulatory Impact Statement for this proposal states: “*Anticipated environmental consequences of these proposals are* ***neutral***” and that, “*social consequences of the proposal are* ***positive***.” This is simply untrue given the proposal baldly states the terms “conservation of land” and “pollution” will be removed from the Conservation Authorities Act. It is shocking that the Government could make such a preposterous and blatantly false and misleading statement.

Following are additional comments on but a few of the more egregious elements of this proposal.

**Removal of the Terms “Conservation of Land” and “Pollution” from the Act**

For the last 75 years, the purpose of the Conservation Authorities Act has been “to further the conservation, restoration, development and management of natural resources in Ontario’s ***watersheds.***” Clearly, “conservation” is the bedrock of the Act – hence the name **Conservation** Authorities Act which enable **Conservation** Authorities. It is incomprehensible how the term “conservation” can be removed – nor why it should be. ***The proposal provides no evidence, analysis or rationale as to why conservation should be removed as a core mandate.***

Similarly, removing the term “pollution” from the CA mandate is absurd. By anyone’s common understanding, management of natural resources clearly includes dealing with pollution. Even the proposed core mandate of natural hazards – and specifically flood management – deals inexorably with pollution.

The proposal inherently conflicts with Ontario’s legislative water quality framework. Storm water management infrastructure is regulated under the Environmental Protection Act ponds/discharges are considered sewage treatment facilities (because of the contaminants within storm water). They are also governed by the Ontario Water Resources Act and Provincial Water Quality Objectives. Ontario issues water quality standards and threshold for pollutants which CAs must ensure adherence to in their permitting of storm water management infrastructure (ie. flood protection). BILD’s support for the removal of the term pollution on the basis it is subjective flies in the face of quantifiable metrics for pollutants issued by the Government.

The Act’s purpose that “conservation of land … to manage natural resources in Ontario’s watersheds” could not be clearer. CAs were established using watershed boundaries in determining their spatial jurisdiction. Removing the term conservation and restricting the mandate to natural hazards essentially removes a vital part of the need to manage our natural resources – which are Ontario’s natural capital, source of economic competitiveness and foundation of our health via clean, air land and water. They also contribute billions of dollars annually by providing ecological goods and services.

Limiting the mandate to natural hazards is completely at odds with the purpose of the Conservation Authorities Act. It prevents CAs from doing what they were created to do — engage in comprehensive, watershed planning. In the 21st century, with its climate emergency, this planning involves far more than responding to flooding. Again, this reveals the Government’s obvious lack of understanding of what CA watershed planning does – noting the civil service is well versed and supportive of the CA mandate as it has published numerous manuals, guidelines and technical documents promoting and advising on how to conduct watershed planning while also making it a bedrock of numerous provincial plans and the Provincial Policy Statement.

Watershed planning involves much more than flood control. It deals with determining appropriate management of ground water recharge areas and vulnerable aquifer areas to protect the quantity and quality of the region’s aquifers. It is essential for managing sustainable drinking water supplies and for fulfilling provincial requirements for water budgets. It also ensures sustainable baseflow in watercourses — both for aquatic species and other flora and fauna dependent on the watercourses. Proper watershed planning also is needed to ensure sufficient flow in watercourses that act as receivers for sewage treatment and storm water management facilities – thus ensuring that Ontario’s water quality standards are adhered to.

Watershed planning is also critical for ensuring connected landscapes for flora and fauna to migrate – particularly in a changing climate. It is important for developing carbon budgets — and the role that agricultural, open and natural areas (particularly forests/woodlands) play in carbon sequestration. It also plays a fundamental role in ensuring sufficient water resources for agriculture – both in terms of irrigation and passive soil moisture.

