

Chief Executive Officer



November 28, 2022

VIA EMAIL (mnrwaterpolicy@ontario.ca)

Ministry of Natural Resources and Forestry
Resources Planning and Development Policy Branch
300 Water Street, 2nd Floor, South Tower
Peterborough, ON K9J 8M5

**Re: TRCA Response to Request for Comments
Legislative and Regulatory Proposals Affecting Conservation Authorities to Support the Housing
Supply Action Plan 3.0 (ERO #019-6141)**

Thank you for the opportunity to comment on this posting on the Environmental Registry of Ontario (ERO) by the Ministry of Natural Resources and Forestry (MNR), which proposes legislative changes to the *Conservation Authorities Act* (CA Act) and *Planning Act* affecting conservation authorities (CAs) to support Ontario's *Housing Supply Action Plan*.

On November 10, 2022, Toronto and Region Conservation Authority (TRCA) presented to the Standing Committee on Heritage, Infrastructure and Cultural Policy. A copy of TRCA's presentation, which includes proposed revisions to Schedule 2 of Bill 23 to address our comments, is enclosed as Attachment 1 and forms part of this ERO submission.

We understand that the Ontario government is proposing changes to focus CAs on their core mandate, support faster and less costly approvals, streamline CA processes, and make land suitable for housing available for development. More specifically, we understand that, among a suite of other proposed amendments, key changes of particular interest to TRCA include:

- Greatly reducing CAs' role in reviewing and commenting for municipalities on development applications and land use planning policies under prescribed Acts
- Removing CAs' ability to enter into agreements and commenting services for municipalities under prescribed Acts, including the *Planning Act* and *Environmental Assessment Act* (EA Act)
- Enable exemptions for permits under the CA Act if *Planning Act* approvals are in place
- Remove established tests for considering the effects of "Pollution" and "Conservation of Land" as key principles for permitting decisions under the CA Act
- Allow the Minister to freeze CA fees
- Require CAs to identify lands suitable for housing development within their portfolios

As the ERO posting states, Ontario has a housing supply crisis that must be addressed through continued action from all levels of government, the private sector, and non-profits, particularly if the Ontario government is to reach its stated goal of 1.5 million homes built over the next 10 years.

TRCA has an ongoing interest in the proposed changes given our roles as:

- A regulator under Section 28 of the CA Act;
- A public commenting body under the *Planning Act* and the EA Act;
- A delegated commenting body to represent the Provincial interest in natural hazards;
- A service provider to our municipalities, provincial and federal agency partners;
- A resource management agency operating on a local watershed basis; and
- One of the largest landowners in the Greater Toronto region.

In these roles, and as stated in the “Made-in-Ontario Environment Plan”, and consistent with the four pillars of “Ontario’s Flooding Strategy”, CAs work in collaboration with municipalities and stakeholders to protect people and property from flooding and other natural hazards, and to conserve natural resources. With TRCA’s roles, responsibilities, and experience in mind, we offer the following comments.

GENERAL COMMENTS

Conservation Authority Working Group

As a valued member of the Province’s multi-stakeholder, solutions-oriented Conservation Authority Working Group (CAWG), TRCA, industry and municipal stakeholders helped develop guidance and solutions to further streamline development approvals under predictable frameworks without jeopardizing public safety, dismissing natural systems, or transferring additional responsibilities to municipalities. We were interested in doing more on this front but were instead focused by the Province on administrative and budget matters. In TRCA’s jurisdiction we have worked jointly with our TRCA-building industry working group to update guidance documents and regulations, and advance plans to modernize digital submissions to support streamlined review of complete applications. In addition, TRCA’s municipal partners have engaged TRCA in establishing complete application checklists and pre-consultation requirements to help conform to Bill 109 *Planning Act* timelines. **Prior to the finalization of Bill 23 and release of associated future regulations and/or policies, we request the Province re-engage the CAWG and act upon recommendations brought forward to create certainty for development projects while maintaining required protections.** To complement future work by the CAWG, we suggest the Province also establish other multi-stakeholder working groups to drive decision making on projects that will create more housing, e.g., to help realize/incentivize construction of near-term housing where approvals are in place, or through agreements with landowners/developers to build housing upon delivery of provincially funded infrastructure (transit, servicing, flood protection, etc.).

