

FRIENDS OF THE



TAY WATERSHED

*We All Live Downstream...*

P.O. Box 2065  
57 Foster Street  
PERTH ON K7H 3M9  
[friends@taywatershed.ca](mailto:friends@taywatershed.ca)

November 4, 2022

Hon. Steve Clark  
Minister of Municipal Affairs and Housing  
17<sup>th</sup> Floor  
777 Bay Street  
TORONTO ON M7A 2J3

Dear Minister

**RE: Bill 23 - More Homes Built Faster Act, 2022**

Friends of the Tay Watershed Association Mission Statement is:

“The Friends of the Tay Watershed deliver activities and cooperate with other organizations with complimentary interests, to ensure the health of the water and related natural resources of the Tay Watershed for present and future generations.”

In the context of our mission statement, we have reviewed the draft legislation with respect to proposed amendments to the *Planning Act* and the *Conservation Authorities Act*.

**Planning Act (Schedule 9)**

While our mission statement does not involve housing programs, we commend the province for mandating the delivery of additional residential units (ARUs) to serviced urban residential areas only. The exemption to rural areas alleviates our concerns with the potential residential intensification of shoreland areas which would have a negative pollution-related impact on the water quality of our inland lakes and rivers, notably those water bodies which have reached their biological development capacity or are approaching capacity limitations. Similarly, residential intensification may exceed the sewage treatment capacity of individual on-site sewage services. The wise stewardship of the environment must be integral to all development decisions.

Along these same environmental lines, our principal concern with respect to the *Planning Act* are changes to Section 41 (site plan control) which proposes:

11 (1) Section 41 of the Act is amended by adding the following subsections: Same (1.2) Subject to subsection (1.3), the definition of “development” in subsection (1) does not include the construction, erection or placing of a building or structure for residential purposes on a parcel of land if that parcel of land will contain no more than 10 residential units.

The intent as we understand the legislation is that site plan control will no longer apply to any residential development where the development will consist of 10 or fewer residential units. We recognize that the intent is to exempt smaller scale housing development as a means to expedite approval/construction coincident, for example, with the policy to permit additional residential units (ARU's). The proposed changes are intended to apply universally across Ontario in both urban and rural areas. The unforeseen impact will be the inability to use site plan control as a keynote planning tool for ensuring sustainable shoreland management. Many municipalities across Ontario depend on site plan control to ensure that shorelands are retained or restored to a naturalized vegetated state, that sewage disposal systems and dwellings are set back a minimum of 30 m from the shoreline, which we term the "Ribbon of Life", and that stormwater/drainage is governed to avoid inappropriate sediment discharge into abutting water bodies and that erosion is avoided. The 30 m "Ribbon of Life" concept along shorelands also conserves wildlife corridors, and protects fish and wildlife habitat, all matters of which are mandated by the Provincial Policy Statement and the preparation of official plan policies. Friends of the Tay Watershed have worked with Watersheds Canada over the last two years to develop a shorelands management online package for municipal planners and municipal politicians across Ontario, a process that is dependent on the use of site plan control as a key planning tool for sustainable shoreland areas.

We respectfully suggest that the province be consistent with respect to the legislation by applying the same environmentally-sensitive approach as used for ARUs specifically, to mandate ARUs in all urban settlement areas where municipal sewage and water services are available while exempting ARU's in rural areas. We recommend that a similar exemption apply to site plan control in rural areas, or in other words, retain the status quo. We respectfully submit that the shorelands of Ontario are not where the province is attempting to resolve the housing shortage. We believe that the sustainable management of the shoreland environment is crucial to protecting the water quality of our lakes and rivers, and to avoiding pollution and the destruction of natural habitat for fish and wildlife.

Section 41 (4.1) (1.1) proposes to prohibit the use of site plan control to regulate matters relating to exterior design, including without limitation the character, scale, appearance and design features of buildings, and their sustainable design, except with respect to exterior access to a building that will contain affordable housing units. The effect will be to prohibit a municipality from regulating any exterior architectural elements of a building. To our knowledge, the application of exterior design is not a significant practice in rural Ontario; however, some municipal official plans do contain policies that are intended to ensure that construction materials and the external colour of buildings should be melded into nature's landscape notably for waterfront properties. We respectfully request that section 41 (4.1) (1.1) not apply to rural Ontario.

Section 41 (4.1.1), a new section will prohibit (4.1.1) a municipality from regulating the appearance of the elements, facilities and works on the land or any adjoining highway under a municipality's jurisdiction is not subject to site plan control, except to the extent that the appearance impacts matters of health, safety, accessibility or the protection of adjoining lands. The effect would appear to limit a municipality's ability to regulate the appearance of a sign or a driveway entrance or other development features unless it affects public health or safety. We would respectfully submit that the extent of the controls is however, unclear without a definition of "elements, facilities and works". We also suggest that if the matter of appearance is to apply, that matters of health, safety, accessibility and protection of adjoining lands be extended to include conservation of the natural environment. The retention of vegetative wind breaks and

shelter belts along our highways and local roads not only has an aesthetic appeal but is a safety feature that mitigates snow drifting as well as an environmental feature since by reducing wind speed, windbreaks modify the climate in the areas they shelter. The effects of reduced wind speed moderate soil and air temperatures, increase relative humidity, reduce evaporation and increase soil moisture.

