

**SUBMISSIONS OF THE CANADIAN ENVIRONMENTAL LAW
ASSOCIATION ON**

BILL 98

Building Homes and Improving Transportation Infrastructure Act, 2026,

**PRESENTED TO THE MINISTRY OF MUNICIPAL AFFAIRS
AND HOUSING**

Submitted by

Theresa McClenaghan, Ramani Nadarajah and Jacqueline Wilson

April 2026

I: OVERVIEW

The Canadian Environmental Law Association (CELA) makes the following submissions in response to Bill 98, *Building Homes and Improving Transportation Infrastructure Act, 2026*.

CELA is a specialty legal aid clinic that works towards protecting the environment and public health. In this capacity, CELA has undertaken litigation and law reform work on land use planning at the provincial, regional, and local levels in Ontario. CELA has represented low-income clients and vulnerable communities in disputes under the *Planning Act*, in relation to official plans, zoning by-laws, subdivisions plans and other planning instruments. CELA has also provided submissions on legislative and policy proposals related to land use planning in the province.¹ In addition, CELA has been extensively involved in protecting drinking water quality in Ontario. Specifically, CELA was involved in both phases of the Walkerton Inquiry and has provided submissions on government proposals related to the protection of drinking water.²

On March 30, 2025, Bill 98, *Building Homes and Improving Transportation Infrastructure Act, 2026*, was tabled for first reading in the Ontario Legislature by the Hon. R Flack, the Minister of Municipal Affairs and Housing (MMAH).

¹ See for example, *Submissions of the Canadian Environmental Law Association on Bill 5, Protect Ontario by Unleashing our Economy Act, 2025*, online: https://archive.celafoundation.ca/archive-item/cela-comments-on-bill-5-protect-ontario-by-unleashing-our-economy-act-2025/1624-cela_submissions_bill_5_final/; CELA submission on “ERO Posting 025-0462” Proposed Regulation Complete Application” (June 26, 2025), online: <https://archive.celafoundation.ca/archive-item/cela-submission-on-ero-posting-025-0462-proposed-regulations-complete-application/1633-cela-submission-ero-025-0462/> and Comments on Proposed Minister’s Permit and Review Powers under the *Conservation Authorities Act* (May 6, 2024), online: <https://archive.celafoundation.ca/archive-item/comments-on-proposed-new-ministers-permit-and-review-powers-under-the-conservation-authorities-act/1570-ero-019-8320-may-6-2024-cela-submission/>

² See for example, CELA comments on regulatory changes for accelerating and improving protection for Ontario’s drinking water sources (ERO # 025-1104) (November 26, 2025), online: <https://archive.celafoundation.ca/archive-item/cela-comments-on-regulatory-changes-for-accelerating-f-for-effort-ontario-is-falling-behind-on-getting-lead-out-of-school-drinking-water/>; “F” for Effort: Ontario is falling behind on getting lead out of school drinking water (April 2, 2026), online: <https://archive.celafoundation.ca/archive-item/report-f-for-effort-ontario-is-falling-behind-on-getting-lead-out-of-school-drinking-water/f-for-effort-ontario-is-falling-behind-on-getting-lead-out-of-schools-2/dimproving-protections-for-ontarios-drinking-water-sources-ero-025-1104/1662-comments-on-clean-water-act-and-sdwa-changes-regarding-spp-amendments-november-2025/>

The Bill received second reading on April 14, 2026, and was ordered to be referred to the Standing Committee on Heritage, Infrastructure and Cultural Policy.

Bill 98 consists of predominantly nine schedules that are designed to remove barriers to new homes and infrastructure development. The primary rationale for the Bill is to build homes faster, reduce costs and delay, and support Ontario's economic growth.³

However, the proposed bill does not meet its intended purpose. It is premised on the latest Ontario Population Projection which does not capture the changes in federal immigration policy that were announced in October 2024. The federal government recently announced significant reduction in future immigration targets in an effort to pause population growth. This includes a commitment to stabilize permanent resident admission at less than 1% of the total population after 2027 to relieve pressure on housing and infrastructure.⁴ In light of the federal government's recent efforts to reduce immigration rates, the proposed changes in Bill 98 related to projections of housing needs should be paused pending an accelerated review of the Ministry of Finance's (MOF) most recent population projection to ensure that the province does not overestimate population growth in Ontario. The proposed approach otherwise runs a risk of compelling municipalities to significantly overestimate their future land needs for urban development. In the case of the Greater Toronto Area and Hamilton, the lands in question are largely prime agricultural lands and high value natural heritage areas.