***Given these realities and contradictions with other Ontario legislative frameworks, the proposed removals of the terms “conservation of land” and “pollution” makes absolutely no sense.***

**Restrictions on Permitting**

There are several proposed regulatory changes, which together with the regulatory changes proposed under ERO 019-2927, inappropriately restrict CAs ability to do their job properly. These include:

* exempting development authorized under the *Planning Act* from requiring a permit under the *Conservation Authorities Act*
* requiring CAs to issue permits for projects subject to a Community Infrastructure and Housing Accelerator and allowing the Minister to review and amend any conditions attached to those permits
* extending the authority of the Minister to prescribe conditions on a permit issued by a CA where there is a Minister’s Zoning

These changes will allow various development proposals to proceed without a CA Review or permit. They essentially make the Minister the replacement for the CAs — despite the Ministry not having any of the detailed expertise, local knowledge or scientific databases to conduct an informed analysis and assessment of a development proposal. It will clearly be left to the developers, who have no obligation or the appropriate information to engage in watershed-based planning. It leaves developers in charge of the water Ontarians drink without any objective oversight. It has nothing to do with providing affordable housing.

***The absence of objective, comprehensive, science/watershed-based analysis, design and protection, will lead to piece-meal watershed management and environmental degradation.***

**Restrictions on Review and Commenting**

In addition to the restrictions on permitting, the proposal further hamstrings CAs authority by prohibiting them from commenting on anything but hazards in relation to virtually every type of application that involves development, aggregate extraction, drainage, any form of infrastructure (sewer, water, transportation, waste disposal etc.), endangered species or water quality which fall under the following list of Acts:

* + *The Aggregate Resources Act*
  + *The Condominium Act*
  + *The Drainage Act*
  + *The Endangered Species Act*
  + *The Environmental Assessment Act*
  + *The Environmental Protection Act*
  + *The Niagara Escarpment Planning and Development Act*
  + *The Ontario Heritage Act*
  + *The Ontario Water Resources Act*
  + *The Planning Act*

The myriad of development, infrastructure and other facilities/operations allowed under these acts that will no longer undergo any review from a watershed conservation and resource management perspective is unfathomable and mindboggling. There is no suggestion or indication that any other agency or level of government is to fill the void created by this ill-conceived proposal.

***The proposal will severely compromise the ability of Ontarians to protect their own environment.***

**Choking Conservation — freezing fees to feed special interests**

The proposal plans to freeze CA fees for programs and services at current levels — even with respect to the proposed limited role in commenting/permitting on hazards – a role that will continue in relation to applications made under any of the acts listed above. It does not even provide for fee increases to cover inflation or even a portion of it. Clearly, this is a backdoor effort to further eviscerate the ability of CAs to fulfil their mandate — even with respect to flooding. The government rationalizes this as a cost savings for developers and yet there is no requirement that these savings be passed on to the consumer.

***This is a gift to developers, will undermine the ability to provide even the scoped role on hazards the Government is proposing, and a recipe for increased risk and liability.***

**Making matters worse … is prohibiting CA appeals of planning decisions**

The proposal also contemplates amending the Planning Act to prohibit CAs from appealing development applications to the Ontario Land Tribunal – even if the appeal is directly related to hazards including flooding. The proposal would only allow a CA appeal where it was acting as an applicant, which essentially never occurs as CAs are not in the development business. Under this proposal, a CA might be forbidden from appealing even if it identifies flooding risks arising from a development application under the Planning Act.

***This is yet another example of this proposal being internally and externally incongruent.***

**Direction to Sell off Conservation Authority Lands**

Inexplicably, the proposal requires CAs to undertake inventories of their land holdings to identify lands for potential use for housing. These are lands that were acquired for conservation purposes in the first instance. ***We need more, not less, open space.***

There are more than 200,000 acres of land currently approved for urban use within settlement boundaries in the Greater Golden Horseshoe – including more than 50,000 acres that the Minister approved just within the last month.

Conservation Authority land acquisitions were not only supported by local citizens, businesses, municipalities, and individual dedications but by all Ontarians via provincial grants. Again, even BILD has raised significant concerns over this element of the proposal.

***The Government has no mandate to force CAs to transfer the investments made by prior generations to private interests.***

**Conclusion**

While everyone agrees that additional housing is important and that efforts are needed to facilitate it, dismantling 75 years of progressive oversight, management and stewardship by Conservation Authorities is irresponsible, shortsighted and illogical in relation to cost, efficiency and fit with other provincial legislative and regulatory frameworks. There is absolutely no need to abandon environmental management in the name of building housing and in fact none of the elements of the proposal will lead to more housing being built faster. Housing and environmental management need to continue, and can easily co-exist, as mutually supportive ends.

***The proposal is ill-conceived and should be withdrawn in its entirety.***

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