

Campaign Lake Simcoe

Submission to the Standing Committee on General Government on Bill 99,
the Lake Simcoe Protection Act

By Claire Malcolmson, Project Coordinator, Campaign Lake Simcoe
Environmental Defence

On behalf of Campaign Lake Simcoe

1. Campaign Lake Simcoe is a diverse, multi-stakeholder coalition of over 45 community and environmental groups who share a common vision for protecting Lake Simcoe and its watershed. While each organization may have a particular area of concern, we are brought together by our commitment to maintain and improve the quality of life in the Lake Simcoe area and by our commitment to improved environmental policies across the province.
2. Campaign Lake Simcoe congratulates the provincial government on its commitment “to protect and restore the ecological health of the Lake Simcoe watershed.” through the Lake Simcoe Protection Act.
3. While supportive of the general intent of the Act, Campaign Lake Simcoe is concerned that the Act’s purpose will not be achieved if a number of issues are not adequately addressed in the Act and the pending Lake Simcoe Protection Plan:
4. The targets, for yearly phosphorus loading, surface impermeability in the watershed, and for natural cover (forest, wetlands, scrub land), must follow the advice of the Scientific Advisory Committee. Premier Dalton McGuinty specifically promised that the Act would be based on the “best available science” (July 7th, 2007, Lake Simcoe Summit), and to this end the government put together a top notch Scientific Advisory Committee. This fall when the Stakeholder and Scientific Advisory Committees reviewed the Draft Plan, the policies and targets revealed many significant departures from the advice of the Scientific Advisory Committee. Based on this concern, we are adamant that the Plan and the Act follow the Scientific Advisory Committee’ recommendations. This is a bottom line for Campaign Lake Simcoe’s members.
5. Naturally vegetated buffers should be a minimum of 100 meters wide on shorelines and rivers (riparian corridors) in order for them to be used as wildlife corridors

between larger anchor patches in the Natural Heritage System. Do not forget that 12,000 cottages line the shores of Lake Simcoe, and that the shoreline is already hardened, unnatural and under stress. These realities call for the most generous riparian buffers possible to rectify this imbalance.

6. The shoreline policy must not allow significant shoreline alteration and must be logical and fair. If an individual cannot build a stone dock but a developer at Big Bay Point, or by extension, anywhere in the province, can carve a 30 acre hole in the shoreline for a marina, that is unfair, and sets a dangerous precedent for lakes in Ontario. See our 4 minute video on the topic:
<http://www.environmentaldefence.ca/campaignlakesimcoe/video/>
7. The Act distinguishes “designated” from “have regard to” policies. In order for the Act to achieve its purpose, the following must be classified as designated policies: natural cover targets; permeable surface minimums; setbacks from watercourses, forests, wetlands and the lake; and shoreline policies.
8. The Act and Plan must state clearly that regulations apply equally to marinas, resorts and residential developments. There is no better way to discourage residents from taking action to protect their lake, than for them to see the environmental impacts of massive developments wipe out any progress made by citizens and environmental organizations. There must be no exceptions made for marinas, resorts and residential developments in the application of environmental practices and regulations.
9. Adequate and sustained funding must accompany the Plan. A few years ago the Lake Simcoe Region Conservation Authority (LSRCA) estimated that environmental projects necessary to improve water quality would cost \$165 million. The Lake Simcoe Region Conservation Authority’s ability to help the lake was drastically reduced during the 1990’s due to provincial funding cuts. To keep going, the LSRCA invited an increased role for the municipalities that stepped up with funding. At the same time a coordination government body headed by the LSRCA was established, the Lake Simcoe Environmental Management Strategy (LSEMS). What this did, in essence, was to make Lake Simcoe governance ALL Government, which gave rise, optically at least, to conflicts of interest resulting in decisions about developments that did not put the lake first. It also shut out the public from meaningful participation in decision-making.

It is crucial that the Province becomes the entity to lead the Plan with meaningful input from citizens, business and government. This will ensure that all decisions are above any perceived suspicion of self-interest at the local level and ensure that those who have no other interest than the wellbeing of the Lake are heard and heeded. Going with the recommendations of The LSEMS Working Group about governance of Lake Simcoe is essential to guarantee transparency and honesty.

10. The Act and Plan need to be enforceable, and these costs must be considered and included in the Plan's budget.

11. The Plan must have an early Effective Date, clear transition rules, and must not allow grandfathering of projects lacking final permits or regulatory approvals.

Specific Changes Requested to the Act:

1.

Section 3(4) Effect of Act and 5(1) 12 - The Effective Date

"The Lake Simcoe Protection Plan takes effect on the date specified in the Plan."