## **Conservation Authorities Act (Schedule 2)**

### **Conditions Specified by CA**

Section 28 (6A) currently allows CA to impose conditions related to the effects a development project is likely to have on the control of flooding, erosion, dynamic beaches or pollution or the conservation of land. The legislative changes proposed state:

(3) Clause 28.0.1 (6) (a) of the Act is repealed and the following substituted: (a) any effects the development project is likely to have on the control of flooding, erosion, dynamic beaches or unstable soil or bedrock;

The effect of the change will be to eliminate the ability of conservation authorities to address pollution and the conservation of land while adding unstable soil or bedrock. The realignment of authority is anathema to the purpose of the proposed legislation since matters such as pollution, the conservation of land and unstable soil or bedrock don't appear to have any practical or real correlation with building more homes faster. Conservation Authorities across Ontario are an invaluable resource to rural municipalities in providing technical resources with respect to the core responsibilities listed in the Act including pollution and land conservation. Most rural municipalities do not have the in-house expertise or capacity to address the scope of responsibilities administered by conservation authorities; hence the partnership is vital to the conservation of the natural environment. Our Association works closely with the Rideau Valley Conservation Authority as do all of the lake associations in the Tay Watershed.

We respectfully request that matters of pollution and the conservation of land be retained as part of the core responsibilities of conservation authorities.

Under Section 28, the current Act gives the authority powers to regulate matters such as regulating water flows, channelization, the control of flooding, erosion, dynamic beaches or pollution or the conservation of land affected by any development. The proposed amendments will allow municipalities to override CA authority where a Planning Act approval has been given subject to meeting all required restrictions imposed by the municipality. The concern of our Association is the unforeseen impact of municipal intervention in crucial areas of environmental management. As noted above, municipal partnerships with conservation authorities benefit from the technical expertise and extensive experience the conservation authorities offer to local government. Our concern is the potential compromise of sustainable environmental management that may arise where unsubstantiated or non-science related decisions are made under the *Planning Act* that transcend the core mandate and responsibilities of conservation authorities. We are further concerned that the delegation to municipalities erodes the ability of conservation authorities to properly manage watersheds since planning applications are confined to political boundaries and such boundaries are not coincident with watershed boundaries. This also obviates consideration for the cumulative impacts of multiple applications and inconsistencies in environmental policies from one municipality to another that may affect the health of a watershed.

We respectfully request that the legislative status quo under Section 28 be retained.

Friends of the Tay Watershed wish to reiterate in our comments on Bill 23, that sustainable environmental management, be it shorelands or rural areas is imperative for the future of our communities to make them liveable, healthy, and resilient, consistent with the intent of Section 1.0 of the Provincial Policy Statement.

As a final note, regardless of our mission, but a concern for all is with respect to a change in the appeal rights under Section 34 of the *Planning Act* wherein appeals of a municipal council land use planning decision with respect to a zoning by-law may only be made by the applicant or a specified person. The proposed amendment reads:

(2) Paragraph 2 of subsection 34 (19) of the Act is repealed and the following substituted:  
2. A specified person who, before the by-law was passed, made oral submissions at a public meeting or written submissions to the council.  
2.1 A public body that, before the by-law was passed, made oral submissions at a public meeting or written submissions to the council.

Our concern is the breach to a democratic process well entrenched in the *Planning Act* which will now preclude legitimate planning appeals on matters of concern to an individual or to the community at large. We find the denial of appeal rights to be unconscionable and unacceptable to good land use planning. This proposed changes also appears to contravene the intent of the province to expedite approvals by increasing the staff complement of the Ontario Land Tribunal in adjudicating appeals.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Glenn Tunnock". The signature is written in a cursive, flowing style with a long horizontal stroke at the beginning and a vertical stroke at the end.

Glenn Tunnock, MPA, MCIP, RPP  
President, Friends of the Tay Watershed Association  
613-464-8805  
[gtunnock@tunnockconsulting.ca](mailto:gtunnock@tunnockconsulting.ca)

CC.

- John Jordan, MPP, Lanark – Frontenac - Kingston
- Tay Valley Township
- Town of Perth
- Township of Drummond/North Elmsley
- Township of Lanark Highlands

- Township of Central Frontenac
- Rideau Valley Conservation Authority
- Mississippi Valley Conservation Authority
- Cataraqui Conservation Authority
- Christie Lake Association
- Otty Lake Association
- Bob's and Crow Lake Association
- Eagle Lake Association
- White Lake Association
- Watersheds Canada
- Conservation Ontario
- FOCA
- Environmental Defence