

Presentation to the Standing Committee on Heritage, Infrastructure and Cultural Policy

Bill 23, More Homes Built Faster Act, 2022

TRCA Comments and Proposed Revisions to Schedule 2 of Bill 23

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Schedule 2, Bill 23: Amendments to the Conservation Authorities Act

Toronto and Region Conservation Authority Overview Comments

- TRCA supports the important goal of addressing the housing crisis through expediting development approvals
- TRCA has significant concerns about provisions in Bill 23 preventing municipalities and infrastructure providers from receiving **comments from conservation authorities on natural heritage matters that intersect with natural hazard and climate change considerations**
- TRCA recommends revisions to Bill 23 to **give municipalities and infrastructure providers the option of continuing to receive such “non-mandatory” services, where requested under MOUs and service level agreements** for development and infrastructure reviews
- Since the first round of amendments to the Conservation Authorities Act in 2017, it has been clear that **conservation authorities must focus on mandatory services related to natural hazards** (Category 1), and that **conservation authorities may continue to provide non-mandatory services at the request of municipalities** (Category 2) **or other partners, to further purposes of the Act** (Category 3)
- Through the amendment to the *Planning Act* made by Bill 229 in 2021 (and as further amended by Bill 23), **conservation authorities can only participate in *Planning Act* appeals on natural hazard matters**
- In addition, **TRCA recommends retaining “pollution” and “conservation of land” as part of the tests to be applied in a permit decision**

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Toronto and Region Conservation Authority Overview Comments cont'd

- Reducing and restricting CA roles contradicts advice from the Premier’s Special Advisor on Flooding, whose report recommended strengthening CA roles
- The Housing Affordability Task Force recommendations did not raise issue with CA plan review or permitting roles
- Under the current legislative framework, the CA role has saved taxpayers billions compared to losses from extreme weather events experienced in other provinces
- Reducing CAs’ ability to comment on planning applications and infrastructure applications removes critical capacity at a time when we need to achieve certainty for development and servicing to supply housing in high growth GGH municipalities
- There are no new costs from continuing the non-mandatory services that CAs currently provide to GGH municipalities, and no alternative to such role without significant new costs to municipalities

Schedule 2, Bill 23: Amendments to the Conservation Authorities Act

Prohibition on commenting to municipalities – New subsection 21.1.1(1.1)

Bill 23 – Subsection 3(2):

21.1.1(1.1) An authority shall not provide under subsection (1), within its area of jurisdiction, a municipal program or service related to reviewing and commenting on a proposal, application or other matter made under a prescribed Act.

TRCA Proposed Revisions:

21.1.1(1.1) An authority shall not provide under subsection (1), within its area of jurisdiction, a municipal program or service related to reviewing and commenting on a proposal, application or other matter made under a prescribed Act, unless there is an agreement with the municipality that expressly authorizes or requests the provision of such comments directly to the municipality.

TRCA concerns with proposed addition of subsection 21.1.1 (1.1):

- **Municipalities rely on TRCA to provide technical, science-based comments on planning applications and municipally initiated planning instruments to assist in determining conforming to provincial policy involving the natural environment, watershed planning, and climate change**
- **Many municipalities do not have the technical professional staff (ecologists, hydrogeologists) or the data (monitoring, modelling, inventory, mapping) to inform managing natural hazard risk in the context of natural resource management**
- **Without this CA role, costs for this review would be borne by the municipality and the taxpayer, cause delays, eliminate the watershed perspective, and reduce municipalities’ ability to prepare for climate change**
- **Existing municipal MOUs for plan review services** (in place since early 2000s or prior) are currently being updated to ensure streamlined review and clear roles
- It is unclear what “proposals, applications or other matters” within the Acts being prescribed are not to be reviewed or commented on
- The government’s policy intent would be better reflected by reframing this provision to allow conservation authorities to provide such comments directly to a municipality for the municipality’s own use

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Prohibition on commenting to infrastructure agencies – New subsection 21.1.2(1.1)

Bill 23 – Subsection 4(2):

21.1.2(1.1) An authority shall not provide under subsection (1), within its area of jurisdiction, a program or service related to reviewing and commenting on a proposal, application or other matter made under a prescribed Act.

TRCA Proposed Revisions:

21.1.2(1.1) An authority shall not provide under subsection (1), within its area of jurisdiction, a program or service related to reviewing and commenting on a proposal, application or other matter made under a prescribed Act, **unless there is an agreement with the infrastructure provider that expressly authorizes or requests the provision of such comments directly to that entity.**

TRCA concerns with proposed addition of subsection 21.1.2 (1.1):

- **Public infrastructure providers (e.g., provincial agencies, utilities) rely on TRCA to provide technical, science-based comments** in the class environmental assessment process and at detailed design, to assist in planning, siting and design in accordance with provincial and municipal objectives for natural hazards, water resources and natural heritage protection
- **TRCA has numerous service level agreements (SLAs) with provincial agencies and infrastructure providers** for dedicated review services (including voluntary permit review applications), for example, Metrolinx and Enbridge
- Without this CA role, **public infrastructure providers will face delay and reduced ability to prepare for climate change** in the context of infrastructure planning, siting and design
- It is unclear what “proposals, applications or other matters” within the Acts being prescribed are not to be reviewed or commented on
- The government’s policy intent would be better reflected to allow conservation authorities to provide such comments directly to provincial agencies advancing infrastructure projects, or to other infrastructure providers, for their own use

