



## Bill 23 Backgrounder, November 7, 2022

On October 25<sup>th</sup>, the Government of Ontario tabled [Bill 23, the More Homes Built Faster Act, 2022](#), an omnibus bill proposing sweeping changes to the province's natural heritage and land use planning legislation and policy. Overall, Bill 23 is bent on removing and weakening environmental protections and cutting out the public from meaningful involvement in land use planning and decision-making.

After limited debate in the Legislature, Bill 23 went through second reading and is now before the Standing Committee on Heritage, Infrastructure and Cultural Policy, responsible for reviewing and approving or modifying the bill before third and final reading.

This backgrounder provides some basic information on important aspects of Bill 23 for those interested in [making a submission to the Standing Committee](#), or in responding to one of the many postings for comment on the Environmental Registry of Ontario ([List of postings here](#), provided by the Canadian Environmental Law Association). Beware – each posting is framed in terms of addressing the housing crisis, obscuring the fact that Bill 23 satisfies first and foremost the interests of developers, delivered on a silver platter.

Ontarians do not need to sacrifice environmental protection to address the housing crisis. In its [2022 report, Ontario's Housing Affordability Task Force](#) stated that “a shortage of land isn't the cause of the problem. Land is available, both inside the existing built-up areas and on undeveloped land outside greenbelts. ... Most of the solution must come from densification. Greenbelts and other environmentally sensitive areas must be protected, and farms provide food and food security. Relying too heavily on undeveloped land would whittle away too much of the already small share of land devoted to agriculture.” (p.10)

Below is only a preliminary and partial list of concerns raised by community groups, environmental organizations, and many others about Bill 23. Our collective understanding of the bill and its implications is evolving. Please stay tuned for further updates and calls to action.

### Democracy Undermined

1. Through changes to the *Planning Act*, Bill 23 would remove requirements to notify members of the public about development plans. It would also remove their right to appeal municipal planning decisions. Community members and groups would be kept in the dark and no longer be able to participate in or challenge development decisions affecting their neighbourhoods or local farmland and natural areas.

2. Through changes to the *Planning Act*, Bill 23 would give the Minister the power to override municipal planning decisions (i.e., amend municipal Official Plans) and impose development.

### **More Power Stripped from Conservation Authorities (CAs)**

3. CA Permits (e.g., regarding water-taking, interference with rivers, creeks, streams, watercourses, wetlands, flood or erosion control) would no longer be required for development projects approved under the *Planning Act*. In other words, the power of CAs to regulate or prohibit development that negatively impacts wetlands, rivers or streams would be removed.

*“Many of the proposed amendments to the Conservation Authorities Act and the Planning Act in Bill 23 are concerning, as they signal a move away from environmental protection at a time when climate change impacts are being felt more at the local level.”* ([Association of Municipalities of Ontario](#))

4. CAs would no longer have the authority to consider pollution or the conservation of lands when issuing or refusing to issue permits.
5. CAs would be prevented from entering into agreements with municipalities regarding the review of planning proposals or applications. CAs would in effect be prohibited from providing municipalities with the information they need on environmental and natural heritage matters. Yet, many municipalities have limited capacity and expertise in environmental planning and typically rely heavily on CAs to ensure that development does not destroy the lands, waters and biodiversity which underpin the health and well-being of communities and all life.

*“As proposed in the legislation, the CA exclusions will nullify the core functions of CAs and open up significant holes in the delivery of our natural hazard roles, rendering them ineffective. This will negatively impact our ability to protect people and property from natural hazards, which seem to be more and more prevalent with extreme weather events.”* ([Conservation Halton](#))

6. Watershed planning, the hallmark of Ontario’s CAs, would be severely diminished, to be replaced with piecemeal planning by over 400 individual municipalities. Instead of being able to benefit from the ready expertise of CAs, municipalities would be left to try to coordinate with neighbouring municipalities on cross-jurisdictional matters.

*“The plan review process by conservation authorities ensures the protection of the watershed-based approach and enables the connections to be made between flood control, wetlands, and other green infrastructure or natural cover, thus ensuring safe development.”* ([Ms. Angela Coleman, Conservation Ontario](#))

7. Lands owned or controlled by CAs could be turned over to development. To make it easier to “dispose” of these lands, the current requirement for provincial government permission to sell CA lands would be removed. Instead, CAs would simply have to provide notice of the proposed disposition to the government.

