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September 6, 2016

Mr. Alex McLeod
Policy Officer
Natural Resources Conservation Policy Branch
Ministry of Natural Resources and Forestry
300 Water Street
Peterborough, Ontario
K9J 8M5

Dear Mr. McLeod:

Re: *Conservation Authorities Act* Review

I am submitting the following comments on the second phase of this review on behalf of my client, the North Gwillimbury Forest Alliance (NGFA), whose mission is to protect the 1,418 ha North Gwillimbury Forest in the Town of Georgina, one of the 10 largest forests in the Lake Simcoe watershed. My October 16, 2015 letter to Julia Holder (enclosed) described my client's particular interest in the *Conservation Authorities [CA] Act*, and provided our comments on the July 2015 Discussion Paper. The following comments on the May 2016 Proposed Priorities for Renewal are intended to carry those concerns forward in the context of this phase, and I offer them in the interests of good policy and good planning generally.

By and large, the priorities are laudable, and we do not take any specific issue with the potential actions identified in the green boxes. Priority 4 is not relevant to NGFA's concerns. We do have some concerns about Priority 5, which I leave till the end of the letter.

In our 2015 letter, NGFA and I made seven quite specific recommendations, and provided a rationale for each. The potential actions in the Proposed Priorities for Renewal are still too general to be assessed against those recommendations. However, I believe that six of our recommendations would help effectively implement some of the potential actions, as shown in the following chart. I have also provided some comments to briefly explain the purpose of each recommendation where that is not self-evident; further details may be found in the 2015 letter.

We consider our seventh recommendation equally important, even though it does not directly fall under any of the potential actions because the document limits itself to the *CA Act*. Recommendation 4, which is as follows, is still desirable and appropriate in NGFA's and my view, and should be carried forward:

Amend Regulation 681/94 under the *Environmental Bill of Rights, 1997*, to include proposals to issue Section 28 permits, at least for "major" applications, as Class II proposals for instruments under that Act.

Implementing this recommendation would ensure that at least large-scale development applications would be posted on the Environmental Registry (thus complementing and supporting Priority 1, action 2), and that anyone could apply to the Mining and Lands Commissioner for leave to appeal the approval of such applications (thus complementing and supporting Priority 3, action 4).

<p><i>Potential action in Conserving our Future: Proposed Priorities for Renewal, May 2016</i></p>	<p><i>Recommendation in October 16, 2015 letter that could help implement that action</i></p>
<p><i>Priority 1, action 2:</i> Ensuring governance and accountability mechanisms contained within the act align with recognized governance best practices and requirements for public sector organizations including, expectations for establishing and complying with codes of conduct, addressing potential conflicts of interests, ensuring meetings are open to the public, and the proactive disclosure of information.</p>	<p><i>Recommendation 6:</i> Amend the Section 28 regulations and if necessary the <i>CA Act</i>, and/or amend Ministry policies and procedures, so that the following would be required for all applications . . .</p> <ul style="list-style-type: none"> ▶ <i>Comment:</i> As detailed in the 2015 letter, we propose two new public notice and information requirements, to provide transparency consistent with today's best practices for legal permissions involving lands and resources. <p><i>Recommendation 5:</i> Amend the Section 28 regulations and if necessary the <i>CA Act</i>, and/or amend Ministry policies and procedures, so that the following would be required for a "major" application . . .</p> <ul style="list-style-type: none"> ▶ <i>Comment:</i> As detailed in the 2015 letter, we propose six new public notice, information, and involvement requirements, for major applications only, to provide transparency consistent with today's best practices for legal permissions of large-scale development.
<p><i>Priority 1, action 3:</i> Enhancing the authority of the Minister to ensure conservation authority operations, programs and services are consistent with provincial policy direction and legislative requirements, including new powers to require conservation authorities to collect and disclose information related to the efficiency and effectiveness of conservation authorities' operations, programs and services.</p>	<p><i>Recommendation 1:</i> Amend the <i>Planning Act</i> to determine, or through other means clarify, that CAs are subject to sections 3(5) and 3(6) of that Act, and that planning-related decisions of CAs are "exercise of . . . authority that affects a planning matter" under section 3(5).</p> <ul style="list-style-type: none"> ▶ <i>Comment:</i> This would require CA decisions and advice on planning matters to be consistent with the Provincial Policy Statement and to conform with Provincial

