

Pilon, Janet

Subject: May 23, 2019 Conservation Halton Board of Directors meeting - approved reports

From: Niamh Buckley <nbuckley@hrca.on.ca>

Sent: May 28, 2019 12:26 PM

To: 'townclerk@oakville.ca' <townclerk@oakville.ca>; 'Suzanne Jones' <suzannej@haltonhills.ca>; 'city.clerk@mississauga.ca' <city.clerk@mississauga.ca>; 'cityclerks@burlington.ca' <cityclerks@burlington.ca>; 'angela.morgan@burlington.ca' <angela.morgan@burlington.ca>; 'TroyMcHarg@milton.ca' <TroyMcHarg@milton.ca>; 'Admin' <admin@puslinch.ca>; clerk@hamilton.ca; 'tamara.chipperfield@cvc.ca' <tamara.chipperfield@cvc.ca>; 'Andrew Farnsworth' <Andrew.Farnsworth@trca.on.ca>; 'espencer@grandriver.ca' <espencer@grandriver.ca>; Tellier, Jaime L. <Jaime.Tellier@conservationhamilton.ca>; kgavine@conservationontario.ca; deb.martindowns@cvc.ca; jfarwell@grandriver.ca; Burnside, Lisa <Lisa.Burnside@conservationhamilton.ca>; john.mackenzie@trca.on.ca
Cc: Barb Veale <bveale@hrca.on.ca>; Adriana Birza <abirza@hrca.on.ca>; Kellie McCormack <kmcCormack@hrca.on.ca>
Subject: May 23, 2019 Conservation Halton Board of Directors meeting - approved reports

Good afternoon,

Please find attached copies of the reports and related correspondence that were approved at the Conservation Halton Board of Directors meeting on May 23, 2019:

5.3 Proposed Excess Soil Regulatory Proposal and amendments to Record of Site Conditions Regulation, ERO #019-0023

Holding polluters accountable by enhancing Ministry of Environment Conservation and Parks' enforcement, ERO #019-0023

5.4 Bill 108 (Schedule 12) – the proposed More Homes, More Choice Act: Amendments to the Planning Act ERO # 019-0016

Thank you,

Niamh Buckley

Administrative Assistant, Office of the CAO / FOI Coordinator

Conservation Halton

2596 Britannia Rd. West, Burlington, ON, L7P 0G3

Ph. 905 336 1158 ext. 2236

nbuckley@hrca.on.ca

www.conservationhalton.ca

REPORT TO: Board of Directors

REPORT NO: CHBD 06 19 08

FROM: Barbara J. Veale, Director, Planning & Watershed Management

DATE: May 23, 2019

SUBJECT: **Proposed Excess Soil Regulatory Proposal and amendments to Record of Site Conditions Regulation, ERO #013-5000;**

and,

Holding polluters accountable by enhancing Ministry of Environment, Conservation and Parks' enforcement, ERO #019-0023

Recommendation

THAT the Conservation Halton Board of Directors **receive for information the report entitled “Excess Soil Registry Proposal and amendments to Record of Site Conditions Regulation; and, Holding polluters accountable by enhancing Ministry of Environment, Conservation and Parks’ enforcement”;**

And

THAT the Conservation Halton Board of Directors **direct Conservation Halton staff to provide the attached letter as formal response to the Province on the proposed Excess Soil Regulatory Proposal and Amendments to Record of Site Condition (ERO #013-5000);**

And

THAT the Conservation Halton Board of Directors **direct Conservation Halton staff to circulate the above mentioned letter to Conservation Halton’s area municipalities, neighbouring conservation authorities and Conservation Ontario for information purposes.**

Executive Summary

The Ministry of the Environment, Conservation and Parks (MECP) posted the *Excess soil regulatory proposal and amendments to Record of Site Condition (Brownfields) Regulation (ERO #013-5000)* to the Environmental Registry on May 1, 2019 for public review and comment by May 31, 2019. The posting includes:

- A proposed new excess soil regulation to clarify the requirements for the reuse of excess soil, providing clear, risk-based options for safe reuse (On-Site and Excess Soil Management Regulation);
- Amendments to O. Reg 153/04 (Record of Site Condition Regulation)

- Amendments to O. Reg 347 (General – Waste Management)
- A proposed document to be adopted by reference in the On-Site and Excess Soil Management Regulation titled “Rules for On-Site and Excess Soil Management”
- A Beneficial Reuse Assessment Tool (BRAT) to allow a qualified person to generate site specific standards using a spreadsheet model.

