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December 30, 2022

Honourable Graydon Smith  
MNRF - PD - Resources Planning and Development Policy Branch  
300 Water Street, 6th Floor, South tower  
Peterborough, ON  
K9J 8M5  
Canada

**RE: Bill 23 Proposed Changes – Conservation Authorities Act**

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Dear Minister Smith,

Please find enclosed Sifton Properties Limited's (herein known as "**Sifton**") review and comment regarding proposed changes through Bill 23, More Homes Built Faster Act, to the Conservation Authorities Act. We are, generally, in support of the proposed section 28 changes to the Conservation Authorities Act.

We appreciate the opportunity to comment on the proposed changes to the Conservation Authorities Act. Should you require anything further, please don't hesitate to contact our office.

Yours truly,

**SIFTON PROPERTIES LIMITED**

Lindsay Clark, BES  
Manager – Planning & Development  
Neighbourhood Developments

Cc: Phil Masschelein, Senior VP Neighbourhood Development

# Bill 23

## An Act to amend various statutes, to revoke various regulations and to enact the Supporting Growth and Housing in York and Durham Regions Act, 2022

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### SCHEDULE 2

### CONSERVATION AUTHORITIES ACT

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The updated Section 28 of the Conservation Authorities Act when brought in force will prohibit the following activities within the area of jurisdiction of a conservation authority:

1. *Activities to straighten, change, divert or interfere in any way with the existing channel of a river, creek, stream or watercourse or to change or interfere in any way with a wetland.*
2. *Development activities in areas within the authority's area of jurisdiction that are,*
  - i. *hazardous lands;*
  - ii. *wetlands;*
  - iii. *river or stream valleys the limits of which shall be determined in accordance with the regulations;*
  - iv. *areas that are adjacent or close to the shoreline of the Great Lakes-St. Lawrence River System or to an inland lake and that may be affected by flooding, erosion or dynamic beach hazards, such areas to be further determined or specified in accordance with the regulations; or*
  - v. *other areas in which development should be prohibited or regulated, as may be determined by the regulations.*

**Sifton is in support of the proposed changes to section 28 of the Conservation Authority Act in relation to subsection (1).**

*Under the updated section 28, the definitions of certain terms will be set out in regulation, including the definition of "development activity".*

*The following definition is being proposed:*

*“Development Activity” is proposed to be the same as the definition currently set out in the Act for “development”, which is:*

- (a) the construction, reconstruction, erection or placing of a building or structure of any kind;*
- (b) any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure;*
- (c) site grading; or*
- (d) the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere.*

**Sifton is in support of the proposed changes to section 25 of the Conservation Authority Act in relation to the definition for “development”.**

*Under the new section 28 of the Conservation Authorities Act, the definitions of the following terms will also be set out in regulation: “Watercourse”, “Wetland” and “Hazardous Land”. There are proposed updates to the definition of “watercourse”. The definitions of “hazardous land” and “wetland” are not proposed to be changed from the current definition used within the Act.*

*The following definitions are being proposed:*

**“Watercourse”** *is proposed to be defined as:*

*A defined channel, having a bed and banks or sides, in which a flow of water regularly or continuously occurs.*

**“Wetland”** *is proposed to be the same as the definition currently set out in the Act for “development”, which is:*

*Land that:*

- a) is seasonally or permanently covered by shallow water or have a water table close to or at its surface;*
- b) directly contributes to the hydrologic function of a watershed through connection with a surface watercourse;*
- c) have hydric soils, the formation of which have been caused by the presence of abundant water; and*
- d) have vegetation dominated by hydrophytic plants or water tolerant plants, the dominance of which have been favoured by the presence of abundant water. But does not include periodically soaked or wet land being used for agricultural*

*purposes and which no longer exhibits a wetland characteristic referred to in clause (c) or (d).*

**“Hazardous land”** is proposed to be the same as the definition currently set out in the Act, which is:

*Land that could be unsafe for development because of naturally occurring processes associated with flooding, erosion, dynamic beaches or unstable soil or bedrock.*