The Lake Simcoe Protection Plan must be effective to December 6th, 2007, the date of the announcement of the Interim Phosphorus Regulation.

I am concerned that we do not know how transition regulations are going to work yet. To be consistent in the application of new rules set for development on Lake Simcoe, we need the Act to affect development proposals lacking final permits or regulatory approvals, such as the proposed Big Bay Point development. They must be caught by regulation, be subject to the Act and/or Plan, and meet the environmental and development standards outlined in the Plan. This is an environmental Act, and as such, issues other than phosphorus loads must be addressed in development approvals, such as forest cover and construction practices.

2.

Section 5 (1) 3 Contents of Plan

Remove "significant" from "The existing significant threats and potential significant threats to the ecological health of the Lake Simcoe Watershed." The use of "significant" implies a level of threat that is not clearly defined, which, therefore could be used to disregard threats not deemed to be "significant".

3.

Section 5(2) Municipalities ability to surpass provincial policies

Paragraph 5 should be removed. There should be no policies prohibiting official plans or zoning bylaws from containing provisions that are more restrictive than the provisions in the Lake Simcoe Protection Plan. Municipal jurisdiction to create more restrictive (not less restrictive) standards should be preserved.

4.

Section 12 (2) Progress Reports

Required reporting on results is to be done "from time to time". The timing of reporting should be more specific than that. A report should be produced within 5 years, then every three years. The Act should also add:

b)"describes the extent to which the objectives of the Lake Simcoe Protection Plan, *including subwatershed plans*, are being achieved."

5.

Section 14. Hearing Officers / Amendments to the Plan

Hearing Officers should not be part of the amendment process. A hearing officer should not make recommendations based on proposed amendments. It should be the Minister of the Environment who reviews the proposed amendments to the Plan.

6.

Section 18 and 19. The creation of a Lake Simcoe Science Committee and a Lake Simcoe Coordinating Committee.

Section 18 provides for the creation of a Lake Simcoe Science Committee and Section 19 provides for the creation of a Lake Simcoe Coordinating Committee. It is clear that these bodies are both essentially advisory bodies and do not have any real powers. Environmental groups (specifically referenced in Section 19(4) paragraph 6) must be well represented on the Lake Simcoe Coordinating Committee in order to achieve the transparency, cooperation, and public credibility lacking in LSEMS. The absence of these qualities in LSEMS essentially motivated the public and Environmental groups, especially the Rescue Lake Simcoe Coalition, to demand a review of the governance structure of LSEMS.

7.

Section 18(2) Lake Simcoe Science Committee and reporting

“The Lake Simcoe Science Committee shall perform the following functions:

1. Review the environmental conditions of the Lake Simcoe watershed and provide advice to the Minister with respect to (i – iv) ...”

We suggest adding: “Review the environmental conditions of the Lake Simcoe watershed *and report publicly, on the Environmental Bill of Rights, results, and factors relating to points i – iv* and provide advice to the Minister with respect to points i – iv.”

8.

Section 19 (4) 6. Appointment of Committee members / Minister’s recommendations

“Other interests, including, in particular environmental and others interests of the general public”

Public and Environmental interests are underrepresented in this list, the way it is now written. It should follow LSEMS Working Group recommendations and have equal representation from industry, the public and government: 1/3 representation from each of these sectors.

9.

Section 26 (1) Shoreline Protection

Delete the clause: “The Lieutenant Governor in Council may make regulations...” to be replaced with “The Lieutenant Governor in Council will make regulations” and that these regulations will be in place at the coming into force of the Plan. Furthermore, it must be explicit that the Lake Simcoe Protection Plan’s shoreline development restrictions apply to residential redevelopments, resort development, marinas, servicing, and include a shoreline restoration plan.

10.

Section 26 (2) a) Regulations - Shoreline Protection - Application

If this Act and Plan are in fact going to be based on the “best available science”, the advice of the provincially appointed Scientific Advisory Committee (SciAC) must be followed.

Recognizing that wildlife relies on healthy habitats, and that wildlife is an integral part of ecological health, SciAc’s 100 meter naturally vegetated buffer recommendation (# 36 from their July 7th report) should be followed. For this reason, in Section 26 (2) a) and b) I am concerned that “areas of land adjacent or close to the shoreline of Lake Simcoe” is too restrictive. It should read “land within a 100 meter distance to the lake, shoreline, ... tributary of Lake Simcoe, as defined in the Plan, and informed by SciAc’s recommendations.”

All of the strong natural heritage policies we wish to see are possible, and are the intent of the Act, as referenced in Bill 99:

The Act’s Purpose, S. 1. “The purpose of this Act is to protect and restore the ecological health of the Lake Simcoe watershed.”

Thank you.

Claire Malcolmson