In addition to this posting, the MECP is also consulting on the proposal *Holding polluters accountable by enhancing Ministry of the Environment, Conservation and Parks’ enforcement tools (ERO #019-023)*. The posting contains proposed amendments to the *Environmental Protection Act* that would enable administrative penalties for a broad range of environmental violations under the act, and permit and modernize the process to seize vehicle plates when serious environmental violations occur.

Conservation Halton (CH) staff has reviewed each of the postings and has drafted a response to the provincial government for ERO Posting #013-5000. Given that the commenting period closes before the next CH Board of Directors’ meeting, staff is seeking Board endorsement of the draft letter. While staff supports the intent of many of the proposed changes, the current proposals appear to take a narrow approach to natural hazard management and fails to recognize the important role that CAs play in regulating excess fill.

Report

On May 1, 2019, the Province posted two notices on the Environmental Registry:

1. ERO Posting #013-5000 – Excess Soil regulatory proposal and amendments to Record of Site Conditions (Brownfield) Regulation
2. ERO Posting #019-0023 – Holding polluters accountable by enhancing Ministry of the Environment, Conservation and Parks’ enforcement

The above notices were posted by the MECP for 30 days with the commenting period closing on May 31, 2019.

The following report provides an overview of the information that has been presented within the Environmental Registry postings. CH staff has reviewed each of the postings and has drafted a response to the Province related to ERO Posting #013–5000 (Attachment 1) and ERO Posting #013-0023 (Attachment 2). Given that the commenting period closes before the next CH Board of Directors’ meeting, staff is seeking Board endorsement of the draft letter before submitting it to the MECP.

ERO Posting #013-5000 - Excess Soil regulatory proposal and amendments to Record of Site Conditions (Brownfield) Regulation

This new regulation, to be enacted by MECP under the existing provisions of the *Environmental Protection Act* (EPA), is the largest action the province is taking under the framework. In summary, the regulation would contain the following six key aspects:

1. Define Excess soil as a “Waste”

A waste designation has specific meaning under the EPA, allowing for legal obligations related to tracking and hauling to apply. Excess soil would be designated as a waste from the time it leaves the property from which it is excavated. The waste designation on excess soil would cease where it is deposited in accordance with a site specific instrument (i.e. local permit) that authorizes the deposition of soil at a receiving site (referred to as a reuse site in the draft regulation).

2. Require “Project Leaders” to be responsible for managing and relocating excess soil generated by their projects

Project leaders of certain developments generating excess soil would be required to conduct ‘excess soil management actions’ before any excess soil leaves the project area. These actions would be required if the project area has never been used for an industrial use or other specified commercial uses, the primary purpose of the project is to remediate contaminated land, or the project is located inside a settlement area and involves more than 2,000m³ of excess soil leaving the project area. Undertaking excess soil management actions would involve certain requirements including, in some cases, characterizing the soil to determine the concentrations of contaminants in the soil. It would also include identifying appropriate receiving sites and tracking excess soil movements. Key actions would be required to be registered on a public registry. Excess soil characterization must be prepared or supervised by a Qualified Person (QP) and implemented by the project leader.

3. Require “Project Leaders” to prepare notices to a public registry

A Project leader would be required to prepare and file a notice on a public registry. The notice would include:

- A description of the project;
- A description of the project area including the municipal address of each property within the project area including the geographic coordinates
- Contact information of each project leader for a project, authorized agents and Qualified Persons;
- An estimate of how much soil will be removed from the project area by soil quality category;
- The name and contact information for the person ultimately responsible for the transportation of excess soil from the project area; and,
- An identification, including the municipal address, of each reuse site at which the excess soil is intended to be deposited for the purpose of final placement of soil including the type of property use at the reuse site and the undertaking for which the excess soil is intended to be used.

4. Establish an Excess Registry and associated rules

The regulation would require an excess soil tracking system to be developed by a QP on behalf of the proponent. Amongst other information, the tracking system would be able to produce a record of the source(s) of excess soil, excess soil quality details and intended reuse site(s). In order to help ensure that excess soil is tracked from a project area to a receiving site, a driver transporting a load of excess soil would be required to produce an excess soil hauling record upon request. A cumulative record of excess soil movement would be required to record the total amount of excess soil and the quality of the soil that has been moved to each reuse site at any point in time.

5. Provisions for Operators of Reuse Sites

Section 13 of the proposed regulation contains specific rules for operators of reuse sites, which is defined as sites where at least 10,000m³ (i.e. 1000 dump trucks) of excess soil is expected to be delivered for final placement in respect of an undertaking. In these instances, reuse site operators would be required to file a notice on the Registry, procedures must be established and implemented to account for every load of excess soil for final placement and to ensure that storage for final placement 'does not cause an adverse effect.'