Schedule 2, Bill 23: Amendments to the Conservation Authorities Act

Removing tests applying to issuance of permits – Revised subsection 28.1(1)(a)

Bill 23 – Subsection 9(1):

28.1 (1)(a) the activity is not likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock;

TRCA Proposed Revisions:

Retain “pollution” and “conservation of land” tests

Adjust existing definition of “pollution”

Add definition of “conservation of land” that would align with Conservation Ontario recommended definition used by CAs, which relates to protection, management, and restoration of lands to maintain and enhance hydrologic and ecological functions of natural features within the watershed

TRCA concerns with removal of “pollution” and “conservation of land” tests:

- **TRCA suggests that if “pollution” is removed it should instead be replaced with “sedimentation”** CAs’ ability to enforce keeping damaging sediment out of natural features during construction of permitted works would otherwise be lost.
- **TRCA submits that removal of “conservation of land” is a fundamental alteration to the mandate of conservation authorities** and will have a negative impact on TRCA’s ability to address natural hazards and climate change, **given the linkages between conservation of land and natural hazards**
- TRCA respects and supports the municipal role of determining the principle of development and assessing conformity/consistency of proposed development under their official plans and applicable provincial policy
- **TRCA submits that retaining “conservation of land” as part of the test to be applied is a fundamental alteration to the mandate of conservation authorities and will have a negative impact on addressing natural hazards and climate change, given the linkages between conservation of land and natural hazards**

Schedule 2, Bill 23: Amendments to the Conservation Authorities Act

Exemption for development with a Planning Act approval – New subsection 28(4.1)

Bill 23 – Subsection 7(2):

28(4.1) Subject to subsection (4.2), the prohibitions in subsection (1) do not apply to an activity within a municipality prescribed by the regulations if,
(a) the activity is part of development authorized under the Planning Act; and
(b) such conditions and restrictions as may be prescribed for obtaining the exception and on carrying out the activity are satisfied.

TRCA Proposed Revisions:

Explicitly provide that exemption contingent on conservation authority being provided sufficient opportunity to review, comment on and recommend conditions of approval to the approval authority for the development

Add required enforcement provisions

TRCA concerns with proposed addition of subsection 28(4.1):

- TRCA has concerns with the proposed additional exception to the requirement to obtain a permit for development that has been authorized under the Planning Act
- TRCA suggests the **new exemption under subsection 28 (4.1)(a) should only apply where the conservation authority is provided with sufficient opportunity to review, comment on and recommend conditions of approval for the development prior to approval under the Planning Act**
- Further, TRCA is concerned about enforcement in relation to development authorized under subsection 28(4.1), as well as 28(3) and 28(4)
- Although these subsections are added to section 30.5 (Offences), there is no reference to these subsections under sections 30.2 (Entry without warrant) and 30.4 (Stop work order)

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Minister’s direction for fee changes – New Section 21.3

<p>Bill 23 – Section 5</p> <p>21.3(1) The Minister may give a written direction to an authority directing it not to change the amount of any fee it charges under subsection 21.2 (10) in respect of a program or service set out in the list referred to in subsection 21.2 (2), for the period specified in the direction.</p> <p>TRCA Proposed Revisions:</p> <p><i>Explicitly provide that lost revenue resulting from a “freeze” is added to municipal levy</i></p> <p><i>Add criteria to identify circumstances where the Minister may direct a conservation authority to “freeze” its fees, identify maximum period, permit conservation authorities to increase fees by an annual cost of living adjustment during “freeze”</i></p>	<p>TRCA concerns with proposed addition of Section 21.3:</p> <ul style="list-style-type: none">• Bill 23, as proposed, authorizes the Minister to freeze any fees charged by CAs, including permitting fees• TRCA establishes the majority of its fees, including planning and permitting fees, on a cost recovery basis• For clarity and transparency, TRCA suggests that this proposed new section explicitly provide that forgone or lost revenue resulting from a “freeze” directive may be added to the municipal levy (funded by taxpayers)• TRCA recommends criteria be added to identify the circumstances under which the Minister may direct a conservation authority to “freeze” its fees, that a maximum period be identified (e.g., one year) or that in the event of a “freeze”, conservation authorities be allowed to increase fees by an annual cost of living adjustment (e.g., Consumer Price Index) during the “freeze” period
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Toronto and Region Conservation Authority Summary Comments and Recommendations on Measures the Province Could Take Now to Support Housing

- Provincial leadership is needed on implementing existing plans for housing and mixed-use development in Urban Growth Centres and Mobility Hubs and approved but not-yet-built urban areas.
- Agreements with owners to deliver housing upon delivering transit, servicing, flood protection infrastructure and resolving provincial policy conflicts would help get housing sites ready for construction sooner
- Funding, engagement and support to build “catalyst” infrastructure, e.g., use of provincial lands for Black Creek Renewal flood protection works would protect existing flood-prone community; and free up lands for development in Vaughan Metropolitan Centre near transit (outstanding City and TRCA request), unfunded elements of the Brampton Riverwalk project, and in many other areas of GTA.
- More “working tables” would drive decision-making on mixed-use projects, e.g., Portlands Executive Steering Committee (TRCA/Waterfront Toronto/City of Toronto)