Furthermore, there are proposed amendments in Bill 98 that will fundamentally undermine Ontario's ability to address the impacts of climate change. These include the proposal to prevent municipalities under the *Planning Act* from addressing the impacts of climate change in their official plan, the removal of the requirement to retain authority through zoning by-laws to require electric vehicle supply equipment in connection to parking facilities, and the removal of

³ Ontario, Legislation Assembly, Official Report of Debates (Hansard), 1st session, 44th Parliament, (30 March 2026) at 3294. (Hon. Rob Flack)

⁴ Government of Canada, Immigration, Refugees and Citizenship Canada, Meeting our population commitments and building our future, online: [Meeting our population commitments and building our future - Canada.ca](https://www.canada.ca/en/immigration-refugees-citizenship/news/2024/10/meeting-our-population-commitments-and-building-our-future.html)

sustainable design elements, such as green standards in construction. The extent to which these changes seek to systemically remove municipalities authority to address climate change is extremely troubling, particularly as the impacts of climate change are becoming increasingly more apparent in Ontario. Moreover, these impacts disproportionately impact low-income and vulnerable communities. Municipalities are often at forefront of dealing with the impacts of climate change and need to be provided with regulatory tools to address these challenges. Restricting the scope of municipal action in this area will leave Ontario communities more vulnerable and less resilient.

CELA, however, supports Schedule 8 of the Bill 98. Schedule 8 proposes to ensure that drinking water systems owned by a public utility corporation be regulated as municipal drinking water systems with all of the safeguards imposed by the *Safe Drinking Water Act*; this is a necessary and appropriate amendment.

The following submissions examines the Bill 98 schedules in so far as they relate to environmental and public health and safety. In our view, with the exception of Schedule 8, many of the proposed amendments should not be adopted as they will fundamentally undermine environmental protection and public health and safety in Ontario.

Below is a consolidation of CELA's recommendations regarding Bill 98.

II: SUMMARY OF RECOMMENDATIONS

Recommendation 1: CELA recommends that the proposed legislative changes in Bill 98 related to housing needs be paused pending an accelerated review of MOF’s population projection. This is necessary considering the recent changes to federal immigration policy and their implications for population growth in Ontario.

Recommendation 2: CELA recommends that municipalities be provided with authority to include a designation in their official plan to address unique local conditions.

Recommendation 3: CELA recommends that in relation to Schedule 7, section 16(14) of the *Planning Act* should be retained to allow municipalities to address climate change in their official plans.

Recommendation 4: CELA recommends that in relation to Schedule 7 and Schedule 2, municipalities be allowed to retain authority through zoning by-laws to require electric vehicle supply equipment in connection to parking facilities.

Recommendation 5: CELA recommends that in relation to Schedule 7 and Schedule 2, the sustainable design elements under s. 41 of the *Planning Act* be retained.

Recommendation 6: CELA recommends that Section 108.1 of the *City of Toronto Act* and section 97.1 of the *Municipal Act* not be removed or amended.

Recommendation 7: CELA recommends that the proposed amendments to the *Planning Act*, *City of Toronto Act*, *Municipal Act* or *Building Code Act* in Schedule 1 which purport to undermine municipal legal authority to pass standards to ensure that new buildings are environmentally safe and resilient to climate change impacts not be adopted

Recommendation 8: CELA recommends that the term “agent” should be replaced with the term “agent of the Crown” in the proposed Schedule 9 changes to sections 2 and 9 of the *Water and Wastewater Public Corporations Act, 2025* and a definition of the phrase “agent of the Crown” should be added to the Act similar to the federal *Financial Administration Act*.

Recommendation 9: CELA recommends that subject to the previous recommendation on the term “agent”, Schedule 9 of Bill 98 should be supported.

Recommendation 10: CELA recommends that Schedule 8 to Bill 98 be supported.

Recommendation 12: CELA recommends that additional communal drinking water and wastewater systems within municipal boundaries should not be encouraged generally, and should be limited to circumstances based on stringent criteria.

Recommendation 13: CELA recommends that the proposed criteria for municipal consideration of granting consent to new communal drinking water and wastewater systems within municipal boundaries should be the subject of extensive consultation.

Recommendation 14: CELA recommends that new housing should be primarily directed to access existing and planned municipal drinking water and wastewater systems.

