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Sent via email

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To whom it may concern:

Re: Bill 23 - Consultations on More Homes Built Faster: Ontario's Housing Supply Action Plan 2022-2023 (ERO 019-6162, ERO 019-6163, ERO 019-6172, ERO 019-6141, 22-MAG011)

Proposed updates to the regulation of development for the protection of people and natural hazards in Ontario (ERO 019-2927)

Legislative and regulatory proposals affecting conservation authorities to support the Housing Supply Action Plan 3.0 (ERO 019-6141)

Proposed Updates to the Ontario Wetland Evaluation System (ERO 019-6160)

Review of A Place to Grow and Provincial Policy Statement (ERO 019-6177)

Conserving Ontario's Natural Heritage (ERO 019-6161)
Proposed Revocation of the Central Pickering Development Plan (ERO 019-6174)
Proposed redesignation of land under the Oak Ridges Moraine Conservation Plan (ERO 019-6218)
Proposed amendments to the Greenbelt Area boundary regulation (ERO 019-6217)

Ecojustice is a national environmental law organization with offices across Canada. For more than 25 years we have gone to court to protect wilderness and wildlife, challenge industrial projects, and keep harmful chemicals out of the air, water, and ecosystems we all depend on. We provide legal representation to community groups, non-profit organizations, Indigenous communities, and individuals on the front lines of the fight for environmental justice. This submission is made on behalf of Ecojustice and not on behalf of any client organization.

We are writing to express our opposition to the above proposals, the majority of which were provided on the Environmental Registry and/or were tabled in the legislature on or about October 25, 2022.

The proposals in Bill 23 and these postings are extensive, interrelated, and complex. They cannot be addressed in isolation. Considering the limited comment periods and lack of details, outreach or policy documentation explaining these profound and fundamental changes to Ontario's environmental and planning regime, we infer that public input from experts in this area was considered neither necessary nor desirable.

The proposals in Bill 23 and related reforms would allow uncontrolled sprawl, including in un-serviced areas outside of existing settlements. This includes areas of natural heritage significance such as provincially significant wetlands, significant woodlands, fish habitat and the habitat of endangered species. Each proposal would remove an essential element of the protective regime for natural heritage spaces. If approved, the result would be that virtually no protections would remain.

We provide some examples below.

Schedule 2 of Bill 23 and the Regulatory Proposal in 019-2927 combined with ERO 019-6160 would strip Ontario's conservation authorities of their role in the conservation of natural heritage. Conservation authorities have unique expertise in

watershed management. They ensure that Ontario's key natural spaces, such as significant wetlands and woodlands, are evaluated, understood, and managed as a complete ecological system in each watershed. If these proposals proceed these important habitats would go unprotected. There would no longer be any agency or Ministry with expertise in Ontario with a clear mandate to manage these natural features or to advise municipalities who are considering applications that could adversely impact them. The removal of jurisdiction over pollution from the conservation authorities regime is also inconsistent with their role as source water protection authorities under the *Clean Water Act*.

Additionally, these proposals would strip identified natural heritage features of fundamental legal protections. ERO 019-6160 would change the definition of a provincially significant wetland. This would result in land speculators re-evaluating and de-classifying the vast majority of Ontario's provincially significant wetlands, with no government or expert oversight. Similarly, the proposal in Schedule 9 of Bill 23 removes vital upper-tier municipal oversight in planning for and managing natural heritage, a role which currently includes the identification of significant woodlands and boundary refinements for other natural heritage features. This too would seemingly be replaced by developer assessments submitted to lower-tier municipalities, without expert oversight.

Even where a wetland or woodland maintains its classification as significant, the strong prohibitions and restrictions on development currently found in the Provincial Policy Statement would be removed in ERO 019-6177 and ERO 019-6161. These prohibitions would be replaced with a "pay-to-slay" regime facilitating the permanent removal and destruction of such important places for the payment of a fee, or with "offsetting".