6. Transitional Phase-in Proposed

It is proposed that the regulatory proposal be phased in over time.

- Excess soil provisions related to more flexible reuse rules and waste designation and approvals would come into effect in January 2020.
- Aspects of the excess soil regulation related to soil management planning (e.g. sampling, tracking and registration) would come into effect no later than January 2021.
- Restrictions on using excess soil in landfills would come into effect in January 2022 allowing time to ensure alternate reuse approaches are available as needed.

ERO Posting #019-0023 – Holding polluters accountable by enhancing Ministry of the Environment, Conservation and Parks' enforcement

Also posted to the Environment Registry for comment are proposed amendments to the *Environmental Protection Act*, which would enable 'administrative penalties' for a broad range of environmental violations under that act, which would require further regulations to take effect. If passed, the regulations could provide for:

- A \$200,000 maximum administrative penalty per contravention, or higher if the economic benefit achieved via the violation was higher;
- Provisions for review and/or appeal and for reduction in amounts if violators take action to prevent or mitigate the contravention;
- Annual reporting.

A second initiative would permit and update the process the province uses to seize vehicle plates when serious environmental violations occur. Both of these initiatives would be limited to MECP enforcement officers.

Summary

CH appreciates that the provincial government recognizes the need to address excess fill within the province and is taking steps to manage excess soils in a responsible and transparent manner. However, based on the information presented in the Environmental Registry postings, there is no recognition of the regulatory and enforcement role that CAs play in areas regulated under the *Conservation Authorities Act* and very little direction regarding how the various agencies, including the Ministry, municipalities and the Province, should work together in dealing with compliance and enforcement issues.

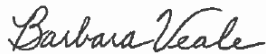
Impact on Strategic Goals

This report supports the Metamorphosis strategic theme of taking care of our growing communities. The theme is supported by the objective to remain dedicated to ecosystem-based watershed planning that contributes to the development of sustainable rural, urban and suburban communities.

Financial Impact

There is no financial impact to this report.

Signed & respectfully submitted by:



Barbara J. Veale, Director, Planning and
Watershed Management

Approved for circulation by:



Hassaan Basit
CAO/Secretary-Treasurer

FOR QUESTIONS ON CONTENT: Barbara Veale, 905.336.1158 x 2273; bveale@hrca.on.ca

May 24, 2019

Sanjay Coelho
Environmental Policy Branch
Ministry of the Environment, Conservation and Parks
40 St. Clair Avenue West
Floor 10
Toronto, Ontario, M4V 1M2

BY EMAIL

**Re: ERO # 013-5000
Proposed On-Site and Excess Soil Management Regulation (to be made under
the Environmental Protection Act)**

Thank you for the opportunity to comment on ERO # 013-5000 related the above reference regulations proposal. Conservation Halton (CH) staff have reviewed the application and offer the following comments. Please note that comments are provided under the title of the section of which it is found in the proposed Regulation:

1. Designation as waste

This section (3.(1) 4. vi) mentions that excess soil will not be considered waste if it is approved under any other site-specific instrument under an Act of Ontario or Canada that may regulate the quality or quantity of soil that may be deposited for final placement at a reuse site. Consideration should be given to specifically mentioning the *Conservation Authorities Act* as the *Municipal Act*, *Aggregate Resources Act* and *Planning Act* are all mentioned. In areas where conservation authorities exist, they have permitting responsibilities regarding the placement or removal of fill, including excess soil.

2. Exemption from designation, if reuse governed by instrument

Section 28 of the *Conservation Authorities Act* is not referenced within the Regulation as a site specific instrument, even though the definition of development within that Act includes site grading and the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere. Without including Section 28 of the *Conservation Authorities Act*, the focus appears to be on quantity and quality of fill, without consideration given to impacts related to natural hazards. Inclusion of Section 28 of the *Conservation Authorities Act* should be considered.

Within this section it is also not clear how the Ministry of Environment, Conservation and Parks (MECP) will facilitate local regulatory capacity to ensure existing legislation (local) will be consistent with provincial rules.

3. Exemption from designation, if reuse site not governed by instrument

While it may be ideal to suggest that the quantity of excess soil to be deposited at the reuse site not exceed the quantity necessary for the beneficial purpose identified (5. 4), it may not be reasonable. There are times when 'extra' soil is proposed beyond 'the quantity necessary' for a site but, if undertaken appropriately, may not pose adverse impacts.

