

May 9, 2024

CFN 71180

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Provincial Planning Policy Branch
777 Bay Street, 13th floor
Toronto, ON M7A 2J3

**Re: Bill 185, the Proposed Cutting Red Tape to Build More Homes Act, 2024
(ERO 019-8366 and ERO 019-8369)**

Thank you for the opportunity to comment on Bill 185, and associated postings on the Environmental Registry of Ontario (ERO).

Toronto and Region Conservation Authority (TRCA) understands that the Ministry of Red Tape Reduction is seeking input on amendments to a suite of provincial Acts through Bill 185, the proposed, "Cutting Red Tape to Build More Homes Act." We also understand that the intent of the Bill is to build upon previous actions taken by the government to streamline municipal approvals, reduce costs, prioritize infrastructure for housing projects, and build homes faster.

The proposed amendments to various Acts (Planning Act, City of Toronto Act, Municipal Act, etc.) posted on the ERO by the Ministry of Municipal Affairs and Housing (MMAH), are of interest to TRCA given our roles in planning and permitting, as outlined in the Conservation Authorities Act and associated regulations, including O. Reg. 686/21: Mandatory Programs and Services.

We have reviewed the changes proposed through Bill 185 as described in the following ERO postings and provide comments for your consideration in the table below.

- ERO #019-8366 - Proposed Regulatory Changes under the Planning Act Relating to the Cutting Red Tape to Build More Homes Act, 2024 (Bill 185): Removing Barriers for Additional Residential Units
- ERO #019-8369 - Proposed Planning Act, City of Toronto Act, 2006, and Municipal Act, 2001 Changes (Schedules 4, 9, and 12 of Bill 185 - the proposed Bill 185, Cutting Red Tape to Build More Homes Act, 2024)

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<p>Enabling amendments for municipalities to ease zoning restrictions on the creation of additional residential units (ARUs)</p>	<p>Several municipalities in TRCA’s jurisdiction have been undertaking zoning bylaw conformity exercises for as-of-right additional units. We note that the ERO posting states that, “the as-of-right permission applies province-wide to any parcel of land where residential uses are permitted in settlement areas with full municipal water and sewage services (excepting for legal non-conforming uses such as existing houses on hazard lands).”</p> <p>While the exception for hazard lands is noted in the posting, it is not contained in the proposed amendments. In TRCA’s experience, municipalities are reluctant to insert restrictions on ARUs given the provincial direction to make them as-of-right. This results in landowners’ having the expectation that this right exists regardless of the location of the proposed ARU(s) being subject to flooding or erosion that would increase risk to people and property.</p> <p>Permits under the <u>Conservation Authorities Act</u> are applicable law under the <u>Building Code Act</u> and are required prior to issuance of a municipal building permit. At the time of a TRCA permit application for an ARU within a flood or erosion prone area, conflict and delay can arise as hazard issues may not have been identified in the municipal zoning bylaw provisions or mapping. Legislated and/or regulated direction from MMAH for municipal zoning exceptions preventing ARUs within natural hazards is needed to improve certainty, and time and cost savings, for landowners and all stakeholders.</p> <p>TRCA recommends that the proposed provincial regulation regarding ARUs direct that municipal zoning by-laws:</p> <ul style="list-style-type: none"> • Prohibit ARUs from being located within areas subject to natural hazards, where doing so would increase the risk associated with flooding and erosion. • Generally prohibit ARUs from being located within areas important for natural hazard management, as identified by the conservation authority where they exist, e.g., valleylands, wetlands and watercourses. • Include a schedule overlay and provisions on the applicable conservation authority’s regulated area screening map and the purpose of the section 28.1 permitting regulation provisions of the <u>Conservation Authorities Act</u> and associated regulations. <p>This direction would align with the natural hazard policies of the Provincial Planning Statement, currently being consulted on through ERO 019-8462, which directs planning authorities to collaborate with</p>

Attachment 9 TRCA Letter Bill 185 ERO 019-8369 OSB

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	conservation authorities for identifying and managing natural hazards in accordance with provincial guidance.
019-8369	
<ul style="list-style-type: none"> - Create a Minister's regulation making authority to enable the Minister to provide exemptions for individual or classes of approved developments. - Expedited Approval Process for Community Service Facility Projects - Exempt Universities from the Planning Act 	<p>Minister's exemptions for development from the normal planning process (including private development, community service facilities, university housing, etc.), do not benefit from review by conservation authorities to identify regulated features and hazards important for natural hazard management and protection of people and property on subject sites and existing downstream communities.</p> <p>TRCA recommends that Bill 185's proposed regulations to exempt certain development include direction for conservation authorities to be circulated proposals where the subject property is located within a regulated area under the <u>Conservation Authorities Act</u>.</p>
<ul style="list-style-type: none"> - Make pre-application consultation voluntary at the discretion of the applicant. 	<p>TRCA is concerned with the proposal to make pre-consultation voluntary. In TRCA's experience, pre-application consultation is a helpful tool for informing applicants of what constitutes a complete application, and establishing pre-consultation as optional may have the unintended consequence of extending review timelines. TRCA continues to offer its expertise and support to municipal partners at the pre-consultation stage in establishing guidance on study terms of reference (appropriately scoped for project scale) and complete application checklists. This ensures that municipal approvals and conservation authority permit approvals are coordinated to facilitate timely review.</p> <p>TRCA recommends that the Bill 185 proposed amendment be revised to make pre-consultation voluntary only at the discretion of the municipality as opposed to the applicant.</p>

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<p>- Allow applicants to appeal a municipality's refusal or failure to make a decision on a privately requested official plan or zoning by-law amendment that would change the boundary of an "area of settlement," outside of the Greenbelt Area.</p>	<p>TRCA is concerned with the proposed ability to appeal a refusal or non-decision of a privately initiated Settlement Area Boundary Expansion (SABE). Privately initiated SABEs ignore and undermine coordinated, strategic growth planning and greatly reduce opportunity for integrated watershed management that protects new and intensifying communities. They also lengthen the time it takes to get to construction by introducing complexity and inconsistency into an otherwise rational, linear planning process. Moreover, for those applications following the typical planning review process, their approval timelines are extended and disrupted as approval agency resources are monopolized by a costly and lengthy hearing process.</p> <p>By contrast, municipally led comprehensive planning for urban expansion, enables a watershed lens for best determining avoidance, mitigation, minimization, or compensation/remediation that facilitates timely, safe, and resilient development and infrastructure. Granting appeal rights, especially due to a non-decision, will likely result in an increased number of applications for SABEs being litigated in isolation of one another, rather than being evaluated in an integrated manner at the appropriate provincial, regional and watershed scales necessary to ensure comprehensive planning.</p> <p>TRCA recommends that the proposed amendment be revised to remove the SABE appeal rights to ensure a consistent approach to growth management. Further to the comments and recommendation above, the municipal option for mandatory pre-consultation should also help to avoid the disruptive and ad-hoc approach of numerous, "one-off" SABE appeals.</p>

Should you have any questions, require clarification, or wish to meet to discuss any of the above comments, please contact the undersigned at 437.880.2282 or by e-mail at laurie.nelson@trca.ca.

Sincerely,

<Original signed by>

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Cc: John MacKenzie, Chief Executive Officer
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