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14 May 2026

Planning Policies Branch
Ministry of Municipal Affairs and Housing
13th Floor, 777 Bay Street
Toronto, ON M7A 2J3

By email: PlanningPolicies@ontario.ca

Re: ERO-026-0312 -- Proposed Changes to Support Standardizing of Parkland Requirements Under the *Planning Act*

Dear Planning Policies Branch:

The Ontario Rivers Alliance (ORA) is a not-for-profit grassroots organization with a mission to protect, conserve, and restore Ontario's rivers. ORA intervenes in federal and provincial regulatory processes and advocates for effective policy and legislation to ensure development affecting Ontario rivers is environmentally and socially sustainable.

ORA submits comments on ERO-026-0312 as part of a coordinated response to the Bill 98 legislative package and related Bill 23 implementation measures. ORA notes that this proposal is one of eleven or more simultaneous ERO postings directed to different branches and different email addresses within the same ministry, a structure that prevents any single branch from assessing cumulative effects and that ORA has characterized as a divide-and-conquer approach to public consultation.[7] ORA has submitted separately on ERO-026-0315 (April 24, 2026), ERO-026-0313, ERO-026-0300, ERO-026-0301/0302, and ERO-026-0304 (all May 14, 2026).

Parkland dedication under section 42 of the *Planning Act* has historically served a clear and legitimate public purpose: to secure physical, publicly owned green space as communities grow, so that the recreational, ecological, and health needs of new residents can be met without downloading cost and burden onto the broader tax base. The proposed changes to implement Bill 23 provisions would allow developer-identified lands, encumbered lands, and Privately Owned Public Spaces (POPS) arrangements to satisfy parkland dedication requirements and would give developers the right to appeal to the Ontario Land Tribunal (OLT) if a municipality refuses their proposed parkland.

ORA submits that these proposals fundamentally redefine the purpose of parkland dedication, shift decision-making authority from municipalities to developers and the OLT, and will in practice result in municipalities receiving parks that are legally precarious, ecologically marginal, or operationally costly.

1. Developer-Identified Parkland Reverses the Public-Interest Rationale of Parkland Dedication

1.1 The Inversion of Planning Authority

The logic of parkland dedication under section 42 of the *Planning Act* is that growth creates the need for parks, and developers must contribute land to meet that need.[1] Historically, municipalities have assessed which parcels best serve long-term community purposes: location relative to population centres, ecological connectivity, riparian function, recreational suitability, and freedom from constraints. The proposed changes invert this by giving developers the right to propose specific parcels, with the OLT empowered to order conveyance if prescribed criteria are met, regardless of the municipality's judgment about community suitability.

The practical effect is predictable: developers will propose their least commercially valuable land. That land is typically floodplain-adjacent, encumbered by easements or conservation authority restrictions, ecologically constrained, or irregular in shape. Municipalities that refuse unsuitable proposals will face OLT proceedings at their own expense. The proposed criteria establish minimum thresholds, but they do not capture the full range of considerations municipalities must weigh in determining what land will serve a community well over decades.

1.2 OLT Override of Municipal Parkland Decisions

The OLT has already overridden local planning decisions at an unprecedented rate in recent years, eroding the capacity of municipalities to manage long-term land use in the public interest. Adding developer appeal rights for parkland refusals compounds this problem. The OLT is not constituted or resourced to evaluate community park planning needs, ecological suitability, or long-term municipal stewardship obligations. Entrusting those judgments to an adjudicative body focused on threshold criteria, rather than to elected local governments accountable to their residents, is a step away from democratic planning.

ORA submits that municipal authority to assess and refuse developer-identified parkland proposals must be preserved. The OLT appeal mechanism for parkland refusals should be withdrawn.

2. Encumbered Lands and POPS Are Not Equivalent to Public Parkland

2.1 Privately Owned Public Spaces Provide No Long-Term Public Security

POPS, by definition, remain in private ownership. They are typically urban plazas or setback spaces managed to suit the commercial interests of the landowner. Owners can impose conditions on public access, restrict hours of use, revoke access upon sale or insolvency of the owner, and develop or redevelop the space subject only to whatever agreement is in place. A POPS agreement is a contractual instrument, not a public land title.