III: Draft Proposed Projection Methodology Guideline (PMG) to Support the Implementation of the Provincial Policy Statement, 2024 (PPS) 2024

ERO 026-0304

MMAH is seeking feedback on the revised draft Projection Methodology Guideline (draft PMG) to assist planning authorities with identifying population and employment forecasts and assessing land needs. Although the PMG does not entail any proposed legislative or regulatory change, the government is still seeking public feedback on the document. If finalized, the proposed PMG would replace the existing 1995 PMG.

The Provincial Planning Statement (PPS), 2024, requires planning authorities to base their population and employment forecasts on the Ontario Population Projections published by the Ministry of Finance (MOF) which may be modified

as appropriate.⁵ The MOF population projections “reflect demographic trends such as fertility, mortality and **migration.**” [emphasis added]. According to the draft PMG, the MOF’s projections are “[f]oundational to the development of municipal population projections ... as they provide a consistent base for planning across Ontario and support coordination among municipalities.”⁶

The MOF updates the Ontario Population Projections annually (i.e. a ‘minor’ update). Every five years a ‘major’ update to the population projections is released which reflects data from the latest census by Statistics Canada.⁷ The draft PMG states that municipalities “should consider the timing and release of MOF ‘major’ updates when considering the timing of official plan updates to ensure forecasts are based on the most current data.”⁸

The draft PMG further notes that “[p]opulation and employment forecasts are important components needed by planning authorities, including upper-tier, and lower-tier municipalities (with or without planning responsibilities to plan for their communities).”⁹ The draft PMG thus plays a critical role in helping municipalities develop population and employment forecasts to identify the amount of land required for the planning horizon.¹⁰

The draft PMG stipulates that municipalities should use the most recent ‘major’ update to the MOF projections as the base for their population and employment growth forecasts.¹¹ Furthermore, according to the draft PMG where “notable changes to population trends have occurred since the last ‘major’ MOF update”, forecasts development should be accompanied by relevant forward-looking market indicators including results from ‘minor’ MOF updates.¹²

⁵ Ontario Ministry of Municipal Affairs, *Projection Methodology Guideline to support the implementation of PPS 2024*, [Draft PMG] at p.2.

⁶ Draft PMG at p. 5.

⁷ Draft PMG at p. 5.

⁸ Draft PMG at p.5

⁹ Draft PMG at p. 3.

¹⁰ Draft PMG at p. 3.

¹¹ Draft PMG at p. 13.

¹² Draft PMG at p.13.

The latest Ontario population projection covers the base years of 2024 to 2051 and was published in a report by the Ministry of Finance in the summer of 2025.¹³ The MOF report states:

- “The provincial population is projected to grow slowly in the short term, increasing at an annual rate of 0.4 per cent in 2024–25 and 0.2 per cent in 2025–26. The rate of growth is then projected to return to a more typical rate of 1.0 per cent by 2029–30. Thereafter, the population growth rate will remain fairly stable, continuing to average around 1.0 per cent annually through to 2050–51.”¹⁴
- “Starting in 2031–32, net migration is projected to account for all population growth in the province, as natural increase is expected to turn negative with the number of deaths exceeding the number of births each year.”¹⁵

CELA is concerned that the latest Ontario Population Projection would not capture the changes in federal immigration policy that were announced in October 2024. Ontario’s population growth over the past year was actually slightly negative.¹⁶ CELA is, therefore, concerned that there will likely be lower population growth than projected, which could lead to a significant overestimation of the need for housing and infrastructure. It could also lead municipalities to identify far more land than is actually needed. This is of particular concern in the Greater Toronto Area and Hamilton, given that the land in question would likely be of very high natural heritage and agricultural value.

We recommend that the proposed legislative changes in Bill 98 that are related to housing needs be paused pending an accelerated review of MOF’s population projection considering the recent changes to federal immigration policy and their implications for growth in Ontario.

Recommendation 1: CELA recommends that the proposed legislative changes in Bill 98 related to housing needs be paused pending an accelerated review of

¹³ Ontario Population Projections, available online: <https://www.ontario.ca/page/ontario-population-projections#section-1>

¹⁴ Ontario Population Projections, highlights, available online: <https://www.ontario.ca/page/ontario-population-projections#section-1>

¹⁵ Ontario Population Projections, highlights, available online: <https://www.ontario.ca/page/ontario-population-projections#section-1>

¹⁶ Statistics Canada, Population Estimates Quarterly (2026-03-18), online: [Population estimates, quarterly](#)

MOF's population projection. This is necessary considering the recent changes to federal immigration policy and their implications for population growth in Ontario.

