

March 19, 2021

SENT VIA EMAIL

RE: Credit Valley Conservation Authority's Submission on Bill 257 Schedule 3, the Supporting Broadband and Infrastructure Expansion Act, to ERO posting 019-3233

Included as Schedule 3 of Bill 257 (the proposed Bill 257,) the government has proposed to amend the *Planning Act*, so that a Minister's zoning order would not have to be consistent with the Provincial Policy Statement and further that the changes would provide that any existing Minister's zoning orders, never had to be consistent with the Provincial Policy Statement.

Our position in this submission is that Schedule 3 be withdrawn from Bill 257 for the following reasons.

Provincial Policy

Since 1983 the *Planning Act* (the Act), Section 3 has enabled the province to issue policy statements on matters relating to municipal planning that are of provincial interest. To give legal effect to the policy statements, and to ensure that Ontario has a planning system led by sustainable, open and transparent provincial policy, all decision makers under the Act, including a Minister of the Crown or Ministries "in respect of the exercise of any authority that affects a planning matter ***shall be consistent with the policy*** statements..." (subsection 3 (5) emphasis added).

Since 1994, the Act set out in section 1.1 the overarching purposes of the Act. The first two purposes of the Act are set out, as follows:

- a) "To promote sustainable economic development in a healthy natural environment within the policy and by the means provided under this Act;
- b) To provide for a land use planning system ***led by provincial policy...***" (emphasis added)

The most recent statement of provincial policy is the Provincial Policy Statement (PPS) 2020, which came into effect on May 1, 2020 under this government. The policies are grouped into three main areas with a statement of purpose for each one that is grounded in the concept of sustainable development. The PPS 2020 directs readers that "*the Provincial Policy Statement is more than a set of individual policies. It is to be read in its entirety and the relevant policies are to be applied to each situation*". In each of the three policy areas reproduced below the environment features prominently:

1) Building Strong and Healthy Communities

"Ontario's long-term prosperity, environmental health and social well-being depend on wisely managing change and promoting efficient land use and development patterns. Efficient land use and development patterns support sustainability by promoting strong, livable, healthy and resilient communities, protecting the environment and public health and safety, and facilitating economic growth."

2) Wise Use and Management of Resources

“Ontario’s long-term prosperity, environmental health and social well-being depend on conserving biodiversity, protecting the Great Lakes, and protecting natural heritage, water, agricultural, mineral and cultural heritage and archaeological resources for their economic, environmental and social benefits.”

3) Protecting Public Health and Safety

“Ontario’s long-term prosperity, environmental health and social well-being depend on reducing the potential for public cost or risk to Ontario’s residents from natural or human-made hazards.”

Proposed Planning Act Changes - MZOs

The proposed Planning Act changes to facilitate the zoning of land via MZO in a manner that is not required, and deemed to never have been required, to be consistent with policy statements, is antithetical to the purposes of the Planning Act articulated in section 1.1, disregarding the purpose and intent of the practice of orderly and contemporary land use planning in the Province of Ontario. In addition, the inclusion of the provision ‘...and deemed to never have been required...’ appears to express a disregard, and lack of understanding, of the long-standing commitment the province has applied to a policy led framework for planning matters – notwithstanding the existing requirement for past/existing MZOs to have met/meet the standard of Section 3(5)(a) of the Act.

As the Minister’s statement of provincial policy, issued last year stresses, Ontario’s **long-term** prosperity, environmental health and social well-being depend on development and planning decisions that lead to strong and healthy communities, wise use and management of resources and public health and safety that is protected. ***These are the suite of public interest considerations that every previous minister entrusted with administration of the Planning Act has been bound by*** since the policy statement concept was enacted in 1983.

Finally, since there are no public notice or appeal provisions associated with the current MZO power, and since the MZO power overrides all previously agreed municipal plans and associated public and agency consultation, it is therefore doubly important that a transparent set of public-interest policies guide the Minister in his decision-making, as is currently required by the Act.

Ontario communities expect a standard of care that has been in place for over 60 years – with CAs intimately involved in coordinating the hazard provisions of the PPS and supporting municipalities over the past 25 years with the natural heritage and water resources components of the PPS. This proposed act of removing the PPS provisions from consideration in MZO areas in combination with the changes made to the *Conservation Authorities Act* under Bill 229 Schedule 6 and specifically section 28.0.1, signals to the development community that lands once considered undevelopable may now be considered for development – based on a purely political framework with the potential disregard for natural heritage and water resource protection, or public health and safety.

Removing barriers to building more affordable housing and long-term care facilities feature prominently in the province’s stated objectives for this change in the *Planning Act*. However, putting society’s most vulnerable populations in potentially hazardous areas without the benefit of oversight that has been the hallmark of conservation authorities and municipalities as guided by the PPS is unacceptable. Who will accept the liability for decisions made without science, technical merit or the application of sound policy?

In addition to those concerns expressed above, the following are a few additional key items the proposed changes to the *Planning Act* that are concerning to CVC – particularly since CAs are now compelled to issue Section 28 permits where they are on lands associated with MZO:

- Section 28 Permits may be required to be issued that are not:
 - consistent with provincial policy;
 - consistent/conform with CVC planning and regulatory policies;
 - in the public interest – in particular as it relates to public health and safety; and/or
 - technically sound/meet industry standards or consistent with professional standards and codes of ethics.
- Accountability for (compelled) permits issued in the event the works result in a danger to public health and safety (e.g. increase flooding or erosion on upstream/downstream properties); and
- Responsibility for enforcement and compliance activities.

Summary

We are already paying the price for development done in years gone by without the knowledge that the impacts from loss of wetlands, alteration of streams and valley lands and loss of forest cover would have. Whatever short-term economic gain will be offset by the long-term impacts to flooding, climate, water quality and quality of life – a cost we will be saddling next generations with.

Schedule 3 of Bill 257 is not a logical proposal which maintains the orderly and sustainable planning framework in Ontario. While it defies the long-standing fundamental planning framework and principles in Ontario through removal of MZO's needing to be consistent with provincial policy, it also attempts to rewrite history in stating that MZO's were never meant to be consistent with provincial policy (contrary to existing Section 3(5)(a) of the Act). The proposed change in the Planning Act will result in more people at risk and an impact to the environment.

The Board of Credit Valley Conservation finds it unconscionable that this government would consider such measures and calls on the Minister **to withdraw Schedule 3 from Bill 257.**

We are available to discuss any of these comments with you.

Your sincerely



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Chair



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