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	<p>plans.</p>
<p><i>Priority 2, action 3:</i> Providing clarity and consistency in the application of the <i>Development, Interference with Wetlands and Alterations to Shorelines and Watercourses</i> regulations for all parties, by consolidating and codifying regulatory requirements, defining undefined terms, and enhancing the authority of the Minister to establish, monitor and ensure compliance with provincial policy direction and legislative requirements.</p>	<p><i>Recommendation 1:</i> Amend the <i>Planning Act</i> to determine, or through other means clarify, that CAs are subject to sections 3(5) and 3(6) of that Act, and that planning-related decisions of CAs are "exercise of . . . authority that affects a planning matter" under section 3(5).</p> <p>► <i>Comment:</i> See Priority 1, action 3 above.</p> <p><i>Recommendation 2:</i> Amend the <i>CA Act</i> to define "conservation of land" for purposes of Section 28, as proposed in the Ministry of Natural Resources-Conservation Ontario <i>Draft Guidelines</i> of 2008.</p> <p><i>Recommendation 7:</i> Amend the <i>CA Act</i>, or otherwise direct CAs, so that compensation cannot be considered as part of the approval for a Section 28 permit to enable development that would adversely affect a regulated wetland, unless the wetland is not provincially significant or the development would otherwise be permitted under the Provincial Policy Statement (PPS) or a Provincial plan (for example, infrastructure).</p> <p>► <i>Comment:</i> Subsequent to my October 2015 letter, MNRF released its draft Wetland Conservation Strategy for Ontario. I recognize that consultation on that document is ongoing, and that the products of the wetland and <i>CA Act</i> consultations will need to be integrated where they affect each other. In that regard, I note that while the draft Wetland Strategy contemplates an offsetting policy, it also suggests that provincially significant wetlands may not be appropriate for offsetting.</p>
<p><i>Priority 2, action 5:</i> Streamlining planning</p>	<p><i>Recommendation 3:</i> For the purposes of</p>

<i>Potential action in Conserving our Future: Proposed Priorities for Renewal, May 2016</i>	<i>Recommendation in October 16, 2015 letter that could help implement that action</i>
<p>and permitting requirements and associated processes by exploring opportunities to improve application, review and approval processes through the reduction of burdens, improved service standards, enhanced flexibility in approval requirements and the adoption of a risk-based approach to the issuance of approvals.</p>	<p>decision-making and public involvement . . . , amend the Section 28 regulations, and the <i>CA Act</i> if necessary, to distinguish between "major" and "minor" applications. A "major" application would meet one or more of a list of criteria, which could include . . .</p> <p>▶ <i>Comment:</i> As detailed in the 2015 letter, we propose three potential criteria for distinguishing between major and minor applications. This would allow the small minority of large-scale development applications to receive appropriate public and Board scrutiny, without affecting the large majority of routine applications.</p>
<p><i>Priority 3, action 4:</i> Ensuring board decisions are informed by an appropriate diversity of views and perspectives reflective of local interests, including providing Indigenous Peoples, local residents and stakeholder groups opportunities to participate in the identification of local needs and priorities and conservation authority decision-making processes.</p>	<p><i>Recommendation 5:</i> Amend the Section 28 regulations and if necessary the <i>CA Act</i>, and/or amend Ministry policies and procedures, so that the following would be required for a "major" application . . .</p> <p>▶ <i>Comment:</i> See Priority 1, action 2 above.</p>

Regarding Priority 5: This does not appear to be relevant to NGFA, but it's not expressed clearly enough for us to reach any conclusion. It seems to me that this last priority, which potentially goes well beyond the normal responsibilities and limited geographical reach of CAs, does not properly belong within a review of the *CA Act*. Rather, the discussion suggests a desire to reappraise how the entire Ministry does its business, province-wide. This would more appropriately be conducted in the context of a review of the *Ministry of Natural Resources Act* or the Ministry's strategic vision.

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I hope our comments will assist Ministry staff in this important task. NGFA and I look forward to the proposed legislative, regulatory, and policy changes and our participation in consultation on them.

Yours sincerely,

[original signed by]

Anthony Usher, RPP

cc. Mike Walters
Harold Lenters