IV: Consultation on Upper-Tier Official Plans, Secondary Plans, and Site and Area Specific Policies. ERO 026 -0315

Schedule 7

Proposed Amendment – Official Plans to be standardized

Subsections 16(1) and (2), which set out the contents of an official plan under the *Planning Act*, will be repealed. These provisions will be replaced with new provisions that will establish a uniform structure for official plans through a table of contents, which will include the following:

- Introduction on How to Use this Plan
- Strategic Planning Framework
- Indigenous Engagement
- Settlement Area Structure and Growth Needs and Management
- Residential Mixed Uses
- Economy and Employment Areas
- Rural Areas and Agricultural System
- Infrastructure, Facilities and Community Services
- Local Landscape and Resource Management
- Implementation and Interpretation

Schedules

- A1 Settlement Boundaries, Urban/ Rural Structure and Provincial Plans
- A2 Strategic Growth Areas and Intensification Areas
- A3 Land Use Designations
- B1 Transportation and Corridors
- B2 Infrastructure
- B3 Public Service Facilities, Parks and Open Space
- C1 Natural Environment
- C2 Water Resources
- C3 Resource Potential

- C4 Natural and Human-made Hazards

Municipalities will have the ability to include a description of “goals and objectives” for each chapter, and the Minister will have authority to give direction on how to comply with each of these new requirements.

The new structure will include a standardized set of land use designations to be used in local official plans. These include Neighborhoods; Mixed Use Areas; Mixed Use Commercial Areas; Major Facilities; Parks and Open Spaces; Natural Areas and Water Resources Areas; Resource Areas; Rural Lands; Prime Agricultural Areas; Specialty Crop Areas; and Shoreline Areas.

The Minister has the authority to establish further direction on any of these designations, including through the use of two or more sub-designations. Otherwise, the listed designations are the only ones that may be permitted in official plans.

The proposed changes will come into force on January 1, 2028, for the 29 large and fast-growing municipalities, and January 1, 2029, for all other municipalities.

A standardized structure for official plans is not necessarily problematic per se. However, an undue focus on uniformity can undermine municipalities’ ability to take into account unique local conditions and circumstances. It can also create rigidity in the planning process and lead to gaps that municipalities may be unable to address.

Planning is very much about “place making” to ensure that the specific social and cultural context is considered to meet the needs of people who live, work, and play in a particular area. A one-size-fits-all approach runs counter to this approach and may ignore local needs and desires, which are essential components of good planning.

CELA notes for example, that concerns have been raised that “[b]y requiring that municipalities limit their Official Plan designations to only 12 options... Bill 98 may spell the end of Toronto’s apartment neighborhood designation, which has

historically been used to provide greater housing flexibility.”¹⁷ Urban, rural, and suburban municipalities face different planning challenges and there needs to be some flexibility provided in how they respond to unique local circumstances. This could be achieved by providing municipalities with authority to establish a designation category in their official plan to address local conditions.

Recommendation 2: CELA recommends that municipalities be provided with authority to include a designation in their official plan to address unique local conditions.

V: Proposed Planning Act, City of Toronto Act, 2006, Building Code, 1992 and Municipal Act, 2001- Changes to Schedule 1, 2, 7 of Bill 98, the Building Homes and Improving Transportation and Infrastructure Act, 2026

ERO: 026-0300

Schedule 7- Elimination of Requirement for Official Plans to address Climate Change

Schedule 7 of Bill 98 proposes to repeal section 16(14) of the *Planning Act*. The section provides that an “official plan shall contain policies that identify goals, objectives and actions to mitigate greenhouse gas emissions and to provide for adaptation to a changing climate, including through increasing resiliency.”

The proposed amendment will remove the ability of municipalities to address the impacts of climate change through their official plans. ERO 026-0300 states that the “[p]roposed changes that remove legislative provisions regarding climate change policies in official plans would not change the requirement in the Provincial Planning Statement (PPS) for municipalities to reduce greenhouse gas emissions and prepare for the impacts of a changing climate through a variety of approaches.”

