

To: *Committee of the Whole, Conservation Ontario Council*

From: *Jeff Brick, Chair, Conservation Ontario Planning Committee*

Subject: *Bill 26, Strong Communities (Planning Amendment) Act, 2003
Conservation Authorities Consultation and Conservation Ontario Position*

Date: *February 5, 2004*

All Conservation Authorities were invited to provide input on Bill 26, the Strong Communities (Planning Amendment) Act, 2003 which received First Reading in the Legislature on December 15, 2003. The Act has been posted on the Environmental Bill of Rights (EBR) Registry as AF03E0001 with comments on this posting to be submitted by March 15, 2004.

Comments on Bill 26 were received from the following Conservation Authorities: Ausable Bayfield, Essex Region, Grand River, Niagara Peninsula, Maitland Valley, Rideau Valley, Saugeen Valley, St Clair Region, Toronto and Region, and Upper Thames.

The comments were summarized in a table and shared with the Conservation Ontario Planning Committee which includes the following staff:

Rebecca Belanger, Essex Region; Fred Natolochny, Grand River; Suzanne McInnes, Niagara Peninsula; Don Maciver, Rideau Valley; David Burnett, Toronto and Region; and, Jeff Brick, Upper Thames.

The Committee was provided with the consolidated comments from the Conservation Authority circulation and additional resources including the GTA Task Force Report on OMB Reform and some additional legal opinions and decisions related to the OMB reform topic. The Committee reviewed the information provided relative to the four main themes of the proposed legislation. For each theme, the members of the Committee that were able to participate in a conference call discussed the specific item and agreed on a recommended position. The agreed upon positions are outlined below.

Requiring that Planning decisions be “consistent with” the Provincial Policy Statement (PPS)

The Committee agreed that the move to “shall be consistent with” from “have regard for” should be supported. It was however noted that the existing “have regard for” did not seem to be subject to widespread abuse. The Committee also noted that the “shall be consistent with” approach does create the potential for increased complications when PPS policies conflict and there is a need to balance competing interests. The Committee noted that while this is addressed in the Implementation section of the current PPS, revisions to this section of the PPS were recommended by Conservation Ontario as part of the PPS Five Year Review Initiative. The Committee agreed that Conservation Ontario should encourage the Province to proceed with the completion of the Five Year Review process to deal with this specific policy issue but also to address the other Conservation Ontario recommendations on updating the PPS.

Recommendation 1

That Conservation Ontario support the amendment that would require that decisions “be consistent with” the PPS,

And That Conservation Ontario encourage the Province to proceed with the PPS Five Year Review Process

Increase in Time Periods for Application Review

The Committee agreed that the existing time periods for review are problematic and supported the proposed lengthening of the time periods. The Committee also noted that time periods for review are directly influenced by both the completeness of the application and pre-consultation prior to application submission. In this regard, the Committee agreed that the GTA Task Force on OMB Reform recommendations on Complete Application and Pre-Consultation should be promoted as the Conservation Ontario position.

Recommendation 2

That Conservation Ontario support the proposed increase in time for reviews,

And That CO recommend that the GTA Task Force on OMB Reform recommendations on Pre-Consultation and Complete Applications be incorporated into Bill 26

Appeals to OMB for Urban Expansions

Feedback from the CA’s supported this revision and the Committee also agreed.

Recommendation 3

That Conservation Ontario support the revisions contained in Bill 26 relating to appeals for urban expansions.

Declaration of Provincial Interest

The proposed legislation includes provisions for the Minister of Municipal Affairs to declare a matter as being a Provincial Interest and in such cases, the Lieutenant Governor in Council may confirm, vary or rescind the decision of the OMB. The Committee has considered these revisions and does not support them. Concerns identified include:

- The declaration by the Minister and the subsequent powers afforded to the L.G. in C. moves the technical and legal process into a political process.
- The substitution of a political decision making process for an evidence based process may be a violation of natural justice.
- It is felt that there will be a loss of openness and transparency when the decision making is moved to Cabinet
- Provincial interests are already listed in Section 2 of the Planning Act and MMA already has the ability to identify a matter as being of Provincial Interest through the One Window Planning System and as a party at the OMB.
- Decisions may become very politicized with the potential for private interest lobbying and at certain points in the mandate of the government, decisions may be deferred for political reasons.

- It is our understanding that such a process was followed in the past (pre-1983) and that it was abandoned for some of the reasons noted above.

Recommendation 4

That Conservation Ontario not support the declaration of Provincial Interest provisions of the proposed legislation.

Transition Policies and Guidelines

The need for transition policies and guidelines was identified through the CA consultation and is supported by the Committee.

Recommendation 5

That Conservation Ontario encourage the Province to develop transition policies and guidelines to assist with implementation of Bill 26 when approved.

Information on the Conservation Authority consultation and resources related to Bill 26 can be found at the following website: <http://www.thamesriver.on.ca/planning/planning.htm>

Recommendation

BE IT RESOLVED THAT Recommendations 1 to 5 in the Bill 26 staff report be endorsed

AND THAT these be communicated in response to the Environmental Bill of Rights (EBR) posting by the March 15, 2004 deadline.