



MUSKOKA WATERSHED COUNCIL

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To: Environmental Registry of Ontario
<https://ero.ontario.ca/index.php/notice/019-6172>
<https://ero.ontario.ca/notice/019-2927>
<https://ero.ontario.ca/notice/019-6160>

Re: Muskoka's Natural Heritage and Bill 23

Muskoka Watershed Council (MWC) is a community-based not-for-profit corporation. Since 2001, we have developed sound, science-based policy advice on effective conservation and management of the rich natural capital of this region, providing guidance to municipal councils and their staffs, and to the wider public, on the intrinsic links between a resilient, sustainable environment and the local economy. We are committed to the enhancement of the health and sustainability of the entire Muskoka River Watershed, from its headwaters in Algonquin Park to its outlets to Georgian Bay, as well as those parts of the Black-Severn River Watershed and the Georgian Bay shoreline and islands that lie within The District Municipality of Muskoka.

Muskoka Watershed Council wishes to register its concerns regarding the proposed changes to the regulation and financing of development in Ontario contained in Bill 23, *More Homes Built Faster Act*, which received second reading October 26th, and the various related postings on the Environmental Registry of Ontario, October 25, 2020, coincident with First Reading. We are very concerned about the broad implications for Muskoka and many Ontario municipalities. While we recognize that much of the bill is focussed on southern Ontario, the Green Belt and urban areas of the Greater Toronto Region, we recognize that:

- The proposed changes will diminish the ability of many communities to address any negative impacts of new development and redevelopment on the environment and to mitigate and respond to our changing climate;
- Bill 23 was tabled when the election cycle has left municipalities between previous and newly elected governments. This impairs their ability to provide comment on the proposals, many of which will have a direct bearing on planning and environmental management in Muskoka. Specific examples are provided below;
- other proposals within Bill 23 could be applied to Muskoka in the future; and
- the effects of the urban sprawl and destruction of carbon sequestering wetlands in southern Ontario on greenhouse gas emissions that will be facilitated by Bill 23 will add to the problems of a warming climate that we already see in Muskoka – problems such as invasive species and harmful algal blooms in our lakes, which will impair the natural attributes which support our economy and our enjoyment of life. The damage and destruction to wetlands facilitated by Bill 23 will greatly impair their ability to sequester and store carbon dioxide emissions and to act as buffers against flooding.

Through Bill 23 and the related regulatory and policy changes, the Provincial Government has set forth what is probably the largest change in local government planning and environmental management in Ontario in decades. It appears to MWC, however, that many aspects of the Bill could have significant negative consequences on public safety and our natural environment by directly threatening important processes and protective policies.

While our submission concentrates on matters that we feel directly relate to the watersheds in Muskoka, we are also very concerned about the broad implications for many Ontario municipalities. The proposed changes will diminish the ability of many communities to address any negative impacts of new development and redevelopment on the environment and to mitigate and respond to our changing climate. We add that 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 Bill 23 and which could alter the nature of Muskoka.

The Housing Crisis

The stated intent of Bill 23 is to address the Province's housing supply and affordability issues. We also recognize these as significant problems in Ontario. While Ontario needs to build more affordable houses, Bill 23 reduces municipal abilities to manage new development and encourages urban sprawl and destruction of the Green Belt. Bill 23 removes sound environmental stewardship and regulation behind an assumption that this is necessary to build more homes. In fact, Ontario can presently accommodate its needs for more housing within established municipal areas, where densification can take advantage of existing municipal services such as transit, sewage treatment and schools, making homes more affordable, while avoiding further fragmentation and destruction of our natural areas and agricultural lands.

As an example, we are said to have a crisis of affordable housing in Muskoka, in spite of the fact that, within The District Municipality of Muskoka, there are a total of 5,843 draft approved housing units, 5,424 of which are located in our serviced Urban Centres. Approximately half of these units have been draft approved for more than 10 years yet no building has proceeded. Instead, we see requests to extend draft approval being the most common Planning Act application processed by the District of Muskoka Planning Department. In Muskoka, we can accommodate our planned growth within existing approvals and urban lands. This is also true in southern Ontario, where wise planning could increase the density of urban development without the urban sprawl facilitated in Bill 23.

Site Plan Control

Bill 23 proposes to amend the Planning Act to limit the use of site plan control only to sites with more than ten units. This is particularly important along Muskoka's shorelines where development almost entirely consists of ten or fewer units and where site plan control is the strongest planning tool available to maintain the health of our waterways. Loss of site plan control would remove the ability of Muskoka's municipalities to impose stormwater management requirements to control the quantity and quality of runoff from smaller sites. Measures for erosion control and the retention of natural features on-site also become unenforceable. Muskoka has experienced three episodes of flooding in the last decade that damaged private and public lands and key infrastructure. Some of the impacts of flooding can be managed through sound land use planning and mitigative activities. Muskoka's municipalities need 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. Muskoka Watershed Council supports the District of Muskoka's Lake System Health program and related District and local Official Plan policies, which were developed with broad stakeholder and community support, and which are primarily implemented at an area municipal level through site plan control. Removing site plan control as a planning tool will result in uncontrolled development on our shorelines – with no increase in the number of homes built and no improvement to the housing crisis.