Substituting POPS for publicly owned parkland means a municipality receives an accounting credit for space it does not own, cannot develop for community purposes, and may lose. Ontario residents deserve parks that are actually owned by the public.

ORA submits that POPS arrangements should be ineligible to satisfy parkland dedication requirements under the *Planning Act*.

2.2 Encumbered Lands Transfer Liability Without Providing Recreational Value

Lands subject to utility easements, registered charges, conservation authority permit jurisdiction, floodplain hazard designations, or other interests are constrained by those encumbrances for as long as title is held. A municipality accepting encumbered land as parkland dedication inherits not just the parcel but its legal, financial, and operational constraints, including maintenance liability, restricted development potential, and potential third-party claims on the land.

The proposed 70% credit for encumbered lands implicitly acknowledges their reduced value. However, the percentage adjustment does not resolve the underlying problem: municipalities may accumulate a portfolio of legally complex, ecologically constrained, and operationally costly parcels that generate expense without providing genuine recreational amenity. The question is not whether encumbered land has some value; the question is whether it substitutes for the publicly owned, unencumbered green space that the *Planning Act*'s parkland dedication provisions were designed to secure.

2.3 Conservation Authority Jurisdiction Is Not Addressed

Many natural heritage-adjacent lands, which the proposed criteria acknowledge as conditionally eligible, fall within Conservation Authority (CA) permit jurisdiction under applicable CA regulations.[6] A municipality that accepts such land as parkland and later seeks to install recreational infrastructure, trails, or amenities may require a CA permit. The intersection between parkland dedication and CA jurisdiction is not addressed in the proposed regulation, creating a gap that will generate approval uncertainty and operational costs for municipalities.

3. Environmental and Ecological Implications

3.1 Floodplain-Adjacent Lands Are Liabilities, Not Assets

The proposed criteria state that natural and human-made hazard lands, as described in sections 5.2 and 5.3 of the Provincial Planning Statement, 2024, are ineligible.[3] However, lands adjacent to those hazard areas, including riparian corridors, floodplain fringes, and valley lands, are described as eligible on a conditional basis. This distinction matters enormously in practice. Floodplain-adjacent lands that fall outside the formal hazard boundary may nonetheless be periodically inundated, structurally unsuitable for park infrastructure, or subject to accelerating flood risk as climate conditions change.

The *Ontario Provincial Climate Change Impact Assessment (OCCIA 2023)* documents increasing precipitation intensity, hydrological volatility, and flood frequency across Ontario.[4] The Auditor General of Ontario's 2022 report on urban flood risk documented billions of dollars in flood-related municipal infrastructure losses and found that existing floodplain mapping substantially underestimates actual flood risk in many communities.[5] Flooding events in spring 2024 and spring 2026 across the Sudbury, Ottawa, and Lake Erie watersheds caused widespread municipal infrastructure damage and emergency costs. Municipalities that accept floodplain-adjacent land as parkland will inherit maintenance liability and public safety responsibility for lands that are demonstrably at increasing flood risk.

ORA submits that floodplain-adjacent lands, including valley lands and riparian corridors that fall within but near the boundary of identified hazard areas, should be explicitly ineligible for developer-identified parkland credit, not merely eligible on an undefined condition.

3.2 The Natural Heritage Eligibility Condition Is Undefined and Unenforceable

The proposed criteria state that lands within and adjacent to natural heritage features and areas are eligible on the condition that a park would not interfere with or compromise the natural heritage features and areas. No mechanism for making this determination is prescribed. There is no requirement for a Natural Heritage Evaluation, no CA review, no qualified professional assessment, and no provincial review step. In the absence of a defined assessment process, this condition is a subjective threshold that will generate OLT disputes and produce inconsistent outcomes across municipalities.

Ontario's own Provincial Planning Statement, 2024, requires that development and site alteration not be permitted in significant natural heritage features except as provided for in its policies.[3] A parkland dedication regulation that treats natural heritage adjacency as conditionally eligible without a defined assessment process is inconsistent with that protective intent.

