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November 24, 2022

Ministry of Municipal Affairs and Housing

ERO Number 019-6163 – Proposed Planning Act and City of Toronto Act Changes (Schedules 9 and 1 of Bill 23 - the proposed More Homes Built Faster Act, 2022)

I am writing to you on behalf of Saugeen First Nation and Chippewas of Nawash Unceded First Nation, together the Saugeen Ojibway Nation ("**SON**"), with respect to the amendments being proposed by Bill 23 (*More Homes Built Faster Act, 2022*) ("**Bill 23**") and in particular as related to ERO Number 019-6163. A number of the proposed amendments stand to have a significant impact on our Territory (see enclosed map) and our rights .

Being located directly north of the Greenbelt, the Greater Toronto Area, and the Greater Golden Horseshoe, SON has dealt with the impacts of urban sprawl in these regions for generations. These impacts will continue to be felt by our First Nations far into the future, given the extent of development and myriad effects that residential development has on the land and our ability to meaningfully exercise our rights.

It is essential to mention that this comment opportunity is not, either in form or substance, adequate to explore the complex concerns that SON has with Bill 23. SON is making these written submissions with the explicit statement that the Standing Committee on Heritage, Infrastructure and Cultural Heritage cannot possibly expect to understand the impacts of widespread residential development on Aboriginal and Treaty rights, and cannot understand SON's perspective through a written submissions process alone. What is needed is a process in which SON is directly engaged and consulted about what Ontario is seeking to do, and how it will impact and enable infringements on SON's rights.

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The extent of development in SON's Territory, taken cumulatively, has had significant impacts SON's rights. There is little to no framework in place to ensure minimal infringement on and interference with SON's rights, and Bill 23 now proposes to decrease remaining opportunities to voice concerns about impacts of development on SON Territory. While we may understand that meeting housing needs is an important objective, we have serious questions about whether several of the proposed amendments are rationally connected to achieving this objective. In any case, there needs to be due attention to ensure minimal infringement on our rights in the process. This is a requirement; consultation with Aboriginal and treaty rights holders is legally different than consultation with other 'stakeholders' and is derived from constitutional obligations of the Provincial and Federal governments. As it stands, the proposed amendments will only allow for unchecked acceleration of the damaging and cumulative impacts to our Territory and to our ability to exercise rights. It is Ontario's constitutional obligation to ensure that this does not happen.

Schedule 9: Planning Act

1. **Third Party Appeals.** Bill 23 proposes to significantly curtail third-party appeal rights in the *Planning Act*. Amendments to subsections 17(36) (official plans), 34(19) (zoning by-laws), 45(12) (minor variances) and 53(19), (27) (consents) will add the requirement that the prospective appellant be a "specified person" in order to qualify for appeal rights. While First Nations are still included within this concept, SON is strongly opposed to limiting the rights of third parties to appeal in decisions made by elected officials regarding SON's territory.

Recommendation 1. Amendments to subsections 17(36), 34(19), 45(12) and 53(19), (27) should not be made regarding the rights of third parties to appeal. This has formed an integral part of good land use planning in the Province, and diminishing these rights significantly reduces accountability on land use issues and decisions that are critical to SON's way of life.

- 2. Expedition of Pit and Quarry Applications.** Bill 23 proposes an exemption to the two year moratorium on private applications to amend a new official plan, secondary plans (in Subsections 22(2.1) and (2.1.1) of the *Planning Act*), or comprehensive zoning by-laws (in Subsection 34(10.0.0.1)). The proposed exemption is for private applications related to pits and quarries. Such an exemption is of great concern to SON, given the overwhelming number of aggregate pits and quarries already operating in our Territory, which cumulatively have significantly infringed on and harmed our rights.

Recommendation 2. Amendments to Subsections 22(2.1), 22(2.1.1), and 34(10.0.0.1) of the *Planning Act* should be withdrawn from Bill 23. In the alternative, SON requests that these exemptions not include pits and quarries used to mine dimensional stone and materials used primarily for luxury or aesthetic applications, and instead limit the exemption to pits and quarries for gravel and associated materials necessary for infrastructure critical to supporting housing.

