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**From:** SANS <sans@surfns.com>  
**Sent:** Monday, March 25, 2019 3:16 PM  
**To:** Office of the Legislative Counsel  
**Subject:** Bill 106 - Coastal Protection Act

Attn: Law Amendments Committee (Legislative Counsel Office)

The Surfing Association of Nova Scotia would like to submit our concerns regarding Bill 106 - Coastal Protection Act.

While as a group, surfers are deeply invested in the health of the natural environment and support the protection of coastal areas, SANS would like to stress that the province be more proactive in providing protection when it is necessary to protect ecosystems and infrastructure. An example of this is the much needed breakwater wall on Highway 207 at Lawrencetown Beach Point to protect the roadway and preserve the beach from further erosion. We are concerned the government hasn't provided consistent upkeep of their responsibilities prior to the creation of this act (Section 16).

Furthermore, we are concerned with the current state of existing provincial infrastructure in Coastal Protection Zones. Lawrencetown Beach is a popular tourist destination and is heavily featured in Provincial Tourism ads. Surf Tourism is also heavily featured and gaining momentum bringing people from all over the world to experience our beautiful beaches and bringing in money for local businesses. It is imperative that the Lawrencetown Beach Hut (washroom, changing facilities, garbage disposal, etc...) be upgraded prior to the passing of this bill. Clause 9 specifies that no one shall modify a structure in a Coastal Protection Zone and we believe this building will fall into further disrepair, not only discouraging visitors from enjoying the beaches, but putting locals in danger from the disused building and lack of shelter during winter surfing.

We look forward to hearing your response.

Kind regards,

Jillian Morris  
SANS Coordinator  
<http://www.surfns.com/>

Following is review of events outlining Breach of Long Beach, Lower East Chezzetcook, NS:

**SITUATION:**

**January 2, 2018**, huge storm is approaching N.S. with astronomical moon creating higher than normal tides, stronger than normal westward winds and larger storm surge. It was the first time Environment Canada posted 3 special statement warnings on the same night.

This situation has been recorded to happen twice in 58 years in our area. Last one was in 2010 which punched a large deep hole in our berm, causing the lake to empty into the Atlantic Ocean. It was repaired within 2 weeks and is still holding to this day. The contractor at that time suggested DNR fix the 200 feet where the lake is deepest to prevent her from breaking anywhere else ever again. DNR stated they did not have money to accomplish this. The total cost of the temporary fix was \$40,000.

In 2018, it happened again due to another dangerous storm. The berm broke in another area. The lake emptied into Atlantic Ocean. DNR was notified immediately on the morning after the storm. A few days later, residents are met at Long Beach by DNR and MLA Kevin Murphy. Knowledgeable residents explain flooding dangers to their properties, livelihoods, wells, septic tanks, fish, wildlife, peat bogs and infrastructure of East Chezzetcook Road where residents would be cut off from mainland due to brook from lake which flows into the Chezzetcook Inlet. Without this road, residents will be left stranded and isolated without access to personal and emergency safety.

DNR stated they wanted to get "it right" and hired CBCL Consulting firm to see if the beach was sustainable. MLA stated it depends on money costs. The news Media stated "that's really not hard to fix". At this point, the break in the berm was smaller than the one in 2010 and not as deep. DNR & MLA line up 3 contractors for quotes to fix.

**February 2018** - Weather is co-operating and residents suggest this is a good time to get temporary fix before Spring storms start in March. DNR stated she is fixing herself and filling in. Residents warned this is only back wash and if not fixed, will re-open in the next storm and beach wall will be lost into the lake. DNR responded with 'HOPEFULLY THIS WILL NOT HAPPEN'. "The beach is filling in so why would we interfere with that. We are going to take a wait and see approach while doing our CBCL study."

**March 2018** - Still no report finished and Spring storms on forefront. Well, it happened again with higher than normal tides and berm re-opens and wall dumps into the lake. DNR comes for another onsite visit. The Atlantic Ocean is now coming in over 120 feet and wall has been reduced by rolling into the lake. So, we go from a 30 foot fix to real trouble now. Residents ask again for temporary fix. DNR replies "we are monitoring the situation daily to see if there are any changes"! The residents point out there are already significant changes. Look at it rolling in there. It was only 30 feet in January and the wall was still there. DNR replied with "we will wait and see". One resident replied "wait and see and all we are seeing is MORE SEA!"

Residents request meeting with DNR, MLA and Minister of DNR. Email was sent to residents stating a meeting is not warranted at this time. Another storm comes and batters beach. Again as she sits in vulnerable state, warnings go unheeded. Residents call MLA demanding meeting with Environment Minister and Dept of Transportation. Residents were given a 2 hour notice of meeting and were told just the people living on the lake to meet at MLA Constituency office. Residents were told rush would be put on CBCL report. Beach was to remain in damaged state. Minister did not show. Only Environment Canada man to explain salt water going into wells. Residents receive email stating salt water intrusions and testing were to be done at their own expense.

