



Public Works

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November 24, 2022

Public Input Coordinator
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300 Water Street, 6th Floor, South tower
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Sent via email: mnrwaterpolicy@ontario.ca

Re: Legislative and regulatory proposals affecting conservation authorities to support the Housing Supply Action Plan (ERO Postings 019-6141 and 019-2927)

Thank you for the opportunity to review and comment on the above noted Environmental Registry of Ontario postings regarding the legislative and regulatory proposals under the *Conservation Authorities Act (CA Act)* and *Planning Act* in Bill 23, the *More Homes Built Faster Act, 2022* to support the Province's Housing Supply Action Plan. Please note that the following comments are provided by Region of Peel staff and may be considered by Regional Council for endorsement. If additional or differing comments are provided through a Council resolution, they will be forwarded to the Ministry for consideration.

General Comments

The Region of Peel appreciates the Province's efforts to increase the housing supply and improve affordability. These are important issues that require integrated solutions. It is also important to focus conservation authority (CA) core responsibilities on managing natural hazards, as communities will be vulnerable and exposed to increasing climate risks in the future. Clarifying roles and responsibilities, coordinating reviews and streamlining processes for planning and permitting approvals are important objectives that can improve service delivery and, ultimately, build confidence in the planning and permitting process.

Revisions made to the *CA Act* through Bill 229, the *Protect, Support and Recover from COVID 19 Act (Budget Measures), 2020* modernized CA governance, oversight, and funding mechanisms and clarified the mandate, roles and responsibilities of CAs. The implementation of the changes to Bill 229 provided an effective framework to address role clarity and permitting responsibilities. The revised Bill 229 should be given consideration as an alternative to making additional changes that would potentially create inefficiencies and resourcing challenges. The Region is committed to continue working with the Province and CAs to accomplish the objectives of Bill 229.

While Peel supports the general intent of the Bill 23 to avoid duplication and improve efficiency, we have identified some provisions where revisions are



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recommended, or where further consultation should be undertaken prior to implementing changes. Comments and recommendations are provided with the intent that reforms can contribute to meeting housing needs while still ensuring communities are safe and have healthy, natural systems.

Guiding Principles for Consideration

The strong framework of environmental and watershed planning in Ontario and the systems approaches for climate, natural heritage and water resource planning have been a cornerstone of the Region’s work to manage growth in collaboration with its partners, including the provincial government. The provincial policy-led planning system, recognizes the inter-relationships among environmental, economic and social factors and the importance of a comprehensive and integrated approach to planning.

There is concern that proposed changes in Bill 23 will significantly impact the integrated, systems and science-based approach currently undertaken by the Region in collaboration with our CAs and local municipal partners. Collectively, the proposed changes along with revisions to wetland evaluation criteria, new offsetting policy for natural heritage and streamlining of the Provincial Policy Statement and Growth Plan is a significant change in provincial policy that will impact the ability for municipalities to plan for sustainability, provide nature-based solutions and manage risk.

The integration of environmental and growth planning informed by science is critical to achieving healthy, safe, sustainable communities that all development, including housing, depend on to be successful. The protection of natural systems, features and areas is intrinsically linked to adequately responding to the climate emergency, and associated flooding and erosion risks. The strong policy framework of the land use planning system and regulatory role of CAs, including their broad watershed science-based expertise and advice, should be supported and strengthened.

1. Removal of CAs Commenting Role under Prescribed Acts including the *Planning Act* (Bill 23, Schedule 2, Changes to the *Conservation Authorities Act*, new Subsections 21.1.1 (1.1) and 21.1.2 (1.1))

Proposed changes would remove the ability of CAs to review and comment on development applications under a number of prescribed acts on behalf of municipalities, including the *Planning Act* and *Environmental Assessment Act*, unless comments are related to matters within their core mandate focused on natural hazard risks. The *CA Act* currently enables CAs to provide “municipal or other programs or services” on behalf of a municipality subject to agreement or memorandum of understanding.

Municipalities rely on CAs to provide watershed planning and science to inform land use and infrastructure decision making. Limiting the commenting roles of CAs to a core mandate focused on natural hazard risks creates inefficiencies and resourcing costs and will significantly impact municipalities.



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Where existing capacity is limited or does not exist, municipalities will need to provide or contract services for technical advice on natural heritage and non-hazard related policy and application review. Technical review functions will need to be duplicated in CAs for natural hazards and in municipalities for natural heritage and non-hazard related matters. Not all municipalities will have the same capacity and resources to assume technical review functions. Limiting the commenting role of CAs will also require these services to be provided by each municipality rather than being centralized on a watershed basis in one CA. Ultimately, costs and delays will likely increase for applicants seeking development approvals.

Recommendation

Remove provisions in Schedule 2 of Bill 23 under sections 21.1.1 and 21.1.2 of the *CA Act* that will remove the ability of CAs to provide a municipal program or service related to reviewing and commenting on proposals, applications or other matters made under a prescribed Act. Municipalities should be able to request that the CAs provide technical review and comments on development proposals on their behalf.

2. New Permit Exemption to be Added for Development Activities Authorized under the *Planning Act* (Bill 23, Schedule 2, Changes to *Conservation Authorities Act*, New Subsections 28 (4.1) and (4.2))

Under this provision, authorized development activities in prescribed municipalities would be exempt from the requirement to obtain a permit under the *CA Act* subject to conditions and restrictions to be set out in regulation. The exemption for authorized activities requires a regulation to prescribe the municipalities and the types of activities to which the exception applies. As currently drafted, there are no provisions in the Act that would require municipal approval or that a municipal request be made prior to the Minister designating a municipality for the purpose of implementing the exemption.