4. Before removing soil from project area

Some aspects of this section could cause an enforcement concern for other agencies as there are times that not all information listed is required by other agencies. For example, conservation authorities have requested confirmation that fill is 'clean' and meets applicable quality standards, but do not require the extent of details included here. The coordination of relevant agencies/legislation should be mentioned in all sections where it is applicable.

5. Operation of reuse site

Only reuse sites where at least 10,000 cubic metres of excess soil is expected to be delivered for final placement in respect of an undertaking. This should be considered a high threshold as it does not speak to reuse sites that work with undertakings of less than 10,000 cubic metres. Impacts to the environment and natural hazards can occur with far less than 10,000 cubic metres and large fill policies at conservation authorities speak to much smaller thresholds. A smaller threshold, such as 1000 cubic metres or less, should be considered.

It is noted that this section speaks to ensuring that storage of excess soil does not cause an adverse effect (13 (2) 3). However, mention of impacts to natural hazards such as erosion and flooding is not discussed (e.g., loss of storage or filling of features such as valleys). The impacts to natural hazards can be significant and should be considered in the proposed Regulation.

6. Registry, additional purposes

This proposal (i.e., "registry") is a positive step. However, it appears that consideration is yet to be given about how the Registry is administered, by whom, and how it is financed.

Amendments to O. Reg. 153/04 (Record of Site Condition)

Part II: Excess Soil Planning and Management Requirements

1. Excess Soil Destination Assessment Reports

Similar to the proposed Regulation, there is no mention of Section 28 of the *Conservation Authorities Act* in the discussion of applicable legal instruments (1. 5 vi). The assumption appears to be that the municipalities will take the lead on fill reuse sites. This does not take into consideration the amount of area regulated by conservation authorities which are not covered by Municipal Site Alteration By-laws.

2. Temporary Soil Storage Sites

Statement 3) in this section speaks to issues which must be managed. Consideration should be given to adding sedimentation (rather than just run off and erosion), as well as wildlife protection/exclusion.

Statement 3) is silent on floodplain hazards. Excess soils in the floodplain, even temporary, can cause significant conveyance issues during storm events, causing upstream and downstream flooding impacts.

Statement 6) states that excess soil should not come into direct contact with vegetation at the temporary soil storage facility. Some clarity or threshold for what is considered 'vegetation' is needed.

3. Soil Characterization Reports

The soil characterization report section recognizes the need for information related to the depth of water table and extraction below the water table. However, there is no mention of the sensitivity of the ground water and whether or not it is an important consideration linked to source water protection. Integration among the requirements of other plans, such as the Source Water Protection Plan, should be incorporated into the characterization report.

4. Part IV: Reuse of Excess Soil and Application of the Standards for Reuse of Excess Soil at Reuse Sites

This entire section is silent on natural hazards. There is an implication that an applicant could meet the requirements of this legislation, without considering other regulatory approvals. For example, the placement of excess soils in the floodplain is regulated by conservation authorities because a flood hazard could be created or aggravated by any placement. There should be better recognition and integration of the other regulatory approvals that need to be obtained.

Appendix 1: Generic Excess Soil Standards

The tables do not consider natural hazards such as flooding and erosion. The focus is on environmentally sensitive features. Natural hazards should be acknowledged and discussed.

The release of the draft excess soil Regulation under the *Environmental Protection Act* for public review and comment is welcome. Staff is pleased that the Province intends to take action in relation to excess soil. CH staff supports the proposed emphasis on source site regulation. However, there is still a need to ensure that all regulatory and approval agencies involved in addressing excess soils are coordinated.

We trust the above is of assistance. If you require additional information, please contact the undersigned at extension 2273.

Yours truly,

Barbara J. Veale
Director, Planning and Watershed Management

May 24, 2019

Andr  Martin
Compliance, Planning and Spills Action Centre
135 Clair Ave. West
8th Floor
Toronto, Ontario, M4V 1P5

BY EMAIL

Re: ERO number 019-0023
Holding polluters accountable by enhancing Ministry of the Environment, Conservation and Parks' enforcement

Thank you for the opportunity to comment on ERO number 019-0023 related to Holding polluters accountable by enhancing Ministry of Environment, Conservation and Parks' enforcement. Conservation Halton (CH) has reviewed the posting and offers the following.

The proposed amendments under the *Environmental Protection Act* would allow for additional administrative tools for a broad range of environmental violations including:

- A \$200,000 maximum administrative penalty per contravention, or higher if the economic benefit achieved via the violation was higher;
- Provisions for review and/or appeal and for reduction in amounts if violators take action to prevent or mitigate the contravention;
- Annual reporting.

Also proposed are additional enforcement tools including the ability for officers to seize vehicles when serious environmental violations occur. CH is supportive of these administrative and enforcement actions; however, notes that such powers are limited to MECP officers.