CAs’ interdisciplinary, watershed perspective benefits municipal planning at all stages

CAs add value to the growth planning process by bringing a science-based watershed perspective to cross municipal boundary issues and across legislative review and approval processes (high level/strategic through to detailed design for both development and infrastructure). CAs save municipalities and developers time and money, as the cost-efficient CA system allows municipalities to benefit from the expertise of CA technical staff (e.g., hydrogeologists, biologists, and engineering staff) in review of planning applications instead of each hiring their own. Where growth and intensification are proposed in areas of historical residential development within the flood hazard, CAs work with our government partners and the development industry to seek opportunities for remediation and restoration to reduce risk and increase resiliency. In this way, increased housing supply is facilitated, remnant and degraded natural features like valleylands and wetlands are protected and enhanced, and the flood and erosion risks to life and property are eliminated or mitigated. Mitigation is one of the four pillars of Ontario’s Flooding Strategy

that CAs are best positioned to support. CAs use their environmental modeling, watershed data, and environmental policy expertise, to advise municipal implementers on how to strategically implement development and infrastructure projects to meet provincial and municipal policies for growth management, public safety, environmental protection and climate change. The information CAs provides to all levels of government and private sector proponents helps to ensure infrastructure is planned and designed in a way that avoids losses due to flooding, erosion, and extreme weather events that are becoming more frequent due to climate change. Based on losses in other jurisdictions with no CAs, it is estimated that many billions of dollars of infrastructure losses have been saved in Ontario due to the role of CAs working in concert with all levels of governments in the planning and design of infrastructure.

Provincial support needed for increasing the rate of development

Significant examples of major projects benefiting from TRCA's contributions in the planning, design and construction of enabling works to facilitate redevelopment of mixed-use communities and higher-density transit-oriented developments include the Toronto Waterfront and Lower Donlands, Yonge Street Corridor and strategic growth areas in Brampton, Vaughan, and Markham. In support of other future major "catalyst" infrastructure projects where lands near transit could be freed up for development through flood protection and remediation, TRCA recommends increased provincial funding, engagement, and support, e.g., elements of the Brampton Riverwalk project and use of provincial lands for Black Creek Renewal flood protection. This would help ensure infrastructure is in place to help deliver near-term housing through agreements with developers that benefit from infrastructure investments.

Focusing on our core mandate of natural hazards

Bill 23 introduces changes beyond the scope of items discussed through consultations with the CAWG and represents a major departure from the first round of *CA Act* amendments in 2017. Those amendments made clear that CAs should focus their work on natural hazard related programs, but also that municipalities should have the option of receiving non-mandatory CA services through agreements. TRCA recognizes the critical need for expedited delivery of housing especially in the GTA and Greater Golden Horseshoe. Moreover, the government's stated intent for schedule 2 of Bill 23 is to focus conservation authorities on their core mandate of managing natural hazards of flooding and erosion, however, **TRCA is deeply concerned that Bill 23, Schedule 2 removes our ability to comment on natural heritage and water resources within the planning and environmental assessment processes, and restricts our permitting role, as these amendments would, in fact, impair our ability to focus on the natural hazard mandate.**

TRCA submits that natural hazards cannot be effectively managed (mandatory service) without also effectively managing natural heritage (non-mandatory service). The 2019 Provincial Flood Advisor's report recommendation affirms this connection: "That the Province support municipalities and conservation authorities to ensure the conservation, restoration and creation of natural green infrastructure (i.e., wetlands, forest cover, pervious surfaces) during land use planning to reduce runoff and mitigate the impacts of flooding."

Moreover, lessons learned from past development practices that employed flood control measures without regard for natural heritage features and the hazard management role they play, have been borne out in damaging and costly floods in many Canadian cities. Examples are found in the older parts of our watersheds with concrete lined waterways where there were once natural channel banks; here storms cause flood waters to rush into surrounding urban areas causing damage and disruption. Overall, flood events in Ontario have been comparatively less disruptive and costly **due in large part to the municipal implementation of CA advice in the planning process, and CA implementation of the section 28 permitting regulation, including use of the pollution and conservation of land tests.**

There are some aspects of Bill 23 that TRCA supports as bold actions that will increase housing affordability and supply. However, as per the resolution unanimously passed by [TRCA's Board of Directors held on October 28, 2022](#), and Board-endorsed [TRCA staff report on the impact of Bill 23 on November 10, 2022](#), **TRCA is firmly requesting a removal and/or revision to certain proposed legislative changes that would otherwise diminish or revoke our existing responsibilities. Please see our detailed comments below describing our specific recommendations.**

DETAILED COMMENTS

We offer the following responses related to specific aspects of the proposed changes we believe to be of paramount concern. Within each response we have included recommendations specific to certain legislative changes we believe would better meet shared government and TRCA objectives regarding the streamlining of housing development approvals, conservation of natural resources and protection of people and property from natural hazards.

