



Comments on Bill 23

Federation of Ontario Cottager's Association

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FOCA is the Federation of Ontario Cottagers' Associations, a not-for-profit organization for over 60 years representing volunteer associations and individual property owners all across Ontario. We have **525 Member Associations located across Ontario who represent approximately 50,000 waterfront property-owning families.** Ontario's 250,000 waterfront property owners are key stakeholders in rural and northern Ontario, collectively contributing over \$11.4 billion in annual spending supporting 157,000 jobs in the Province.

Our Vision:

FOCA envisions thriving and sustainable waterfronts across Ontario, now and for future generations.

November 17, 2022

Hon. Laurie Scott, MPP
Chair, Standing Committee on Heritage, Infrastructure and Cultural Policy
College Park
5th Floor, 777 Bay Street
Toronto, ON M7A 2J3

RE: Federation of Ontario Cottager's Association Comments – *More Homes Built Faster Act 2022 Bill 23*
Environmental Registry of Ontario Postings: 019-6172

Dear Ms. Scott,

Thank you for the opportunity to provide comments on behalf of the Federation of Ontario Cottager's Association (FOCA) regarding Bill 23, the *More Homes Built Faster Act, 2022* posted on the Environmental Registry of Ontario (ERO) 019-6172.

FOCA is an incorporated non-profit organization that represents over 500 waterfront property owners' organizations, with over 50,000 member families. For over 50 years, FOCA has spoken on behalf of, and supported, Ontario's 250,000 waterfront property owners.

FOCA's Province-wide interests include land use planning, management of water quantity and quality, flood and drought preparedness, natural heritage, and safe and affordable communities.

General Comments

Our comments are prefaced here, with more detailed comments in Table 1 appended to this letter.

Timing of the Bill - the government has chosen to release this bill as municipal councils were dissolving and new terms were yet to begin. The changes in this bill significantly impact municipalities and there should be ample time for them to understand and engage with the province on their proposed changes. These proposals are not imposing short term fixes but changes that will be in place for decades, the ramifications of which need to be carefully examined. ***We ask that the province extend its comment period and undertake proper consultation with municipalities.***

Impacted Lands - One of our most significant concerns with this bill is its application to **all lands in Ontario**, regardless of suitability for development or ability to meet the goals of this government for more homes faster. This is a bill that was clearly intended for the Greater Golden Horseshoe and other large urban centres but in its current form will have the unforeseen consequence of being applied to the forests and shorelines of our lakes and rivers to the detriment of water quality and Ontario's nature-based economy that is a resource for all Ontario residents and visitors for tourism and recreation. Further, any attempts at residential intensification in such rural areas may exceed the sewage treatment and carrying capacity of individual on-site or municipal sewage systems. The wise and sustainable stewardship of the environment must be integral to all development decisions. ***We ask that Bill 23 focus on urban residential lands that have capacity for servicing and existing infrastructure and be consistent with the definition "parcels of urban residential land".***

Site Plan Control - Changes to the *Planning Act* Section 41 (1.2) remove site plan control from lands with less than 10 units and the ability for a municipality to control landscaping. We recognize that the intent is to exempt smaller scale housing development to expedite housing approvals and construction. However, 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, and by extension landscaping measures, as a key 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, tree clearing is minimized, stormwater/drainage is governed to avoid inappropriate sediment or nutrient discharges into abutting water bodies, and that sewage disposal systems and dwellings are set back a minimum of 30 m from the shoreline, which we term the "Ribbon of Life". The 30 m "Ribbon of Life" concept along shorelands also protects sources of drinking water, 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 as well as mitigating the visual effects of development on valued natural shorelines.

The change to remove site plan control will result in uncontrolled development on our shorelines – *with no increase in the number of homes built and no improvement to the housing crisis.* ***We ask that site plan control be retained for Ontario's rural and waterfront land and that landscaping remain a tool at the disposal of the municipality on these lands.***

Appeal Rights – Many of our lake associations engage in municipal planning matters and at times have appealed planning decisions that pushed the boundaries of good planning and

development respectful of the environment. This government's proposal to remove the rights of taxpayers and landowners to appeal planning decisions removes one of the checks and balances in the system – holding staff and councils accountable for upholding their policies and ensuring that the environment on which we depend is protected for future generations. ***We ask that third party appeal rights be restored.***