Conservation Authorities also have Provincial Offences Officers to deal with violations of regulations under the *Conservation Authorities Act*, including the placement or removal of fill, including excess soils, in regulated areas. To better coordinate and provide tools for enforcement, staff recommends that the unproclaimed enforcement provisions of the *Conservation Authorities Act* be proclaimed as soon as possible. These enforcement provisions would provide Conservation Authorities with enhanced abilities to address concerns regarding excess fill when it is illegally placed within hazardous lands and/or contrary to Section 28 of the *Conservation Authorities Act*.

Joint training among MECP Officers, conservation authority Officers, and municipal staff could be undertaken to encourage a coordinated approach to dealing with violations across the province.

We trust the above is of assistance. If you require additional information, please contact the undersigned at extension 2273.

Yours truly,

Barbara J. Veale, PhD, MCIP, RPP
Director, Planning and Watershed Management

DRAFT

REPORT TO: Board of Directors

REPORT NO: # CHBD 06 19 09

FROM: Barbara J. Veale, Director, Planning and Watershed Management

DATE: May 23, 2019

SUBJECT: **Bill 108 (Schedule 12) – the proposed More Homes, More Choice Act: Amendments to the Planning Act**
ERO # 019-0016
CH File No.: PPO 056

Recommendation

THAT the Conservation Halton Board of Directors **receive for information the report entitled Bill 108 (Schedule 12) – the proposed More Homes, More Choice Act: Amendments to the Planning Act;**

And

THAT the Conservation Halton Board of Directors **direct Conservation Halton staff to submit the attached draft letter to the Ministry of Municipal Affairs and Housing, as Conservation Halton’s formal response to the Province on the proposed changes to the Planning Act (ERO # 019-0016 Bill 108 (Schedule 12) – the proposed More Homes, More Choice Act: Amendments to the Planning Act);**

And

THAT the Conservation Halton Board of Directors **direct Conservation Halton staff to circulate Conservation Halton’s final submission to the Province to Conservation Halton’s area municipalities, neighbouring conservation authorities and Conservation Ontario for information purposes.**

Executive Summary

On May 2, 2019, Bill 108, the proposed *More Homes, More Choices Act, 2019* received First Reading. The Bill is expected to be approved in early June. Bill 108 proposes changes to 13 different statutes, including the *Planning Act*. The proposed changes to the *Planning Act* are intended to streamline development approvals processes and facilitate faster decisions, increase the certainty and predictability of the planning system, provide for a range and mix of housing options, boost housing supply, and address concerns about the land use planning appeal system, among other things.

The provincial government is seeking consultation on proposed changes to the *Planning Act*, through the Environmental Registry of Ontario, by June 1, 2019. Conservation Halton (CH) staff reviewed the posting and has drafted a response, focusing on the changes that will have the most significant implications for the programs and services of conservation authorities.

Problematic changes include a reduction in the timelines for decisions related to plans of subdivision and amendments to zoning by-laws or official plans and the requirement for municipalities to extend permissions for an additional residential unit in both the primary dwelling and an ancillary building or structure, without qualification.

Report

On May 2, 2019, Bill 108, the proposed *More Homes, More Choices Act, 2019* received First Reading. Bill 108 is currently in Second Reading and is anticipated to be approved in early June. Bill 108 proposes changes to 13 different statutes, including the *Planning Act*. The proposed changes are intended to streamline development approvals processes and facilitate faster decisions, increase the certainty and predictability of the planning system, provide for a range and mix of housing options, boost housing supply, and address concerns about the land use planning appeal system, among other things.

The provincial government is seeking consultation on proposed changes to the *Planning Act*, through the Environmental Registry of Ontario, by June 1, 2019. Given that the commenting period closes before the next CH Board of Directors' meeting, staff is seeking Board endorsement of the draft response before submitting it to the Province. CH staff reviewed the posting and has drafted response which can be found in Attachment 1. Staff's review has focused on the changes that will have the most significant implications for the programs and services of conservation authorities.