1. TRCA has significant concerns with the proposed addition of subsection 21.1.1(1.1) – Prohibiting CAs from reviewing and commenting to municipalities under prescribed Acts (e.g., *Planning Act*), including:

- **Municipalities rely on TRCA to provide timely technical, science-based comments** on planning applications and municipally initiated planning instruments **to assist in determining conformity to provincial policy involving the natural environment, watershed planning, and climate change.**
- **Many municipalities do not have the technical professional staff expertise (ecologists, hydrogeologists) or data (monitoring, modelling, inventory, mapping)** to inform management of natural hazard risk in the context of natural resource management.
- TRCA has demonstrated that we can deliver non-mandatory services effectively and efficiently and there is no evidence that municipalities could improve upon this established practice. Without the option to continue this CA review role, **municipalities and taxpayers would incur significant additional costs, approvals would be delayed, the watershed perspective would be eliminated, and municipalities' ability to prepare for climate change would diminish.**
- **TRCA's partner municipalities have expressed continued support of our cost-effective, value-added programs and plan review services through existing municipal MOUs** (in place since early 2000s or prior), which are currently being updated to ensure streamlined review and clear roles. As well, TRCA is exploring the establishment of new MOUs with several municipal partners at their request. Through discussions with TRCA, municipalities expressed the need for the flexibility to be able to enter into agreements with CAs to review and comment on *Planning Act* applications to benefit from their expertise. Removing this option would cause unnecessary delay, increase costs and inefficiency, and result in duplication across municipalities when affordable, expedited approvals by qualified professions are essential to sustainable housing development.
- 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 CAs to provide such comments directly to a municipality for the municipality’s own use.
- The amendments as proposed would increase risk of failure and loss of infrastructure from it being planned without proper regard for environmental factors. This situation could lead to resulting negative impacts from the cost of losses or repairs to infrastructure which would be borne by taxpayers.
- Municipalities, provincial and federal agencies voluntarily seek out CA advice to protect their investments and the intent of this amendment seems to run contrary to accepted practice to ensure CA information is factored into the planning and design of public and private sector works. This change is proposed against the will of all parties involved in these processes with no reason given by the Province for such a change.

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.**

2. TRCA has significant concerns with the proposed addition of subsection 21.1.2(1.1) – Prohibiting CAs from reviewing and commenting to infrastructure agencies under prescribed Acts (e.g., *Environmental Assessment Act*), including:

- It is unclear how prohibiting CAs from reviewing and commenting to infrastructure agencies on non-residential projects (i.e., under an environmental assessment process) would have direct bearing on the expressed goal of Bill 23 – to build more homes faster.
- **Public infrastructure providers (e.g., provincial agencies, municipalities, 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 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 CAs to provide such comments directly to provincial agencies advancing infrastructure projects, or to other infrastructure providers, for their own use.

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.**

3. TRCA has significant concerns with the proposed revised subsection 28.1(1)(a) – Removal of “pollution” and “conservation of land” tests applying to issuance of permits.

- **TRCA submits that removal of “conservation of land” is a fundamental alteration to the mandate of CAs** 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 Proposed Revisions:

❖ **The existing “pollution” and “conservation of land” tests applying to the issuance of permits under subsection 28.1(1)(a) should be retained. If “pollution” is to be removed, it should instead be replaced with “sedimentation”** as CAs’ ability to enforce keeping damaging sediment out of natural features during construction of permitted works would otherwise be lost. Further, **instead of removing “conservation of land” outright, we suggest defining it to relate to the protection, maintenance, and enhancement of hydrologic and ecological functions of natural features within the watershed,** aligned with the interpretation of the Mining and Lands Commissioner, the courts, Conservation Ontario, and standard CA practice.

4. TRCA has significant concerns with the proposed addition of subsection 28(4.1) – Exemption of development authorized under the *Planning Act* from requiring a permit under the *CA Act* where certain conditions are met as set out in regulation.

- It is unclear whether such exemptions would transfer CA responsibilities to municipalities on a broad scale or be limited to certain types of low-risk development. We note that a broad transfer of responsibility would conflict with the government’s stated aim of focusing CAs on their core mandate given that CA expertise would be entirely absent from planning and detailed design review that takes place in the permit process. This concern is compounded by the Bill’s amendments preventing municipalities from entering into agreements with CAs to review *Planning Act* applications on their behalf. Moreover, there is a lack of clarity regarding the assumption of sole or shared liability for natural hazard impacts, including on upstream and downstream communities.
- **TRCA recommends that all hazard-related responsibilities remain with CAs. Should this amendment not be withdrawn, the new exemption under subsection 28 (4.1)(a) should only apply where the CA 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).

