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June 4, 2025

FLAP Canada Submission to the Environmental Registry of Ontario regarding proposed regulations under the Planning Act and the City of Toronto Act, 2006 in relation to Bill 17, the Protect Ontario by Building Faster and Smarter Act, 2025

<https://ero.ontario.ca/notice/025-0462>

The following comments are submitted on behalf of the Fatal Light Awareness Program (FLAP) Canada. FLAP is a nonprofit organization founded in 1993 dedicated to the protection of birds in the built environment, focusing on solutions for preventing birds from colliding with buildings.

Thank you for the opportunity to submit comments on the proposed regulations. These comments pertain to Schedule 1 of Bill 17, the Protect Ontario by Building Faster and Smarter Act affecting the Building Code Act as well as Schedules 3 and 7 affecting the Planning Act and City of Toronto Act, 2006.

FLAP Canada is deeply concerned about Bill 17 negatively impacting bird safe building design measures that have been implemented through site plan control and other municipal policy frameworks across Ontario. Specifically, we are focussing on the proposed exclusion of urban design studies from what can be considered part of a complete planning application. The ERO notice 025-0462 states: "Proposed Contents of a Regulation - Specifically, it is proposed that the following topics could not be required as part of a complete planning application" ... "Urban Design: information and material concerning the urban design of a proposed development, including how a proposed development aligns with municipal urban design guidelines or policies." We are made to understand that compliance with a bird safe building design standard would fall under urban design guidelines or policies to no longer be considered as part of a complete application.

Each year, around 25 million birds are killed by colliding with glass on buildings in Canada. Collisions are a leading cause of bird deaths and affect numerous species listed as being at risk of extinction under Ontario provincial law and under Canada's Species at Risk Act. Ontario is a hotspot for migratory bird activity making it one of Canada's primary locations for bird-building collisions. Bird-building collisions can be significantly reduced through the adoption of bird safe design standards in building construction as well as retrofits of existing buildings. Bird safe design standards generally include use of visual markers on certain areas of exterior glazing as well as lighting design specifications to reduce light pollution at night, which disorients birds during their annual migration.

The City of Toronto was the first municipality in the world to implement bird safe building design in regulation through the Toronto Green Standard taking effect in 2010. Since then, over 20 other municipalities in Ontario, as well as others in provinces across Canada, have adopted voluntary or mandatory standards for bird safe design, mostly implemented through site plan control and official plans. Bird safe building design costs little to nothing to implement in new construction; there is no evidence to suggest that communities requiring bird safe design delays planning approvals or construction timelines, introduces extra complexity for builders, or affects the affordability of homes. The main difference for builders is to swap out certain glazing components for comparable alternatives that are widely commercially available.

Our vision: a 24-hour collision-free built environment for migratory birds
Charitable # 14074 6736 RR0001

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Bill 17 clarifies that the province intends for the Ontario Building Code to function as the sole set of standards that municipalities must follow during the planning approval process. Green building standards are presently treated as companions to the Ontario Building Code that do not contradict or supersede it. Municipalities use green standards to control aspects of urban design that are not contained within the current scope of the Building Code, such as use of bird safe glazing and landscaping. These considerations are essential to municipalities meeting their climate change planning objectives and conserving biodiversity in the built environment.

The most cost-effective way to make buildings safe for birds is to construct them using bird safe design principles in the first place. FLAP Canada believes that bird safe building design should ideally be regulated through the Ontario Building Code, rather than at the municipal level. In 2023 the Bird Safe Windows Act proposed to embed the CSA A460 Bird Friendly Building Design standard into the Ontario Building Code, but this proposal did not receive government support. The CSA A460 standard is already used by municipalities to harmonize specifications between jurisdictions. We encourage the province to reconsider adopting CSA A460 into the Ontario Building Code to standardize bird safe design requirements for all building construction across the province.

By limiting municipal planning authority to regulate bird safe design in new buildings, Bill 17 will effectively remove the only existing legal safeguards to protect migratory birds and future building owners and occupants from fatal collisions through the planning process. In Ontario it is illegal under the Environmental Protection Act, as well as under the federal Migratory Birds Regulations (2022) and Species at Risk Act, for building owners to kill birds by causing collisions, whether intentional or not. Building owners that are found to be in contravention of federal regulations must demonstrate due diligence to mitigate bird collisions at their property or else they could face litigation.

Embedding bird safe design into the planning approval process, as numerous Ontario municipalities have done, protects future building owners from potential liability and the added cost of retrofitting their glass to prevent bird collisions. We urge the Government of Ontario to either amend the Protect Ontario by Building Faster and Smarter Act, 2025 to preserve municipal planning authority to enact green building standards, including bird safe building design measures, or to incorporate a uniform bird safe building design standard like CSA A460 into the Ontario Building Code.

Thank you for considering our feedback. Please do not hesitate to contact us if you have any questions.

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