Public Notice and Meetings for Plans of Subdivisions - It is crucial that residents and adjacent landowners in cottage country learn about applications for plans of subdivision and have the ability to speak to them before council. Through public participation, applications have been made more respectful of the environment and more reasonable in scale. We ask that public meetings continue for draft plans of subdivision. ***We ask that public meetings and notices be restored.***

Role of Conservation Authorities – Bill 23 will diminish the effectiveness of conservation authorities and their 25-year relationship with municipalities. Conservation authorities (CA's) have provided technical expertise to municipalities reviewing planning applications for consistency with the Provincial Policy Statement and official plan environmental policies – ensuring that communities and properties are safe and green. By engagement early in the planning process, CA's ensure that developments are safe from flooding, erosion and slope failure such that they can be permitted at the end of the process. Bringing the watershed focus is one of the most important roles that CAs play in Ontario. Effective natural hazard management must include the watershed – for all lands drain to rivers and lakes. *You can't take the watershed out of the water.* Bill 23 as written, will seriously compromise Ontario's ability to protect wetlands, forests, farmlands and fragile ecosystems. Decision-making will be fragmented and resources inadequate to do the job in every community – which will cost all Ontarians in the short- and long-term.

Municipalities must retain the ability to enter into agreements with conservation authorities for review and comment on natural heritage and water resources for development applications. Further, development subject to Planning Act authorizations should not be exempt from requiring Conservation Authority permits and Conservation Authority regulations should not be delegated to municipalities. The planning process is insufficient to ensure natural hazard concerns are addressed through design and construction alone. This places additional pressure, responsibility, and liability on municipalities communities, who are not resourced nor designed to deliver these responsibilities, especially in rural areas.

Finally, Bill 23 separates the protection of wetlands and other green features from natural hazard planning. These are the features that slow floodwaters and flows: they are connected. This is particularly concerning for many municipalities do not have the expertise to independently consider all of these matters when reviewing planning applications, which could elevate municipal risk and liability.

All these changes to the role Conservation authorities play will result in more confusion in the plan review process thus *delaying faster building of homes which will not achieve the Province's objective*. **We ask that the modifications to the Conservation Authorities Act be removed from Bill 23.**

Heritage Properties - Our rural municipalities rely on tourism, and cultural heritage is an important component of what attracts visitors to these areas, stimulating our economy. Requiring designation of all listed properties within two years will create a significant burden on smaller municipalities to preserve cultural heritage. **We ask that the proposed requirement that a property meet two or more of the criteria prescribed in regulation to be designated, and the proposed requirement to designate all listed properties within two years, be removed from the act.**

Please see Table 1 for our detailed comments and recommendations.

We would be happy to expand on any comments made herein.

Sincerely,



Terry Rees
Executive Director

Ian Crawford
President

c.c.

Doug Ford, Premier of Ontario
Graydon Smith, Minister of Natural Resources and Forestry
Steve Clark, Minister of Municipal Affairs and Housing
David Piccini, Minister of Environment Conservation and Parks
Neil Lumsden, Minister of Tourism Culture and Sport
MPP Peter Tabuns
MPP Mike Schreiner
Isaiah Thorning, Committee Clerk

Table 1. Detailed Comments on Bill 23

<u>Acts</u>	<u>Proposals and Comments</u>	<u>Recommendations</u>
<p><i>More Homes Built Faster Act</i> 2022 Bill 23</p>	<p>The measures in Bill 23 appear to apply to all lands in Ontario regardless of suitability for housing. This opens the door to development that will do nothing to further the goals of this bill.</p> <p>Local context is important. The current housing crisis in Ontario needs to be reframed from one of housing supply, to that of primarily housing affordability. For example, In the District Municipality of Muskoka, there are a total of 5,843 draft approved housing units, 5,424 of which are located in the serviced Urban Centres and, approximately half of which have been draft approved for more than 10 years.</p> <p>Bill 23 seeks to significantly constrain many provisions that make our communities safe, sustainable, interesting and livable. Whether it be natural environment features, hazard lands, green building standards, cultural heritage, parklands or the greenbelt – it signals an undesirable outcome – houses at any cost. <i>‘Pay me now or pay me later’</i> will be the result. Whether it be disaster mitigation payouts, lawsuits, higher energy costs for owners or health care costs, we see the ramifications today of how buildings and communities were designed in the past. Retrofitting is more expensive to the public purse than getting it right at the beginning.</p>	<p>Bill 23 should focus on urban residential lands that have servicing and existing infrastructure. This is consistent with the definition “parcels of urban residential land” already being used for the as-of-right 3 residences per lot.</p> <p>Require developers to act on existing approvals within a reasonable time frame or lose their approval status.</p>