- 3. Official Plan Amendments.** Section 23 of the *Planning Act*, which sets out a fairly rigorous process for official plan amendments at the request of the Minister, is proposed to be entirely repealed and replaced with a much more streamlined process to enable the Minister to make amendments to an official plan directly. Under proposed section 23, the Minister may simply order an amendment to an official plan if the Minister is of the opinion that the plan is likely to adversely affect a matter of provincial interest. The Minister's order will have the same effect as an amendment to the plan adopted by the council and approved by the appropriate approval authority. In SON's view, this is an act of overreach by the Province and could lead to infringements on SON's rights.

Recommendation 3: Land use planning decisions should be decided by those elected locally, given that these individuals are most likely to understand the issues facing communities and the preferences of constituents, leading to land use decisions that are more reflective of

widely held goals and the local geography. Section 23 should not be repealed and replaced.

4. **Site Plan Control.** Bill 23 now expands the list of exempted forms of development that are not subject to site plan control. Previously, only the placement of portable classrooms on school sites that existed prior to January 1, 2007, were excluded from the need to obtain site plan approval. Now, new subsection 41(1.2) also exempts any residential development that contains no more than 10 residential units. This is of concern to SON, where residential developments are smaller than those in the Greater Golden Horseshoe or City of Toronto, but where site plan control remains an effective way to mitigate impacts from residential developments on the natural landscape and on heritage resources in SON's Territory.

Recommendation 4: Section 41(1.2) should not be revised and municipalities should retain site plan control for residential developments with less than 10 residential units.

5. **Public Meetings for Plans of Subdivision.** Section 51 of the Planning Act currently requires a public meeting to be held by an approval authority for the purpose of giving the public an opportunity to make representations in respect of a proposed subdivision. This requirement is proposed to be wholly removed. This is untenable to SON, as public meetings regarding proposed subdivisions present one of several key opportunities for stakeholders to engage in the land use planning process.

Recommendation 5: Section 51 should remain in the *Planning Act* unmodified. One of the hallmarks of good land use planning includes engaging with the public in a fair and transparent manner. This requirement must be maintained if Ontario is to grow sustainably.

6. **Upper Tier Municipality Changes.** Pursuant to the proposed amendment to Subsection 1(4.3), "upper-tier municipalities without

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planning responsibilities” are now proposed to no longer constitute a “public body” and no longer have the rights of appeal regarding Official Plans, Zoning By-laws, Interim Control Bylaws, Minor Variances, Draft Plans of Subdivision, and Consents. As with CAs, removal of upper tier municipalities from land use planning decisions removes a highly informed perspective from this process. SON is concerned that these amendments will hinder sustainable growth and development at the regional scale, particularly in the rapidly growing areas which have been designated as “upper-tier municipalities without planning responsibilities.”

Recommendation 6: Sections 1(2), 1(5), 1(6), 2(1), 2(2), 3, 4(2), 5(4), 8(6), 17(2), 20, & 23 of Schedule 9 should be withdraw to ensure that upper tier municipalities retain land use planning authority.

We hope that Ontario will consider our recommendations and make good faith efforts to resolve SON’s concerns. We would also welcome additional and meaningful opportunities for consultation with Ontario on the development of Bill 23.

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A handwritten signature in blue ink, appearing to read "Emily Martin". The signature is written in a cursive, flowing style.









Emily Martin
Manager of Resources and Infrastructure

cc’ Riel Warrilow, Resources & Infrastructure Associate
Juanita Meekins, Resources & Infrastructure Executive Assistant

SCHEDULE "A"
 SON TERRITORIAL MAP

Saukiing Anishnaabekiing Saugeen Ojibway Nation Treaties



- | | | |
|---|---|---|
|  Aboriginal Title Claim Area |  Treaty 72 Area (1854) |  Current SON Reserve Lands |
|  Treaty 45 1/2 Area (1836) |  Treaty 82 Area (1857) |  The islands around the Peninsula were subject to various treaties, but many small islands on the Lake Huron side were returned to the Saukiing Anishnaabe in 1980 |
|  Treaty 67 Area (1851) |  Treaty 93 Area (1861) | |