The benefits and/or implications of exempting development approvals from the requirement to obtain a *CA Act* permit are unclear as draft regulations have not been provided at this time. The proposed exception would essentially transfer CA permitting responsibilities to municipalities through the municipal planning process, along with the liability of regulating development activities in areas subject to natural hazard risks. The new exemption tool assumes that equivalent studies and regulatory compliance requirements for managing natural hazards would be addressed through the planning approvals process.

Municipalities in Peel currently rely on CAs to regulate approved activities under their current permitting authority and rely on CA technical staff to review, approve, monitor and enforce development projects and associated infrastructure in CA regulated areas. The CAs in Peel already streamline permit approvals for approved development under the *Planning Act* where requirements have been largely addressed through the planning process.



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A further exemption tool for municipalities as proposed could help streamline approvals further and avoid duplication; however, implications regarding liability, regulatory enforcement, resourcing and the continued role of CAs in the process need to be understood. Further consultation to provide a better understanding of the intent of the proposed exemption tool is recommended.

Recommendations

The provisions in Schedule 2 of Bill 23 that would amend Section 28 to add a new permit exemption for development activities authorized under the *Planning Act* should be reconsidered or removed to provide additional time for consultation with municipalities on the purpose and scope of the exemption.

If the provisions are retained in the Bill, revisions should be included to provide an extended period for transition either through a delayed proclamation of the provisions or prior to approving regulations. This period would ensure that appropriate conditions, restrictions and resources are in place for managing natural hazard risks to implement the new tool if permitting requirements are being transferred to the planning approval process, including clarifying the continued role of CAs in the process.

The *CA Act* or regulation should specify that the designation of a municipality require that a request be made by the municipality as a condition of and prior to designating the municipality as an area where the new exemption tool would apply. The decision to utilize the new exemption tool should be at the discretion of the municipality.

3. Temporary Freeze of CA Fees for Permits and Proposals

Proposed changes will allow the Minister to direct CAs to not change fees they charge for programs and services that CAs are authorized to collect under the *CA Act*.

A temporary freeze would potentially have financial implications for CAs and municipalities that could impact service levels and processing timelines if fees are insufficient to fund resources needed to process permits. Fee levels should be set on a cost recovery and user pay basis.

Recommendation

The temporary freeze of CA fees should be time limited and provide the ability for CAs to trigger a review and confirm that fee levels do not exceed costs associated with delivering the services as a basis for the removal of the temporary freeze.

4. Proposed Removal of Pollution Control and Conservation of Land as Factors to be Considered When Issuing Permits in CA Regulated Areas under s. 28



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Currently, five tests or factors must be considered in order for a permit to be issued under the *CA Act*. Proposed changes will remove the consideration of the control of “pollution and conservation of land” and add “unstable soil or bedrock” to the matters that must be considered. The changes to matters that must be considered when issuing permits will now focus exclusively on natural hazard related considerations, namely, the control of flooding, erosion, dynamic beaches, unstable soil, and bedrock.

The change effectively removes the ability to apply broader conservation of land and pollution considerations in CA permit decisions and conditions, including broader environmental protection of sensitive natural heritage and water quality considerations in regulated areas.

The integration of natural hazard and conservation of land considerations in the management of CA regulated areas, while overlapping with municipal authority under the *Planning Act* for natural heritage and water resource systems, has provided a complementary regulatory tool in the development process. This tool is aligned with both provincial and municipal policy objectives for the protection of the environment and natural hazard management.

Recommendation

The Province should reconsider the proposed changes to the permitting factors to be considered under Section 28 of the Act and instead provide more scoped guidance for CAs on matters relating to the conservation of land and pollution in permit decisions (e.g., limiting considerations to the control of sedimentation and ensuring permit requirements addressing conservation of land are consistent with authorizations granted under the *Planning Act*).

5. Streamlining CA Severance and Sale of Surplus Land and Identifying CA Lands Suitable for Housing and Other Purposes

The changes to the *CA Act* and *Planning Act* would streamline the processes the CAs follow to acquire, sell or lease land they own. Regional staff support the proposed *Planning Act* changes to remove the requirement in the exemptions from subdivision and part lot control that lands be associated with a provincially-funded project approved under the *CA Act*. Corresponding changes to simplify the process followed by CAs under the *CA Act* to dispose or sell lands are also supported. We note that the process no longer requires approval from the Minister. The additional requirements for public notice and consultation if lands include significant natural heritage features are appropriate.

Recommendation

The Ministry may wish to consider specifying that CAs also provide notice to municipalities of their intention to dispose of lands.



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Conclusion

As noted above, there is concern that proposed changes in Bill 23 will significantly impact the integrated, systems and science-based approach currently undertaken by the Region in collaboration with our CAs and local municipal partners. The robust policy framework of the land use planning system and the regulatory role of conservation authorities, including their broad watershed science-based expertise and advice, should be supported and strengthened.

We trust that the Region's comments are helpful as the Ministry considers amendments to the *CA Act* and *Planning Act* in Bill 23 regarding CAs. As these legislative and regulatory changes move forward, consideration of the Region's concerns and recommendations is greatly appreciated.

The Region is committed to continuing to work with the Province and conservation authorities towards meeting our shared objectives of increasing the housing supply and ensuring healthy, safe, sustainable communities where development is based on the integration of environmental and growth planning and informed by science. If additional information or clarification is required, please do not hesitate to contact me directly.

Sincerely,

A handwritten signature in black ink that reads 'Tara Buonpensiero'.

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