If passed, the proposed amendments to the *Planning Act*, would among other matters:

- Streamline development approvals processes by reducing decision timelines for municipalities and the province for:
 - Official Plans from 210 to 120 days
 - Zoning By-laws from 150 to 90 days
 - Plans of Subdivision from 180 to 120 days.
- Enable the Minister to mandate the use of the community planning permit system in areas specified by the Minister (e.g., specified major transit station areas and provincially significant employment zones);
- Focus the use of inclusionary zoning policies to protected major transit station areas and areas where the community planning permit system has been required by the Minister, rather than to the entire municipality;
- Limit third party appeals of plans of subdivision and approval authority non-decisions on official plans and official plan amendments;
- Require municipalities to extend permissions for an additional residential unit in both the primary dwelling and an ancillary building or structure;
- Establish a new authority that would enable municipalities to collect funds / contributions for community benefit purposes (e.g., libraries, daycare facilities and parks). A new Community Benefits Charge system would replace the existing density bonusing provisions known as section 37, development charges for discounted (soft) services under the *Development Charges Act, 1997* and, in some cases, parkland dedication. The new community benefit charges would be capped based on a portion of the appraised value of the land. The details of this cap would be set in regulation. There would also be regulation-making authority to exempt some types of developments from the new community benefits charge; and
- Allow the Local Planning Appeal Tribunal to make decisions based on the best planning outcome as part of a return to de novo hearings in all cases. This change would broaden the Tribunal's

jurisdiction over major land use planning matters (i.e., official plans and zoning by-laws and amendments) and would give the Tribunal the authority to make a final determination on appeals of such matters.

CH staff will continue monitor future postings and will report back to the Board of Directors if additional information is provided or if more changes are proposed by the provincial government.

Separate staff reports to the Board of Directors were prepared to summarize the key changes proposed in Bill 108, as well as the changes proposed for the *Environmental Assessment Act*, *Conservation Authorities Act*, and *Endangered Species Act* and the implication of these changes on Conservation Halton programs and services.

Implications of Proposed Changes to the *Planning Act* for Conservation Halton

CH participates in the municipal planning process through its role as a public commenting body under the *Planning Act* and in an advisory capacity as specified in the various Memoranda of Agreement between CH and its member municipalities. While many of the proposed changes to the *Planning Act* have limited direct impacts on CH, there are two proposed changes which may pose challenges.

First, the reduction in the timelines for the review of official plans, zoning by-laws and plans of subdivision may be problematic. To achieve shorter timelines, a multifaceted approach is needed to address some of the current challenges within the planning and development approval system. All parties, including the Province, municipalities, CAs and the development community, will need to evaluate and change their internal processes, practices and operations to realize improvements. Regardless, it will still be a challenge to meet the proposed timelines. Furthermore, some landowners may prefer to bring their application before LPAT instead of participating in front end planning or engaging in collaborative decision making or other forms of dispute resolution. Reducing timelines for planning decisions and allowing LPAT to make decisions based on the best planning outcome and the return to de novo hearings may result in more delays, rather than less.

Second, the proposal to allow an additional residential unit in both the primary dwelling and an ancillary building or structure should be qualified. It is inappropriate to promote new dwelling units within hazard areas such as floodplains and steep slopes, where the risk to life and property would be increased. It is also contrary to the Ontario Regulation 162/06 and the CH's *Policies and Guidelines for the Administration of Ontario Regulation 162/06 and Land Use Planning Policy Document*.

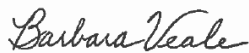
Impact on Strategic Goals

This report supports the Metamorphosis strategic themes of Taking care of our growing communities; Protecting our natural, cultural, and scenic assets; and Protecting our natural, cultural, and scenic assets. The theme is supported by the objective to remain dedicated to ecosystem-based watershed planning that contributes to the development of sustainable rural, urban and suburban communities.

Financial Impact

There are no financial implications resulting from this report. However, the proposed changes outlined in Bill 108 have significant implications for how Conservation Halton will deliver and fund certain programs and services on a watershed basis. The nature and extent of these impacts are currently unclear.

Signed & respectfully submitted:



Barbara J. Veale, Ph.D., MCIP, RPP
Director, Planning and Watershed Management

Approved for circulation:



Hassaan Basit
CAO/Secretary-Treasurer

FOR QUESTIONS ON CONTENT: Barbara Veale, 905.336.1158 x 2228; bveale@hrca.on.ca
Kellie McCormack, 905.336.1158 x 2228; kmccormack@hrca.on.ca

May 24, 2019

BY EMAIL AND MAIL

Planning Act Review
Provincial Planning Policy Branch
777 Bay Street, 13th floor
Toronto, ON M5G 2E5

Re: **Bill 108 (Schedule 12) – the proposed “More Homes, More Choice Act”:
Amendments to the Planning Act
ERO number 019-0016
CH File No.: PPO 056**

Conservation Halton (CH) has reviewed the above-referenced Environmental Registry posting and offers general comments below and more detailed comments in the attached table.