**April - April 25, 2018** - Residents (invitation-only) invited to meeting on CBCL report. Meeting was held in DNR Jeddore (not in East Chezzetcook where residents live) where names were checked at the door. While DNR employees stayed in comfortable, heated office building, residents were led to a dark, damp, cold, dank, dirty, unheated garage. No media were allowed, no cameras were allowed, no recordings were allowed. No notes, nor paper copies of the complete presentation were provided. Residents were advised the process would be similar to Legislative proceedings whereby no questions nor comments would be allowed until end of slide presentation.

Slide showed- salt water intrusion to wells and properties, sea levels rising in all areas around East Chezzetcook. Options to residents: build houses on stilts, hire contractors to build rock barriers, get coastal flooding insurance. Graphs indicated dates when houses would be gone to sea if beach left unfixed, some as early as 2020 will disappear, some as late as after 2090.

It was stated the headlands had enough sediment to sustain beach well after global warming but could it build fast enough due to increase in storms.

Residents were shown three estimates:

1. temporary fix of \$500,000 (hole fixed) would buy 20-30 years
2. build up wall from end of beach to top of beach/hole filled in \$6 million
3. whole beach fix \$9 million.

Residents ask now we are on map as worthless, would there be decrease in taxes. MLA replied that's not going to happen - \$9 million fix is not going to happen, \$6 million fix is not going to happen. When residents face financial ruin with the loss of their properties, homes, livelihoods and lives, they were advised they may apply for Disaster Relief!

Resident pointed out DNR owns headlands purchased where Old Navy Towers were at elevation of about 60 feet. Take out rocks to use for fix of beach - have access at end of beach by break. There is easy access to this land by road. DNR stated it did not want band-aid fix.

MLA requested meeting with Minister of DNR for residents to investigate this option. Still waiting for reply. Email sent April 28, 2018 along with other concerns of residents. One resident received email from Minister of DNR stating opposite of what was explained at meeting stating Long Beach was unstable and had no sediment in her headlands.

Fish, wildlife and residents have been left on their own and told to cope the best they can. Residents were told fish would be confused, spawn will die but will go to another lake. This will not and did not happen. The fish are running out of water at low tide. They are dying and/or being eaten by birds and wildlife.

The berm has temporarily filled in again, filling the fresh water lake. But water levels in lake are dropping due to water pouring out of the berm at low tide. The fish that are running to spawn are running out of water from Chezzetcook Inlet before they reach the lake, dying and being eaten by birds and wildlife.

The balance of Big Lake is being compromised greatly. Fish are dying, the surrounding peat bogs are going to be destroyed and they never re-grow. They hold carbon from the atmosphere and are nesting grounds for many species and plants - some of which are on Nova Scotia endangered list. Wild life will retreat to residential areas of Chezzetcook where they will be misunderstood, confused and destroyed.

Currently there is a new funding program introduced by Federal Government to help people combat rising sea levels, global warming, climate change and to help communities adapt and protect against natural disasters. **Disaster, Mitigation and Adaptation Fund (DMAF)** indicates cities and communities are on the front lines of climate change, extreme weather events, global warming and coastal flooding. **Federation of Canadian Municipalities** has been calling on the Federal Government to partner with municipalities to address these risks in communities of all sizes. We view this as Nova Scotia's opportunity to act now. We must be proactive and not wait until the ultimate disaster happens. Nova Scotia can work together with all the municipalities in the province to join together to apply for this funding.

What about also working with New Brunswick? Unfortunately, when approached the MLA to apply for this funding, reply was after the damage is done, we may be able to apply for disaster relief.

Nova Scotia is currently promoting itself as "**Canada's Ocean Playground**". If nothing is done to stop coastal erosion and coastal flooding due to scientists prediction of climate change, Nova Scotia will only be known as "**Canada's Ocean**" - **no playground left**.

The residents will become Canadian refugees with no assistance. Personally, when I was young, I remember singing "O Canada" every morning in school, feeling proud and learning through my years of schooling how important our resources are and we should always do the right things to protect and preserve them for future generations. In my later years, I am finding it's doing a complete turn around. There just has to be someone who understands that letting this eco-system with so much to offer, go to the sea is just wrong.

### **HISTORY:**

Long Beach is located in Lower East Chezzetcook, NS. A healthy, alive, unique fresh water lake and home to a vibrant ecosystem borders her berm on one side and the Atlantic Ocean washing up on the other side. Department of National Resources quoted in 2010 "**Big Lake - Meisner's Lake is the last fresh water lake to border an ocean in North America**" That is truly amazing and absolutely needs to be protected and saved.

Long Beach had sand from point to point. It was the "go to" place for many communities for years after Church on Sundays.

Then, the Nova Scotia Government, in its wisdom, issued permits to mine her sand and gravel to build the highways of Nova Scotia. In 1976, the removal of sand and gravel was stopped and Long Beach was made a Federally Protected Beach. In the '80's, DNR purchased lands around her and classified her as a Provincial natural wild life park. She has been enjoyed over the years by many Nova Scotia communities and some of the residents have been here over 70 years.