**Sifton is in support of the proposed changes to section 25 of the Conservation Authority Act in relation to the definition for “watercourse” and the continuation of the existing definition for “wetland” and “hazardous land”, as currently defined in section 25.**

*Other areas in which development is prohibited:*

*It is proposed that other areas in which development is prohibited would be areas within 30 metres of all wetlands.*

**Sifton is not in support of a 30 metre development setback of all wetlands as per subsection 28 (1). Sifton would request flexibility of the required setback with the appropriate studies to define the requirements to ensure no negative impacts at a reduced setback, as defined by a technical professional. If 30 metre setback remains, Sifton would request that this would include the buffer.**

*Subsection 28.1 (1) of the Conservation Authorities Act provides that a conservation authority may issue a permit, with or without conditions, for activities that are otherwise prohibited by the act, where, in the opinion of the authority,*

- a) the activity is not likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock;*
- b) the activity is not likely to create conditions or circumstances that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property; and*
- c) any other requirements that may be prescribed by the regulations are met.*

**Sifton is in support of the proposed changes to subsection 28.1 (1).**

*In order to create more clarity and consistency in what is required as part of a conservation authority permit application, it is proposed that the regulation include complete application requirements.*

*It is proposed that a complete application for a permit would consist of:*

- a) A plan of the area showing the type and location of the proposed*

*development activity or a plan of the area showing plan view and cross-section details of an activity to alter the existing channel of a river, creek, stream or watercourse, or change or interfere with a wetland;*

*b) The proposed use of any buildings and structures following completion of the development activity, or a statement of the purpose of an activity to alter the existing channel of a river, creek, stream or watercourse, or change or interfere with a wetland;*

*c) The start and completion dates of the development or other activity;*

*d) A description of the methods to be used in carrying out an activity to alter the existing channel of a river, creek, stream or watercourse, or change or interfere with a wetland;*

*e) The elevations of existing buildings, if any, and grades and the proposed elevations of any buildings and grades after the development;*

*f) Drainage details before and after the development or other activity;*

*g) A complete description of the type of fill proposed to be placed or dumped; and*

*h) Such other technical information, studies or plans, as the authority may request prior to the confirmation of a complete application by the authority, including as determined during any pre-consultation between the authority and the applicant.*

**Sifton is in support of the proposed new section including the requirements for a complete application in relation to obtaining a section 28 permit.**

*The regulation will also address the maximum period of permit validity, address the conditions the conservation authority may or may not attach to a permit, and address permit extension.*

*It is proposed that the maximum period of validity for which a permit can be issued is 60 months. An authority may issue a permit for less than this length.*

*It is proposed that the site-specific conditions a conservation authority may attach to a permit be limited to conditions to mitigate:*

- effects the development project is likely to have on the control of flooding, erosion, dynamic beaches or unstable soil or bedrock; and*
- conditions or circumstances created by the development project that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property.*

*Along with any conditions to support the implementation or administration of the permit.*

*As per the process currently in place under the regulations, it is proposed that the*

*authority may grant an extension of a permit if:*

- a. the holder of the permission submits a written application for an extension to the authority at least 60 days before the expiry of the permit;*
- b. no extension of the permit has been granted previously; and*
- c. the application sets out the reasons for which an extension is required and demonstrates that circumstances beyond the control of the holder of the permission will prevent completion of the project before the expiry of the permit.*

**Sifton is in support of the proposed new section including the requirements for a complete application in relation to obtaining a section 28 permit.**

*The list of mandatory programs and services that conservation authorities must deliver related to the risk of natural hazards outlined in O.Reg. 686/21 which includes the administration of permits under section 28.1 of the Conservation Authorities Act. Section 21.1(3) of the Act allows the government to prescribe standards and requirements for these programs.*

*The following service delivery standards are being proposed related to the administration of permits as part of the mandatory programs and services that a conservation authority must carry out related to the risk of natural hazards.*

