



December 1, 2022

Submitted via email: PlanningConsultation@ontario.ca

Re: Conservation Ontario's Comments on "Proposed Planning Act and City of Toronto Act Changes (Schedules 9 and 1 of Bill 23 – the proposed More Homes Built Faster Act, 2022) (ERO #019-6163) and "Proposed Changes to Ontario Regulation 299/19: Additional Residential Units" (ERO #019-6197)

MMAH Staff:

Thank you for the opportunity to provide comment on the "Proposed Planning Act and City of Toronto Act Changes (Schedules 9 and 1 of Bill 23 – the proposed More Homes Built Faster Act, 2022) and the "Proposed Changes to Ontario Regulation 299/19: Additional Residential Units". Conservation Ontario is the network of Ontario's 36 conservation authorities (CAs). Comments submitted by Conservation Ontario on this proposal are not intended to limit comments submitted individually by CAs in any way.

Conservation Ontario provides the following comments on Schedule 9 of the proposed *More Homes Built Faster Act* and the proposed changes to O.Reg. 299/19.

Addressing the Missing Middle

Bill 23 proposes changes to strengthen the existing additional residential framework which would allow "as-of-right" up to 3 units per lot in settlement areas with full municipal water and sewage services. It is understood that because of these proposed legislative changes, consequential amendments are proposed for O. Reg. 299/19: Additional Residential Units to remove provisions that are no longer needed and to make housekeeping edits to align with the proposed legislative changes. Conservation Ontario is supportive of the proposal to increase the overall supply and diversity of housing types in Ontario while maintaining strong protections for public health, safety, and the environment. Having appropriate land use planning safeguards in place is essential for the overall health of Ontario and Ontarians. This includes having access to safe drinking water, directing development outside of hazard areas, and having access to high quality greenspace, including conservation areas.

Conservation Ontario is concerned however with the proposal to only limit "as-of-right" zoning in instances where the homes are legal non-conforming uses, such as existing houses on hazard lands. Official Plans and Zoning By-Laws may not be based on the most up-to-date hazard mapping; adding additional units without input from conservation authorities may put additional people at risk. CAs have identified that there are thousands of homes in flood vulnerable areas within their watersheds. Almost all of these homes are zoned for residential uses and rely on other mechanisms to restrict additional residential units. A reliance on legal non-conforming uses to limit "as-of-right" zoning may put a significant number of new residential units in flood and erosion prone areas increasing the risk to life and property and making effective emergency response (i.e., "safe access") more difficult and costly.

Protecting People and Property: Ontario's Flooding Strategy, identifies the principles of effective flood management. Keeping people and property out of high-risk areas is specifically noted as the most effective and sustainable way of reducing risk. This principle is further emphasized as an action in the strategy to promote sound land use planning decisions whereby the province "seeks to enhance Ontario's land use planning framework to ensure municipalities make decisions consistent with provincial policies and that development, redevelopment and intensification continues to be directed away from areas where flooding and erosion present unacceptable risks to people, property and the environment." To align with Ontario's flooding strategy, it is recommended that an amendment be made to the "as-of-right" zoning to specify "except in areas subject to natural hazards". Conservation authorities work proactively with their municipal partners to identify appropriate development locations outside of natural hazard areas, including flooding and erosion hazards, with additional consideration to vulnerable source protection areas.

Finally, stormwater infrastructure is designed for a particular impervious lot coverage. In some older subdivisions the current impervious coverage already exceeds what the stormwater infrastructure was originally designed for. The province should partner with municipalities and conservation authorities to ensure that further densification does not lead to additional runoff and localized flooding from heavy rainfall events.

Site Plan – Exemption for Development up to 10 units

Bill 23 proposes to exempt all aspects of site plan control for residential development up to 10 units. It is noted that without site plan control municipalities may have limited ability to receive input on or regulate site detailed design items such as setbacks and location of buildings as they relate to hazardous lands and natural features. It is also noted that site plan control can be an important opportunity for municipalities to ensure that stormwater is properly managed with the potential to increase pluvial flooding. Without site plan control there may be no other *Planning Act* circulation to the conservation authority – losing an earlier opportunity for the CA to identify any challenges with the proposed development. Should the government move forward with this change, it is recommended that the exemption be subject to none of the proposed units being proposed within an area subject to natural hazards. In addition, it is recommended that guidance be developed to encourage early pre-consultation with the municipality and the conservation authority to identify and resolve any issues with the proposed development, including issues associated with natural hazards or the protection of sources of drinking water.

Conservation Authorities

Conservation Ontario strongly objected to changes made to the CA rights to appeal land use planning decisions made under Bill 229 in 2020. Bill 23 proposes to enact the amendments made through Bill 229 that would limit a CA's ability to appeal as a public body only to matters related to natural hazard policies in the provincial policy statements. Natural hazard and natural heritage systems often have overlap and both are dynamic in nature. It is noted that the new appeals regime, proposed to be in effect January 1, 2023, limits a CA's ability to appeal *Planning Act* applications where natural hazard management and natural heritage or water resource system protection are inextricably linked, therefore weakening available science-based evidence to support the maintenance of healthy watersheds to best protect public health and safety. This may limit early issues resolution for development proposals and thus create uncertainty for development with a resultant increase in timelines at the technical review stage.

Conservation Ontario is supportive of the proposed amendments that would result in process improvements to enable CAs to sever and dispose of land. These amendments will allow CAs to continue to acquire land for the purposes of flood control, erosion control, bank stabilization, shoreline management works or the preservation of environmentally sensitive lands. Conservation authorities are in the process of developing land acquisition and disposition policies as well as Conservation Areas Strategies that will undergo stakeholder and public consultation which will help guide future management of CA lands. Please see Conservation Ontario's comments on "Legislative and regulatory proposals affecting conservation authorities to support the Housing Supply Action Plan 3.0" (ERO #019-6141) for further commentary on CA landholdings.

Once again, thank you for the opportunity to provide comments on the "Proposed Planning Act and City of Toronto Act Changes (Schedules 9 and 1 of Bill 23 – the proposed More Homes Built Faster Act, 2022) and the "Proposed Changes to Ontario Regulation 299/19: Additional Residential Units". Conservation authorities are committed to working with the province and other stakeholders to increase housing supply in Ontario while not jeopardizing public health and safety or the environment. Conservation Ontario urges the province to reconvene the multi-stakeholder Conservation Authorities Working Group to work through outstanding issues related to development review. Should you have any questions about this response, please contact me at extension 226.

Sincerely,



Leslie Rich, RPP
Policy and Planning Specialist

c.c. All CA GMs/CAOs