Conservation Authorities (CAs) participate in the municipal planning process through their role as public commenting bodies under the *Planning Act* and in an advisory capacity as specified in the various Memoranda of Agreement between CAs and their member municipalities. CAs have an important role to play in planning and development review and approval process and, through collaborative planning, CAs can assist the Province and local municipalities to make the process faster, more predictable and less costly.

Bill 108 (Schedule 12) proposes some sweeping changes to the *Planning Act*. From Conservation Halton’s perspective, there are two proposed amendments which pose real challenges to the planning process.

First, the reduction in the timelines for the review of official plans, zoning by-laws and plans of subdivision may be problematic. To achieve shorter timelines, a multifaceted approach is needed to address some of the current challenges within the planning and development approval system. All parties, including the Province, municipalities, CAs and the development community, will need to evaluate and change their internal processes, practices and operations to realize

improvements. For example, Conservation Halton (CH) has identified opportunities and implemented actions to streamline internal planning and permit review processes over the past few years, which aligns well with the Provincial government's objectives. Staff is working with its partner municipalities to clarify roles and responsibilities and to reduce duplication through updating Memoranda of Understanding. In addition, a BILD/CH Liaison Working Group was formed to explore opportunities for improving technical submissions and accelerating the permit review process.

CH is actively pursuing the identification and implementation of additional actions with partners and clients in order to deliver the best possible customer service. These include actions to:

- take a comprehensive, creative and collaborative approach early in the planning process to provide greater clarity and certainty around approvals, promote opportunities for innovation, enable complete applications and timely development and infrastructure approvals, and help to avoid costly and lengthy appeals to the Local Planning Appeal Tribunal (LPAT) or Mining and Lands Tribunal;
- promote more certainty through clear CH policies and guidelines; and
- co-ordinate with municipalities to further streamline approval processes under the *Planning Act*.

However, it will still be a challenge to meet the timelines proposed in Schedule 12. Furthermore, some landowners may prefer to bring their application before LPAT instead of participating in front end planning or engaging in collaborative decision making or other forms of dispute resolution. Reducing timelines for planning decisions and allowing LPAT to make decisions based on the best planning outcome and the return to de novo hearings may result in more delays, rather than less.

Second, the proposal to allow an additional residential unit in both the primary dwelling and an ancillary building or structure should be qualified. It is inappropriate to promote new dwelling units within hazard areas such as floodplains and steep slopes, where the risk to life and property would be increased.

We would be pleased to meet with the Province and other stakeholders to provide additional input to the content of the legislation or any future regulations or related policy proposals. Should you have any questions, please feel free to contact the undersigned.

Yours truly,

Barbara Veale, PhD, MCIP, RPP
Director, Planning and Watershed Management

Encl. 1 (comment table)

Bill 108 (Schedule 12) – the proposed More Homes, More Choice Act: Amendments to the Planning Act

Table 1: Proposed Amendments to the Planning Act

	Proposed Change	Conservation Halton Comments
A.	General Comments	The existing grounds for the appeal of zoning by-laws and OPAs in the existing Planning Act should be retained. These grounds include testing for consistency with PPS and conformity with Provincial Plans and OPs (for zoning by-laws). This approach enables municipal decision-makers to uphold the Provincial interest and eliminate frivolous, time consuming, and costly appeals to the LPAT.
B.	Streamline development approvals processes and facilitate faster decisions by reducing decision timelines for municipalities and the province to 120 days for official plans and amendments, 90 days for zoning by-laws and amendments (except where there is a concurrent official plan amendment) and 120 days for plans of subdivision	<p>To achieve shorter timelines, a multifaceted approach is needed to address some of the current challenges within the planning and development approval system. Changes will be needed to various aspects of the planning process and all parties, including the Province, municipalities, CAs and the development community, will need to evaluate and change their internal processes, practices and operations to realize improvements and to achieve the intended results.</p> <p>Unless the proposed changes to timelines are made hand-in-hand with changes to streamline the planning process, it is unlikely that the proposed legislative change will achieve its intended effect, as more applications are likely to be appealed to the LPAT for non-decision. Waiting for and participating in costly and time consuming hearings will result in further delays for a development approval.</p> <p>Some ideas for improving the planning process are:</p> <ul style="list-style-type: none"> • Front loading the planning process – In general, more effort expended upfront in the planning process leads to more certainty, opportunities for innovation, and timely planning approvals. Pre-consultation with the landowner, consultants and agencies prior to submission of an application is a useful way to ensure that all parties understand technical and policy requirements and timelines at the onset. The use of a design charrette prior to the submission of an application is one method to achieve this understanding. This approach leads to cooperation and coordination among parties, better quality technical submissions and quicker reviews. It also helps to avoid appeals to the Local Planning Appeal Tribunal (LPAT), thus avoiding further delays.