<p>Planning Act Schedule 9 Bill 23 Sections 41(1.2) and 41(4.1.1)</p>	<p>Proposal: Site Plan Control only for lots of 10 or more units, and removal of landscaping from Site Plan Control</p> <p>Site plan control is not just an aesthetic or architectural exercise found in large urban centres. Throughout Ontario site plan control is a vital planning tool used to ensure that shoreline development continues to occur in a sustainable manner to protect, maintain and enhance the health of the watershed through protecting our forests and vegetative buffers, while seeking to minimize potential damage to property from extreme weather events (e.g., flooding). Site plan control and control over landscaping (eg. trees, permeable surfaces) are vital to protect the natural environment on which Ontario’s economy is based.</p> <p>Many of our waterfront communities have experienced significant flooding in recent years. As recognized by the Special Advisor on Flooding in their report, the devastating impacts of flooding can be managed through <i>sound land use planning and mitigative activities</i>.</p> <p>The Special Advisor of Flooding’s report underscores the critical need for Ontario’s municipalities to be able to implement site plan control and control landscaping to protect lands at risk of flooding - including waterfront lands that form the economic engine of the region.</p> <p>Ontario’s Lake System Health Program conducts extensive recreational water quality monitoring and modeling to track the health of watersheds. Using watershed-wide data collected through the longstanding and supportive FOCA partnership with the Ministry of Environment, Conservation and Parks (MECP), municipalities and citizen scientists ensure that water quality is both</p>	<p>Remove section 41(1.2).</p> <p>If section 41(1.2) remains, amend it to specify that the changes are only applicable to “parcels of urban residential land”, a definition already proposed throughout the proposed <i>Planning Act</i> amendments to facilitate multi-residential development in serviced urban centres.</p> <p>Amend section 41(4.1.1) to clarify that landscaping remains a tool in Site Plan Control.</p>
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	<p>protected and enhanced across the watershed and on a lake-specific basis by utilizing site plan control.</p> <p>Site plan control, including landscaping control, can ensure natural vegetative shoreline buffers, suitable leaching bed setbacks, appropriate location of buildings, driveways and pathways, and implementation of stormwater management and construction mitigation techniques.</p> <p>This Bill should not be making it easier for properties to be developed on sensitive water bodies without effective oversight and measures to protect water quality.</p>	
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<p>Planning Act Schedule 9 Bill 23 Section 41(4)(7)</p>	<p>Proposal: Remove sustainability measures</p> <p>The proposal to remove section 41 (4) 2 d from the <i>Planning Act</i> appears to remove from site plan control the ability to include measures that will address sustainability (e.g. permeable materials, vegetation and buffers), yet sections 41 (7) 6, 8 and 9 allows for some measures to be part of the stormwater system.</p> <p>The treatment train approach to storm water management means that lot level landscaping is integrated with the area stormwater system and must not be eliminated from consideration at the site scale. Storm water management is an essential component of managing natural hazards.</p>	<p>Clarify that sustainability measures related to permeable materials, vegetation, and water management be specifically included in the <i>Planning Act</i> sections 41 (4) and (7)</p>
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<p>Development Charges Act Bill 23 Schedule 3</p>	<p>Proposal: Reduction in development charges</p> <p>The proposed overall reduction in maximum development charges applicable to all development may have the unintended consequence of stalling the building of critical infrastructure and shifting the financial burden of growth-related infrastructure needs onto existing municipal taxpayers.</p> <p><i>Development should pay for development and the burden should not be placed on taxpayers who will not benefit from it.</i></p> <p>Most rural lower tier municipalities in Ontario are small without the staff capacity of larger centres and the requirements to do more faster within this Bill mean more municipal resources are required, not fewer.</p>	<p>Reconsider reductions in development charges in light of the burden it will impose on existing taxpayers.</p> <p>Limit reduction in development charges to projects creating affordable and attainable housing.</p>
<p>Planning Act: Part VI Subdivision of Land Section 50 (20.1 – 4; 21.1-2)</p>	<p>Proposal: Removal of Notices and Public Meetings for Draft Plans of Subdivision</p> <p>It is crucial that residents and adjacent landowners learn about applications for plans of subdivision and have the ability to speak to them before council. In our experience, developers have come in with maximum asks in often inappropriate locations. Councils have sometimes needed the voices of residents to be willing to advocate for the kind of development appropriate to the area. Through public participation in the process, some applications have been made more respectful of the environment and more reasonable in scale.</p>	<p>Continue public meetings for draft plans of subdivision</p>

