

March 26, 2021

The Honourable Steve Clark
Minister of Municipal Affairs and Housing
17th Floor, 777 Bay St.
Toronto, ON
M5G 2E5

Dear Minister Clark,

Re. Request to remove Schedule 3 from Bill 257

We, the 120 undersigned organizations, strongly oppose Schedule 3 of Bill 257, *Supporting Broadband and Infrastructure Expansion Act, 2021*, which proposes to amend the *Planning Act* so that both existing and future Minister's Zoning Orders (MZOs) would no longer have to be consistent with the Provincial Policy Statement (PPS). We request that you remove this schedule from Bill 257.

The PPS sets the policy foundation for comprehensive, integrated, long-term land use planning in Ontario. It "provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment" (PPS Preamble). Regularly revised and updated through extensive public consultations with experts, stakeholders and Indigenous rights-holders, the PPS is meant to provide balanced, relevant and widely supported policy direction on planning matters. The *Planning Act* requirement (section 3) that all decisions affecting planning matters "shall be consistent with" the PPS ensures certainty, fairness, consistency and substantive merit in planning decisions across the province. A development that can only be authorized by exempting it from the PPS is a development that ought not to be authorized at all.

By allowing the Minister to authorize developments that contravene the PPS, the proposed Schedule 3 changes would erode the very basis of planning in Ontario and would eliminate the benefits of this predictable, fair and principled planning framework for municipalities and other authorities implementing PPS policies. Given that MZOs are issued without public consultation or opportunity for appeal, these changes would also undermine the right of Ontarians to participate in important planning decisions affecting their communities.

Further, the Schedule 3 changes would apply to any existing MZOs. As noted by the Auditor General of Ontario, there has been a "sharp increase" in the use of MZOs recently, with 29 MZOs issued between January 1, 2020 and October 31, 2020.¹ There have been several more since then, including six on March 5, 2021, opening the door to controversial residential, commercial, industrial and institutional sprawl developments. Where these MZOs violate PPS policies, they could be deemed to be legal after the fact if Schedule 3 were passed.

¹ Auditor General of Ontario. November 2020. *Operation of the Environmental Bill of Rights*, p. 18.

This backwards-facing application of proposed Schedule 3 changes is particularly egregious given the ongoing lawsuit by Environmental Defence and Ontario Nature, filed on November 30, 2020, over the issuance of an MZO that would allow the destruction of part of the provincially significant Lower Duffins Creek Wetland complex in Pickering. Environmental Defence and Ontario Nature, represented by Ecojustice, are seeking to have the MZO quashed and declared unlawful for failing to comply with provincial law and policy. The Schedule 3 changes appear to be an attempt to shield the Government of Ontario from the lawsuit.

Schedule 3 of Bill 257 illustrates a profound disregard for environmental protection and public consultation. Given the circumstances, it will be justly perceived as an attempt to frustrate and undermine the public's constitutional right to seek judicial review of unlawful government decisions. Your government's continued positive characterization of its use of MZOs as a means to support strong communities and a clean and healthy environment is misleading. On the contrary, in many, if not most cases, it has been using MZOs to authorize developments that pose a direct and immediate threat to the benefits provided by Ontario's natural areas and farmland. These essential benefits include healthy food, clean water, improved air quality, flood and erosion mitigation, habitats for wildlife, vital recreational space, economic opportunities and more.

For all the reasons listed above, we ask that you remove Schedule 3 from Bill 257.

Thank you for your consideration.

Yours sincerely,

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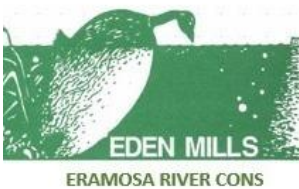
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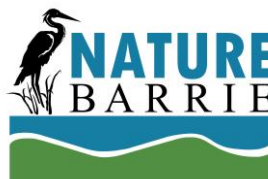


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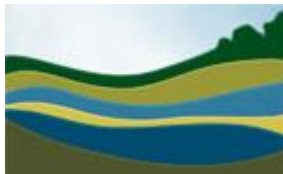
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