However, this ignores significant differences between the PPS and an official plan. The former is a consolidated statement of government policies that guides

¹⁷ See Environmental Defense “Bill 98 ignores Efficient Housing and Could Deprive Municipalities of Key Tools (April 1, 2026) online: <https://environmentaldefence.ca/2026/04/01/bill-98-ignored-obstacles-to-efficient-housing-deprives-municipalities-of-key-tools/>

development and provides provincial policy direction on land-use planning issues. An official plan, on the other hand, is the municipal document which implements those policies locally within a municipality.

The proposal to eliminate s. 16(4) of the *Planning Act* is extremely troubling given the government's own data on the impacts of climate change. According to the Ministry of the Environment, Conservation and Parks (MECP), climate change is causing extreme weather and has cost millions of dollars in property damage in Ontario.¹⁸ Temperature variability has caused damage to the boreal forests in Northern Ontario and made evergreen trees lose their "cold hardiness."¹⁹ Climate change has impacted the province's crop production and is expected to alter the types of crops that can be grown in the future.²⁰ This, in turn, will affect Ontario's food security, including risks to production, access, and pricing.²¹ Ontarians' health will also be affected by the increase in temperature, with "extreme heat causing a variety of health effects that can range from breathing problems to cardiovascular issues."²²

The MECP has noted that Indigenous communities will be particularly impacted, given that the pace of climate change in the far North of Ontario is expected to be faster than in the south.

The 2023 Ontario Provincial Climate Change Impact Assessment report prepared for the MECP by the Climate Risk Institute in collaboration with Dillion Consulting Limited reiterated many of the above findings.²³ The report notes that "the effects of climate change will not be felt uniformly across sub-populations, with certain groups anticipated to be disproportionately affected." Examples of

¹⁸ Ontario Ministry of the Environment, Conservation and Parks, Why we need to address climate change (December 2016) online: [Why we need to address climate change | ontario.ca](https://www.ontario.ca/page/why-we-need-to-address-climate-change)

¹⁹ Ontario Ministry of the Environment, Conservation and Parks, Why we need to address climate change (December 2016) online: [Why we need to address climate change | ontario.ca](https://www.ontario.ca/page/why-we-need-to-address-climate-change)

²⁰ Ontario Ministry of the Environment, Conservation and Parks, Why we need to address climate change (December 2016) online: [Why we need to address climate change | ontario.ca](https://www.ontario.ca/page/why-we-need-to-address-climate-change)

²¹ Ontario Ministry of the Environment, Conservation and Parks, Why we need to address climate change (December 2016) online: [Why we need to address climate change | ontario.ca](https://www.ontario.ca/page/why-we-need-to-address-climate-change)

²² Ontario Ministry of the Environment, Conservation and Parks, Why we need to address climate change (December 2016) online: [Why we need to address climate change | ontario.ca](https://www.ontario.ca/page/why-we-need-to-address-climate-change)

²³ Climate Risk Institute, Ontario Provincial Climate Change Impact Assessment: Technical Report, (January 2023) [Climate Risk Institute] online: [Ontario Provincial Climate Change Impact Assessment: Technical Report: January 2023](https://www.climate-risk-institute.com/ontario-provincial-climate-change-impact-assessment-technical-report-january-2023)

these groups include some of the most vulnerable and marginalized Ontarians, including seniors, infants and children, socially disadvantaged people, including low-income populations, people with disabilities, and those with pre-existing illnesses.²⁴

There is significant research to indicate that Indigenous communities are disproportionately impacted by climate change due to impacts that affect the natural environment, existing socio-economic disparities, remoteness of many community reserves, and lack of adequate infrastructure.²⁵ The report also found that “[o]verall, extreme heat, extreme precipitation and seasonal temperature-related impacts are the drivers of highest risks across Ontario.”²⁶

Given these findings, it is extremely alarming that the provincial government is taking measures to prevent municipalities from establishing goals, objectives, and actions to address climate change in their official plans.

It is also very surprising that the provincial government is proposing these changes to the *Planning Act*, given that last year it amended the *Emergency Management and Civil Protection Act* to address extreme weather conditions that are becoming more frequent due to climate change.²⁷

Recommendation 3: CELA recommends that in relation to Schedule 7, section 16(14) of the *Planning Act* should be retained to allow municipalities to address climate change in their official plans.

Schedule 7 and Schedule 2 - Removal of Requirement to provide electric vehicle supply equipment

Section 34 of the *Planning Act* will be amended by adding a subsection that a zoning by-law may not require an owner or occupant of a building or structure to maintain electric vehicle (EV) supply equipment in connection with parking facilities. Similarly, an owner of land may not be required by a municipality to

²⁴ Climate Risk Institute at p.302.