<p>Planning Act: Interpretation 1(1) "specified person"</p>	<p>Proposal: Remove third party appeal rights for all planning decisions</p> <p>The proposals change the <i>Planning Act</i> definition of the "specified person" who may appeal to only applicants, municipalities and other specified entities.</p> <p>The complete removal of the ability of third parties to appeal local planning decisions - such as official plans and amendments, zoning by-laws and amendments, and minor variances and consents - removes important checks and balances when council has not upheld its policies or those of the province. Taxpayers have the right to participate in what is happening in our community, and play a valuable role in holding staff and elected officials to account. It is not always NIMBY.</p>	<p>Permit residents and their representatives to appeal planning decisions, other than those relating to the creation of affordable housing.</p>
<p><i>Ontario Heritage Act</i> Bill 23 Schedule 6 section 27(15)</p>	<p>Proposal: Designate all listed properties within two years</p> <p>Requiring designation of all listed properties within two years will create a significant burden on smaller municipalities to preserve cultural heritage. Our rural and northern municipalities rely on tourism, and cultural heritage is an important component of what attracts visitors to our area, stimulating our economy.</p> <p>Proposal: Require a property to meet two or more of the criteria prescribed in regulation</p> <p>The threshold requiring that a property meet two or more of the criteria prescribed in regulation should not apply to all lands in Ontario, but rather to appropriate locations where intensification of housing is proposed</p>	<p>Remove the four conditions requiring removal of the listed (non-designated) properties from the register:</p> <p>Delete the requirement that a property meet two or more of the criteria prescribed in regulation to be designated.</p>

	<p>and tourism will not be negatively impacted. In rural areas which depend on tourism, many of the significant cultural heritage assets are of modest architecture yet embody a great deal of associative value.</p>	
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<p><i>Conservation Authorities Act</i> Schedule 2 of Bill 23 – subsections 3 and 4 and associated amendments</p>	<p>Subsections 3 and 4 propose changes that prohibit Conservation Authorities from entering into Memorandums of Understanding (“MOUs”) with Municipalities. Many municipalities choose Conservation Authorities to deliver development review and commenting services due to the expertise available among CA staff and the efficiency it brings.</p> <p><i>Prohibiting this work will lead to longer and more costly application review processes and will not contribute to the Province’s goal of “more homes built faster”.</i></p>	<p><i>That subsections 3 and 4 be removed in their entirety from the schedule. A complementary amendment to remove 14(3) is also required.</i></p>
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<p>Schedule 2 of Bill 23 – subsection 7(2) and associated amendments</p>	<p>The province recently confirmed the mandate of Conservation Authorities, which includes regulating development to address the risk of natural hazards. Subsection 7(2) proposes to exempt certain types and locations of development from the regulation process. This could create a two-tiered approach to the protection of people and property. This exemption is contrary to the core mandate of Conservation Authorities and may put people and property at risk.</p> <p>Ontario’s communities have had a certain standard of care for the past 65 years – with increasing climate risks this is not the time to put Ontarians at risk, and especially our less affluent citizens who may be disproportionately impacted by developments that will be undertaken under such short sighted policy.</p> <p>Advice should be sought from the Conservation Authorities Working Group about development activities that may be suitable for exemption from requiring a permit using existing clauses within Section 28 (3) and (4) of the Conservation Authorities Act. In our view, this approach avoids unintended risks to public safety, properties, or natural hazards.</p> <p>The proposals under the regulation for development not requiring a permit will do nothing to advance the province’s objectives for more housing.</p>	<p>That subsection 7(2) be removed in its entirety from Schedule 2. Complementary amendments to remove 13(2) and 14(1) are also required.</p>
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