Upper Tier Municipalities, Conservation Authorities and Planning Authority

Bill 23 proposes that the Province could suspend the planning authority of upper tier municipalities such as the District of Muskoka or of conservation authorities by regulation. This is of grave concern. These bodies have the resources and broader geographic jurisdiction, as well as the site-specific knowledge necessary to address watershed-wide issues, including flood-control,

by providing support and co-ordination for local municipalities and servicing responsibilities. The importance of municipal management is heightened by the substantial reductions in both the resources and the ability of the provincial ministries to comment. We have witnessed these reductions, for example in the Ministry of Natural Resources and Forestry, in the past 20-30 years.

Development Charges

Bill 23 proposes to reduce the development fees that fund the necessary roads, sewage treatment infrastructure and parks that must accompany new development. Who will pay for these if they are not funded by development charges? Removing development charges may stall the building of critical infrastructure and shift the financial burden of growth-related infrastructure onto existing municipal taxpayers. The lower tier municipalities in Muskoka are small, without the staff capacity of larger centres. The goal of increasing the supply of homes means that more municipal resources are required, not fewer. New development should shoulder its own costs and not pass them on to existing ratepayers.

Wetland Protection

The changes to the Ontario Wetland Evaluation System (OWES) that are proposed as part of Bill 23 threaten Ontario's wetlands and their valuable functions and are not an appropriate component of any housing strategy. Housing can be located in a variety of areas with no threats to natural heritage - wetlands, however, must be protected where they are. Wetlands are essential parts of the natural ecosystems that support, protect, and enrich human life. They provide habitat for a vast array of life, help to clean our air and water, provide oxygen, store carbon, and act as giant "sponges" that moderate droughts and floods by storing excess water during wet periods and releasing it slowly during dry spells.

All of these functions are critically important to human life; but we wish to draw particular attention to the ability to moderate droughts and floods. Muskoka experienced historic flooding in 2013, 2018 and 2019. There is near certainty that we will experience more severe flooding, or serious drought and forest fires in the future. In Muskoka, we will be evaluating numerous possible solutions, some man-made, and some that exist naturally, to help us deal with future flooding and droughts. The protection or enhancement of natural wetlands will always be less costly and more effective than man-made solutions such as dams and reservoirs. It is therefore critical to protect them.

The OWES, and related legislation introduced years ago, recognizes the need to protect wetlands and provides for the designation and protection of Provincially Significant Wetlands (PSW) through a scoring system based on natural heritage criteria. In the proposed changes, some scoring criteria have been removed from the OWES, yet wetlands must still meet the same OWES score to be considered provincially significant. This makes it much harder for wetlands to reach PSW status, meaning that fewer wetlands will be protected and will have increased potential to be slated for development.

- For example, many wetlands in Ontario are grouped together in complexes – this includes wetlands big and small that are less than 750 metres apart. This is important for fish and wildlife that live in wetlands, as the entire complex makes up their habitat and each component provides water storage. The proposed legislation changes will no longer apply OWES to such complexes but will evaluate each wetland as an independent entity. Smaller wetlands are less likely to meet the criteria for PWS status, and thus be more susceptible to development.
- The proposed changes would also eliminate the presence of endangered species as an OWES criterion, reducing OWES scores and thereby diminishing the likelihood that a wetland would attain PSW status and consequently be protected from development. Most turtles in Ontario are endangered or species of special concern, mainly due to

habitat loss. Thus, the threat to habitat resulting from proposed changes to OWES is a threat to the survival of endangered species, including, but not limited to, turtles.

- The existing OWES seeks a balance between agricultural use and wetland protection - if a landowner plowed a field containing a wetland, especially if it was a PSW, it would continue to qualify as a PSW unless crops were successfully grown on it. The proposed changes would mean that the land would cease to be considered a wetland, and thus lose any protected status, as soon as it is plowed, even if it was never used for crop production.
- The Province has produced a white paper entitled "Conserving Ontario's Natural Heritage", in support of Bill 23. The paper proposes the "creation" of new habitats to offset removals of wetlands, woodlands, and wildlife habitat. Such approaches ignore what wetlands are, how they have developed and how they function in an ecosystem. It is highly unlikely that a man-made wetland will replicate the ecological roles of a natural wetland. Such "offset" approaches have been proven to fail in other jurisdictions.
- The roles of the Ministry of Natural Resources and Forestry, and of conservation authorities, in reviewing wetland evaluations have been greatly reduced. These roles have been re-directed to municipalities and the private sector. Municipal staff generally do not have expertise in evaluating wetlands, so the responsibility is effectively shifted to the private sector. Thus, a knowledgeable and objective third party may be absent from these critical evaluations.

Each of these proposed changes significantly reduces the protection afforded to wetlands. Collectively, they are of major concern. Therefore, we urge the provincial government to reconsider the proposed changes to the OWES, and to undertake, in consultation with a full range of stakeholders, measures to strengthen protection for Ontario's vital wetlands.

Consultation

The scope of the proposed changes to legislation, regulation, and policy in Bill 23 raises our concerns with the apparent lack of pre-consultation with significant stakeholders and the very short timeline for the submission of comments at a time when newly elected municipal councils have not yet been sworn in. The government's approach and the general lack of information on the details of implementation mean that many of the proposed changes would result in significant negative consequences for the wellbeing of Muskoka's natural environment and of the residents of and visitors to Muskoka, and to the people of Ontario.

Conclusion

Muskoka Watershed Council respectfully urges the Provincial government to pause, reconsider and work with all stakeholders to explore the scope and implications of Bill 23 and amend its many flaws before it becomes law. We also wish to register our concern regarding proposed changes to the Ontario Wetland Evaluation System (OWES) as posted on the Environmental Registry of Ontario, October 25, 2020, in support of Ontario's Housing Supply Action Plan 3.0.

Sincerely,



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