Long Beach exists as a berm with one side being Big lake and the other side is ATLANTIC OCEAN - ENGLAND. Long Beach is not a harbour, is not a bay, is not an inlet. She protects East Chezzetcook from Atlantic Ocean. **Governments MUST act now.**

## **RESOURCES:**

Within her boundaries lie many 100's year old peat bogs which have become nesting grounds for many bird species, owls, heron cranes, sparrows, red winged black birds, osprey, bald eagles, golden eagles. Also feeding there is a rare white Ingrid. The peat bogs are found all around the lake which are purifying systems for ground water. They also enclose carbon for thousands of years, preventing toxins into the atmosphere. They also provide cooling system when there is extreme heat and long bouts of drought. We have martens living there which are becoming extinct in Nova Scotia. The brook is home to spawning fish from the Atlantic Ocean i.e. sea trout, smelts, gaspereau, eels, perch, bass, etc. They travel up the brook to the lake where they spawn and spend the summer. The whole lake is covered in jumping spawn.

The lake provides nesting grounds for Canada geese, ducks, shags and provides feed for all species of birds. There are frogs, chipmunks, squirrels, otters, beavers, muskrat, salamanders, mink – just to name of few of the inhabitants of Long Beach and Big Lake (Meisner's Lake) . The wild life consists of deer, bear, lynx, coyote, bob cats, fox, rabbit, porcupine. People are seeing huge black cats - not sure what they are. The swamp area is host to several plants, some of which are protected such as Picture Plants. Spring peepers call the swamp home.

Our point is that Long Beach is healthy. Big Lake (Meisners Lake) is healthy. This area provides vital contributions to Nova Scotia treasures.

**LONG BEACH MUST BE SAVED, BIG LAKE MUST BE SAVED.**

Sincerely,  
Margie Wade

From/Reply to:  
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**25 March 2019**

Dear Members of the Law Amendments Committee;

**Re: Bill 106 – The Coastal Protection Act**

Bill 106 creating the Coastal Protection Act is highly anticipated by the public, and by the East Coast Environmental Law Association and our collaborator, the Ecology Action Centre. It has been a long time in the making, with calls for more legal protections for our province's coast reaching back at least several decades. We hope that this law, which is likely the first of its kind in Canada, will serve all Nova Scotians by providing rigorous and necessary environmental protection to our important and vulnerable coastline. To that end, we respectfully call for the following amendments to the Bill.

First, the purpose section and principles section are extremely valuable because they provide clarity on the Bill's goals and set out the vision of the Act. That is why these principles should be featured at the very beginning of the Act: to make the fundamental intent and necessity of the Act immediately clear. This will then flow nicely into the current Section 4, which prioritizes the protections of the Coastal Protection Act over other Acts where they conflict.

Second, Section 8(2)(b) currently allows lands to be exempted through regulations created under the Act. While this makes sense in relation to land along the coast where there is no current threat, these lands should nonetheless be administered in a way that conforms with the purpose and principles of the Act. This will provide consistency across the province with respect to ecosystem, species and habitat protection while ensuring that structures or activities on those lands which were unforeseen do not threaten the objectives of the Act.

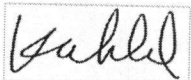
Third, on a point related to the previous two comments, the phrase "consistent, wherever possible, with the purpose and principles of this Act" is found in multiple provisions of the Act, including in sections 15(1)(b), 16, 17(3), 18(3), 19(2), 22(2), and 23. The purpose of the phrase is to require that the activities targeted by each of those sections is consistent with the purpose and principles of the Act. However, we consider the qualifier "wherever possible" to be legally unenforceable. This is because there are any number of reasons something may be possible or not possible. For example, the cost of complying with the principles and purpose of

the Act might be enough to justify non-compliance under this phrasing. Therefore, we recommend that the phrasing in Section 21, which omits "wherever possible", be adopted for all of the highlighted sections.

Fourth, we are concerned with Section 15, which permits construction or modification of structures within the Coastal Protection Zone for commercial or industrial operations that require direct access to the coast. To begin, the Act is not clear about how this provision will be operationalized. If an independent designated professional is not required to certify this component of the operation, it will be difficult to know if the structure's access to the coast is "essential". This provision, as it currently stands, creates a double standard between private coastal property owners and businesses, by allowing businesses to function under lower standards with respect to building within the Coastal Protection Zone. Therefore, we call for a passage to be added to the effect that an independent designated professional be required to certify any commercial or industrial structures requiring direct access to coastal waters.

Additionally, "industrial" and "commercial" are not defined in the Act. Both terms are very broad and could encompass a number of activities. Either term might refer to any large or small structure related, even tangentially, to an industrial or commercial operation. Therefore, we call for these terms to be defined within the Act.

Sincerely,



Mike Kofahl  
Staff Lawyer  
East Coast Environmental Law