The result would be that for a price, virtually any of Ontario's natural heritage, no matter how ecologically or culturally significant could potentially be destroyed. Not even conservation areas would be safe since Bill 23 and ERO 019-6141 would permit the province to force conservation authorities to identify protected areas as "surplus" to be sold to developers. This puts key protected areas in Southern Ontario at risk, undermining their ecological functions and leaving Ontarians with potentially very few protected areas for recreation. Many of the proposals appear to extend these new developer privileges to aggregate operators.

In addition to decimating Ontario's natural heritage protections, the proposals would facilitate uncontrolled sprawl in other areas that are currently protected. ERO

O19-6177 signals an abandonment of the Growth Plan's vision of high-density, centrally planned communities in favour of the unplanned, costly and environmentally and socially damaging expansion of settlement areas into farmland, wetlands and woodlands. This shift will have climate and social impacts that reverberate for generations.

To facilitate the additional infrastructure that would be required to service this massive transition to suburban sprawl, Schedules 9 and 10 of Bill 23 would take away key powers for upper-tier municipalities to adequately control where development happens, or to plan for or finance environmentally and fiscally responsible sewage, water and transportation infrastructure. Schedule 10 of Bill 23 would extend existing proposals to claw back environmental assessments and public consultation for sewage infrastructure expansions.

Changes to the *Planning Act* in Bill 23 and to the Growth Plan outlined in ERO O19-6177 signal reduced controls over where sewer, water and transportation infrastructure will be placed for upper-tier municipalities. This appears to include key environmental protections for Ontario waterways in the growth plan. We have commented on several ERO postings in the last two years arguing that expansions of sewage treatment infrastructure should be subject to environmental assessment. Environmental assessment is an essential process to ensure that an adequate level of treatment is used and to ensure that the capacity limits of Ontario's waterways to assimilate sewage are respected. This applies to all sewage infrastructure including Duffins Creek and the York Durham Sewage System projects, which would be legislated in Schedule 10 and which would be exempt from these assessments.

The proposals to remove lands facing intense development pressures from the Greenbelt, Oak Ridges Moraine and Central Pickering in ERO O19-6217, O19-6218, and O19-6174, and the boundary expansions approved in recent municipal Official Plans, would exacerbate the effects of these other changes by undermining the integrity of Greenbelt and other long-standing protected area boundaries. This government lacks the mandate to make these changes and this shift puts all of these protected lands at risk.

Fundamental elements of this reform package would ensure that those with expertise – including members of the public – are effectively cut out of the process of planning in Ontario. Schedules 2 and 9 of Bill 23 would eliminate the ability of stakeholders like nature clubs and conservation authorities to participate at the

municipal level and at the Ontario Lands Tribunal. Even if these entities were able to obtain party status, Schedule 7 of Bill 23 would expose any opponents of natural heritage destruction, including municipalities, to potentially significant adverse and financially punitive costs awards.

This would result in an elimination of Ontario's current participatory adjudicative and evidence-based planning regime. It is an affront to the basic environmental rights of Ontarians. Ontarians would be without any practical means to challenge the decisions wrought by the other proposed changes and lack of government oversight in this package of reforms.

Many of the proposals are lacking in essential details. Therefore, it is impossible to know the full reach of the changes. What is clear, however, is that these proposed changes, taken together, are fundamentally reckless. They would have serious climate destabilization consequences. They would increase exposure to air pollution and severe adverse health outcomes associated with those exposures. They would permit systematic destruction and degradation of the natural spaces that clean our air and enrich Ontarians' lives. They would significantly reduce water quality and increase incidences of flooding while dramatically reducing climate resilience. They would considerably increase infrastructure costs and reduce food security.

The underlying premise of these changes is that natural heritage and agricultural land in Ontario is without any value, or that whatever value it has is easily replaceable. This premise is demonstrably false. The core policy objective furthered by these changes is to permit rezoning, speculation and development anywhere, at any financial, social or environmental cost. If these proposals are approved, the effects on Southern Ontario and the GTHA will be serious, irreversible, and felt for many generations to come.

Sincerely,



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Barrister & Solicitor

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