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		<ul style="list-style-type: none"> • Complete, good quality submissions – Many planning applications require technical studies to demonstrate how the proposed development can proceed in accordance with the regulations, policies, and regulatory requirements of the review agencies. It is not unusual for agencies to receive and review three (or more) technical submissions before concerns are appropriately addressed. Multiple or poor quality submissions increase the amount of staff time needed to review, prepare comments and attend meetings to sort out problems associated with applications. Good quality submissions, where agency requirements have been met, result in shorter review times, more timely approvals, and cost reductions in the short and long term for all stakeholders. • Clear policies and guidelines – Clear Provincial, municipal and conservation authority policies and guidelines helps to avoid ambiguity, conflict and unnecessary delay or duplication in the process. A set of modernized and updated Provincial technical guidelines, which provide guidance for the administration and implementation of Provincial policies, plans or regulations are necessary for municipal and conservation authority decision makers. Provincial guidelines, such as the natural heritage reference manual or natural hazard technical guides, are long overdue. • Greater communication and collaboration – As with any relationship, good communication and collaboration is the key to success. Providing forums to collaborate and openly share information and ideas leads to innovative design and good community planning. • High quality data, mapping and electronic tools – CAs, municipalities, the Province and landowners would all benefit from having access to better data and mapping. The provision of high quality data and mapping is critical for agencies to undertake efficient reviews and support timely municipal decision-making.
C.	<p>Increase the certainty and predictability of the planning system by:</p> <ul style="list-style-type: none"> • Enabling the Minister to mandate the use of the community planning permit system in areas specified by the Minister (e.g., specified 	<p>The community planning permit system is not a widespread practice in Ontario. Although there may be benefit to this type of system, it will take considerable time for municipalities to develop and implement such a system. This system would not yield immediate benefits for reduced planning approval timelines.</p>

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	<p>major transit station areas and provincially significant employment zones), and removing appeals of the implementing official plan amendment and, subject to regulation, the related by-law;</p> <ul style="list-style-type: none"> • Focusing the discretionary use of inclusionary zoning to protected major transit station areas and areas where the community planning permit system has been required by the Minister, which would facilitate the supply of affordable housing in areas that are generally subject to growth pressures, higher housing demand, and in proximity to higher order transit; and • Limiting third party appeals of plans of subdivision and approval authority non-decisions on official plans and official plan amendments. 	
D.	<p>Support a range and mix of housing options and boost housing supply by requiring municipalities to authorize an additional residential unit in both the primary dwelling and an ancillary building or structure.</p>	<p>An additional residential dwelling in a primary dwelling or an ancillary building or structure located within a natural hazard (flood plain, steep slope, hazardous land, wetland) is not appropriate. These areas pose a high risk to life and property. Allowing additional residential units in these areas would put more people and property at risk. The proposed legislation should be amended to specify that additional residential units are supported <u>only</u> in areas that are not subject to natural hazards.</p>
E.	<p>Make charges for community benefits more predictable by establishing a new authority that would enable municipalities to collect funds / contributions for community benefit purposes (e.g. libraries, daycare facilities and parks). This tool would replace the existing density</p>	<p>This change will affect a municipality’s ability to create complete communities, which includes the provision of parks, greenspaces and green infrastructure. The proposed change does not recognize that parks and greenspaces are important components of green infrastructure which helps the Province achieve many of its objectives related to natural hazard management and the protection of natural heritage and water resources.</p>

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	<p>bonusing provisions known as section 37, development charges for discounted (soft) services under the <i>Development Charges Act, 1997</i> and, in some cases, parkland dedication.</p> <ul style="list-style-type: none"> • A cornerstone of the new authority is that community benefit charges would be capped based on a portion of the appraised value of the land. The details of this cap would be set in regulation. • There would also be regulation-making authority to exempt some types of developments from the new community benefits charge. 	
<p>F.</p>	<p>Allow the Local Planning Appeal Tribunal to make decisions based on the best planning outcome as part of a return to de novo hearings in all cases. This change would broaden the Tribunal’s jurisdiction over major land use planning matters (i.e., official plans and zoning by-laws and amendments) and would give the Tribunal the authority to make a final determination on appeals of such matters.</p>	<p>The proposed change may result in an increase in the number of appeals of planning applications to the LPAT. Many landowners prefer to bring their application before the Tribunal rather than participate in front end planning or to engage in collaborative decision making or other forms of dispute resolution. This approach takes decision making about what constitutes good planning out of the hands of the municipality and may, in fact, result in more cases being heard by LPAT and further delays.</p>