TRCA Proposed Revisions:

- ❖ **Explicitly provide that any exemption be contingent on a CA being provided sufficient opportunity to review, comment on and recommend conditions of approval to the approval authority for the development; and,**
- ❖ **Add required enforcement provisions.**

5. TRCA has concerns with the proposed addition of Section 21.3 – Minister’s direction for fee changes, including:

- There are no guidelines regarding the timing or permanence of the proposed fee freeze.
- TRCA regularly engages with municipal partners and the development industry to ensure our fees, including planning and development fees, are appropriate and established on a cost recovery basis.
- Freezing CA fees would result in negligible cost savings and unquantifiable reductions in environmental protection and public health and safety, while increasing the burden on the tax-base from CAs needing to recover plan and regulatory program review fees through increased municipal levies.

TRCA Proposed Revisions:

- ❖ **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.**
- ❖ **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”, CAs be allowed to increase fees by an annual cost of living adjustment (e.g., Consumer Price Index) during the “freeze” period.**

6. TRCA has concerns with the proposed requirement for CAs to identify lands suitable for housing development within their portfolios.

- It is unclear how this amendment would lead to an increased supply of housing. CA lands are gratuitously dedicated or acquired for conservation purposes due to the presence of natural heritage features and natural hazards within which development is generally prohibited, in accordance with provincial, municipal and TRCA policy. Protecting these environmentally significant lands helps build resilience to the impacts of climate change through stormwater management, habitat provision, carbon sequestration and other ecosystem services.
- Every potential TRCA property acquisition is evaluated according to our publicly available and provincially approved Greenspace Acquisition Project which is informed by numerous factors

including but not limited to: (i) the degree of flood and erosion risk, (ii) the significance of the lands to the greenspace system, (iii) the nature and immediacy of the threat to the greenspace, and (iv) the ability to conserve and maintain the greenspace in the future. There is little ability for TRCA to achieve new housing developments on our land portfolio. We do, however, continually review our real estate holdings, in conjunction with our partner municipalities, to determine whether any non-environmentally sensitive lands could support housing, infrastructure or other community uses.

TRCA Proposed Revisions:

- ❖ **Prior to the finalization of Bill 23 and release of associated future regulations and/or policies, we request the Province re-engage the CAWG and include this potential requirement as an item for further dialogue.**

Ontario's unique CA system saves the Province and taxpayers billions by reducing the financial impacts of extreme weather events compared to other provinces. The Premier's Special Advisor on Flooding echoed this finding and recommended strengthening CA roles. Further, we note that the Province's Housing Affordability Task Force's report and its 55 recommendations to help address Ontario's housing crisis, did not mention CAs. It begs the question why CA roles are being restricted when the way in which we are currently performing our mandate is working well to meet the shared objectives of all stakeholders in Planning Act and Environmental Assessment Act processes, as well as the section 28 permitting process.

Schedule 2 of Bill 23 could have unintentional, negative consequences on the environment and public health and safety and destabilize established planning and regulatory frameworks, at a time when certainty is needed to build more homes faster. Conservation authorities' commenting and permitting roles for natural heritage as well as natural hazards, in collaboration with our municipal partners and infrastructure providers, is vital to continuing to build safe and livable communities while increasing housing supply and preparing for the impacts of a changing climate. The Covid-19 Pandemic demonstrated the importance for the people of Ontario to have access to nature, in addition to affordable housing. Achieving both should be the goal, and one does not have to come at the expense of the other.

Thank you for the opportunity to provide comments on this important initiative. Should you have any questions, require clarification, or wish to meet to discuss any of the above remarks, please contact the undersigned at 416.667.6920 or at john.mackenzie@trca.ca.

Sincerely,

<Original Signed by>

John MacKenzie, M.Sc.(PI), MCIP, RPP
Chief Executive Officer

Encl. Attachment 1: TRCA Presentation to the Standing Committee on Heritage, Infrastructure and Cultural Policy, *Bill 23, More Homes Built Faster Act, 2022* – November 10, 2022

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

**John MacKenzie, M.Sc.(PI) MCIP, RPP
Chief Executive Officer
Toronto and Region Conservation Authority**

November 10, 2022

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**

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

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

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)

Schedule 2, Bill 23: Amendments to the Conservation Authorities Act Minister's direction for fee changes – New Section 21.3

Bill 23 – Section 5

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.

TRCA Proposed Revisions:

Explicitly provide that lost revenue resulting from a “freeze” is added to municipal levy

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”

TRCA concerns with proposed addition of Section 21.3:

- 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

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