3.3 Riparian Corridors and River Systems Must Not Be Degraded by Developer Selection

Parkland along rivers, streams, and wetlands has historically served multiple ecological functions beyond recreation: riparian buffers that filter runoff and protect water quality, wildlife corridors that allow species movement, floodplain functions that attenuate peak flows, and groundwater recharge areas that support baseflow and source water protection. When developers select interior urban lots, elevated parcels, or POPS arrangements as parkland, rather than riparian or green corridor lands, those ecological services are permanently lost from the public land base.

ORA submits that municipalities must retain full authority to specify the location, type, and ecological character of parkland dedication, particularly where source water protection areas, river corridors, and natural heritage systems are at stake. Developer selection of parkland should remain a voluntary option subject to unconditional municipal acceptance, not a default right backed by OLT override.

4. Recommendations

ORA respectfully recommends that the Ministry:

1. Withdraw the proposal to allow POPS arrangements to satisfy parkland dedication requirements. Publicly owned parkland and privately owned, conditionally accessible commercial space are not equivalent public goods and should not be treated as interchangeable.

2. Explicitly exclude floodplain-adjacent lands, riparian corridors, and valley lands from eligibility as developer-identified parkland, consistent with Ontario's own climate risk assessment and the Auditor General's findings on flood liability.

3. Require a formal Natural Heritage Evaluation, conducted by a qualified professional and reviewed by the relevant Conservation Authority, before any natural heritage-adjacent land is accepted as developer-identified parkland.

4. Remove the OLT appeal right for rejected developer-identified parkland proposals. Municipal authority to assess long-term community land needs on behalf of residents must be preserved without the deterrent of costly OLT proceedings.

5. Clarify that encumbered lands accepted as parkland dedication do not relieve the developer of an obligation to provide a complement of unencumbered, publicly accessible parkland at the municipality's discretion and to the municipality's satisfaction.

6. Conduct a cumulative assessment of this proposal together with all related Bill 98 and Bill 23 changes before finalization, to enable a complete evaluation of their combined effect on municipal planning authority, long-term public green space, and ecological sustainability.

Parkland dedication exists because communities need green space and because developers who profit from growth should contribute to meeting that need. Allowing developers to select, encumber, and privately retain land that counts as parkland, while removing municipal authority

to refuse unsuitable proposals, does not standardize parkland requirements; it undermines the public-interest foundation on which those requirements rest. Ontario's rivers, watersheds, and natural systems cannot afford further erosion of the land protections that depend on robust municipal planning authority and genuine public ownership.

ORA urges the Ministry to withdraw the provisions that substitute POPS and encumbered lands for genuine public parkland, and to restore and strengthen municipal authority to determine what land best serves the long-term needs of Ontario communities.

Respectfully,

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EndNotes:

1. *Ontario. Planning Act, R.S.O. 1990, c. P.13, s. 42 -- Parkland. Queen's Printer for Ontario. 1990.*
2. *Ontario. Bill 23, More Homes Built Faster Act, 2022. Queen's Printer for Ontario. 2022.*
3. *Ontario Ministry of Municipal Affairs and Housing. Provincial Planning Statement, 2024. Queen's Printer for Ontario. 2024. Sections 5.2 and 5.3 (Hazard Lands).*
4. *Ontario Ministry of the Environment, Conservation and Parks. Ontario's Climate Change Impact Assessment. Queen's Printer for Ontario. 2023.*
5. *Office of the Auditor General of Ontario. Climate Change Adaptation: Reducing Urban Flood Risk. Annual Report 2022, Chapter 3.06. Queen's Printer for Ontario. 2022.*
6. *Ontario. Ontario Regulation 41/24 under the Conservation Authorities Act. Queen's Printer for Ontario. 2024.*
7. *Ontario Rivers Alliance. Submission on ERO-026-0300 (Bill 98, Building Homes and Improving Transportation Infrastructure Act, 2026 -- Planning Act Changes). Addressed to Planning Policies Branch, Ministry of Municipal Affairs and Housing. May 14, 2026. https://ontarioriversalliance.ca/blog*