**Sifton is in support of the proposed changes to the programs and services the Conservation Authority can provide in relation to natural hazards.**

*The regulation would require each conservation authority to develop, consult on, make publicly available and periodically review a policy that includes:*

- Further details about the complete application requirements listed above, as necessary;*
- Timelines for confirming the requirements for a complete application following pre-consultation;*
- Timelines for notifying applicants as to whether a permit application is deemed complete;*
- A process for an administrative review if an applicant is not notified of a complete application within a specified timeframe, and of a decision on whether a permit application is complete;*
- Timelines for a decision on a permit application following the submission of a complete application; and*
- Additional technical details on regulatory requirements and permit application*

and review procedures.

*If the authority wishes to make changes to this policy, they shall give notice of the proposed change to the public in a manner it considers appropriate, and each conservation authority shall prepare and publish a report annually that outlines statistics on permits issued, including reporting on the level of achievement of service delivery standards.*

**Sifton is in support of the proposed changes to provide more public transparency with all Conservation Authorities.**

*Under section 21.1 of the Act, conservation authorities would be required to create maps of areas within their jurisdiction generally depicting where a permit is required for development and other activities and make these maps publicly available at the head office of the authority and in any other manner consistent with conservation authority policy. In some cases, regulated areas will still need to be confirmed based on the technical description as set out in the regulation, which is what officially determines the areas where permits are required.*

*It would also be required that if the conservation authority makes significant changes to this mapping based on new information or technology, or changes in watershed conditions (i.e., beyond any minor modifications or corrections or adjustments made regarding site specific applications) that result in an enlargement of the area depicting where the permitting requirements apply, the authority shall provide notice to the public in an appropriate manner, as set out in a policy adopted by the authority, and consider public comments in making any decisions regarding the proposed mapping changes.*

**Sifton is in support of the proposed changes to the mapping as per 21.1 of the Act and would request continuation of transparency and up-to-date information that is publicly accessible.**

*Under section 21.1 of the Act, it would be specified that either a conservation authority or a permit applicant may request pre-consultation prior to the submission of a permit application in order to confirm requirements for a complete application for the activity in question. To support the pre-consultation process, the conservation authority may request initial information on the activity to be undertaken and regarding the property*

*where the activity will take place.*

**Sifton is in support of the proposed changes to the mapping as per 21.1 of the Act and would request a prescribed turnaround (i.e. 30 days) for comments pertaining to pre-consultation requirements.**

*For Discussion: Improved coordination between Conservation Authorities Act regulations and municipal planning approvals*

*The updated Section 28 of the Conservation Authorities Act as proposed to be amended by the More Homes Built Faster Act, 2022, introduced on October 25, 2022, would provide the ability to exempt development authorized under the Planning Act from requiring a permit under the Conservation Authorities Act. This exemption would apply in the municipalities set out in regulation and could be subject to certain conditions also set out in regulation. Conservation authorities would continue to permit other activities not subject to municipal authorization.*

*The Ministry has not proposed a regulation utilizing this exemption tool as part of this regulatory proposal but is requesting initial feedback on how it may be used in the future to streamline development approvals while still ensuring the protection of people and property from natural hazards.*

*Considerations for the use of this tool include:*

- In which municipalities should the exemption apply? How should this be determined?*
- Which Planning Act authorizations should be required for the exemption to apply?*
- Should a municipality be subject to any requirements or conditions where this type of exemption is in place?*
- Are there any regulated activities to which this exemption shouldn't apply?*

**Sifton would like to provide feedback and believes that all municipalities should have this exemption and can be included as part of the development and subdivision agreement/site alteration agreement. Any Site Plan or Draft Plan of Subdivision/Registered Subdivision should be included in the exemption. The municipality should not be required to include further requirements, if exemption is permitted. Municipalities already have many policies and regulations in place that provide enough protection to lands under the Conservation Authorities justification. Sifton believes that only provincially significant wetlands should be required to obtain a permit from the Conservation Authority directly within an exemption.**