### **Regional Planning Cast Aside**

8. The planning powers of several regional municipalities - Simcoe, Durham, Halton, Peel, Niagara, Waterloo and York - would be removed. Coordinated regional planning to protect farmland and natural areas, to determine optimal locations for development and infrastructure, and to efficiently deliver municipal services would be eliminated. These changes, on top of the reduced powers of CAs, would lead to uncoordinated, piecemeal planning across the Greater Golden Horseshoe.

*“Devolving planning decisions to lower-tier municipalities would produce development that is more scattered and thus much more environmentally harmful, but also more uncoordinated and expensive.”* ([Environmental Defence](#))

### **Wetlands and Natural Heritage Under Attack**

Accompanying the proposed legislative changes listed above, are several proposed policy changes that would have a profound and devastating impact on Ontario’s natural heritage.

9. The government is proposing to completely overhaul the Ontario Wetland Evaluation system (OWES) for Provincially Significant Wetlands (PSWs), ensuring that very few wetlands would be deemed provincially significant in the future. Further, many if not most existing PSWs are likely to lose that designation, and as a result would no longer benefit from the high level of protection that PSW designation currently provides.

Proposed changes to the OWES include:

- No longer recognizing or considering wetland complexes (i.e., wetlands that are connected hydrologically), a criterion by which many wetlands – especially smaller ones – are deemed to be provincially significant);
- No longer recognizing species at risk in the evaluation process, a criterion which is currently a key factor in determining provincial significance;
- Removing provincial government oversight of the evaluation process, with no central agency assigned to coordinate or approve evaluations or ensure that information about PSW designation is publicly available.

*“A conservation authority responsible for lands in Hamilton and Niagara says proposed changes to provincial legislation could result in the demise of all of its protected wetlands.”* ([Hamilton Spectator, November 2, 2022](#))

10. The government is proposing to replace the Provincial Policy Statement, a key policy document which requires natural heritage systems planning and provides strong protections for Ontario’s farmland and natural heritage, including provincially significant wetlands, woodlands and wildlife habitat. On the table is a new planning policy instrument that would remove or streamline existing policies to facilitate development.

11. The government is proposing to introduce an offsetting policy to guide efforts to compensate for the loss of wetlands, woodlands and other natural areas as a result of development. [Offsetting involves extremely risky trade-offs](#), where existing natural areas are sacrificed on the premise that they can be recreated or restored elsewhere. The loss is certain, while timely compensation is anything but guaranteed. In fact, over 30 years of experience with wetland offsetting in the United States, Canada and elsewhere indicates that offsetting is seldom successful in fully compensating for the loss of wetland area, functions and values.


Offsetting should be approached with utmost caution and only as a last resort, where destruction is unavoidable. However, coupled with above noted removal or weakening of natural heritage protections through Bill 23 and other policy changes, the very possibility of offsetting is likely to push the flood gates of destruction wide open. This is especially the case in that the offsetting proposal includes a “pay to slay” natural heritage compensation fund, which would allow developers to destroy wetlands, woodlands and other wildlife habitats as long as they pay into the fund.



## Where Wetland Offsets Fall Short

**Wetland offsetting policy and practice are plagued by the following weaknesses:**

-  Failure to treat offsets as a last resort and avoid harm first
-  Failure to consult with affected Indigenous communities
-  Lack of performance standards
-  Low levels of compliance monitoring
-  Lack of oversight and enforcement by governing agencies

-  Poor design:
  - Lack of science to determine baseline conditions
  - Failure to consider multiple values and benefits
  - Failure to consider landscape-level impacts
  - Lack of an appropriate metric for measuring losses and gains

-  Careless implementation
-  Poor record keeping



All in all, Bill 23 and the accompanying policy changes spell disaster for the farmland and natural areas that sustain us. It is environmental deregulation writ large, premised on the faulty assumptions that there should be no limits to sprawl, that no place should be spared from the bulldozers, and that public input into planning decisions is nothing more than a useless annoyance. If passed, these changes will set land use planning back decades and will stymie societal efforts to address the twin crises of climate change and biodiversity loss through enlightened environmental planning and decision-making.