²⁵ Climate Risk Institute at p. 316.

²⁶ Climate Riks Institute at p. xv.

²⁷ Ontario, News Release” Ontario Strengthening Emergency Preparedness” (May 26, 2025) online: [Ontario Strengthening Emergency Preparedness | Ontario Newsroom](#)

provide for EV supply equipment in connection with off-street vehicular parking facilities.

A similar amendment is proposed to the *City of Toronto Act, 2006* via Schedule 2 of Bill 98.

The proposed changes will further undermine decarbonization efforts by municipalities. Access to EV charging stations has been cited as one of the most important factors which determines if individuals purchase an EV.²⁸

Furthermore, retrofitting multi-unit residential buildings to provide for EV charging after construction can pose logistical challenges and be costly. A study done by Clean Air Partnerships found “a significant economic and logistical benefit to securing EV-ready charging capabilities for new buildings through municipal site plan (via Green Standards) or parking/zoning by-law authorities.”²⁹

Recommendation 4: CELA recommends that in relation to Schedule 7 and Schedule 2, municipalities be allowed to retain authority through zoning by-laws to require electric vehicle supply equipment in connection to parking facilities.

Schedule 7 and Schedule 2 – Removal of “Sustainable Design” under s. 41 of the *Planning Act*

The proposed amendments to Section 41 (Site Plan Control) will remove references to "sustainable design" and prevent municipalities from promoting green standards such as installing EV-ready parking lots, enhanced tree canopies, and bird-friendly windows, none of which are required in the Building Code.

A similar amendment is proposed to the *City of Toronto Act, 2006* via Schedule 2 of Bill 98.

²⁸ Gaby Kalapos, EV Ready Requirements for Municipalities (Toronto: Clean Air Alliance) online: [EV-Ready-Requirements-for-Municipalities.pdf](#) at p. 9.

²⁹ Gaby Kalapos, EV Ready Requirements for Municipalities (Toronto: Clean Air Alliance) online: [EV-Ready-Requirements-for-Municipalities.pdf](#) at p. vi

CELA notes that the Canada Green Building Council has been critical of these proposed changes. It has expressed concern that a “housing system focused only on minimum upfront cost can create larger costs later, through higher utility bills, avoidable retrofit needs, and greater exposure to climate and energy risks. A better approach is to build homes that perform well over time, lower operating costs, and deliver lasting value for households and community.”³⁰

CELA shares these concerns. We are concerned that the proposed changes will reduce a municipality’s ability to impose green standards to make communities more livable through sustainable design and energy efficiency. It will also prevent municipalities from requiring measures to combat the impacts of climate change from extreme weather patterns and flooding.

Recommendation 5: CELA recommends that in relation to Schedule 7 and Schedule 2, the sustainable design elements under s. 41 of the *Planning Act* be retained.

VI: Bill 98 Proposed *Planning Act*, *City of Toronto Act*, 2006, *Building Code Act* 1993, and *Municipal Act* 2001, Changes to Schedule 1, 2 and 7

ERO 026-0300

Building standards, particularly as they relate to existing buildings, are a significant climate mitigation and adaptation measure. They significantly benefit low-income communities, who are more likely to live in sub-standard housing. There is a serious and urgent need to prioritize both climate mitigation and adaptation of buildings in our communities, both to ensure a healthy future for our community and to guard against the growing impacts of climate change.

CELA is opposed to the proposed amendments to the *Planning Act*, *City of Toronto Act*, *Municipal Act* or *Building Code Act* in Bill 98 which would impact municipal legal authority to pass standards that would mitigate the impacts of climate change and allow for healthier and safer buildings.

³⁰ Canada Green Building Council, CAGBC Responds to Ontario Bill 98: A Better Path Forward to Housing in Ontario (April 7, 2026), online: [CAGBC responds to Ontario’s Bill 98 - Canada Green Building Council \(CAGBC\)](#)

Schedule 1 - Removal of Legal Powers in Section 108.1 of the *City of Toronto Act* and Section 97.1 of the *Municipal Act*.

Bill 98 proposes to remove the following legal authority in paragraphs (34)(1)(39.4) and (34)(1)(39.5) of the *Building Code Act*. Those provisions refer to the following legal powers that were included in the *City of Toronto Act* and the *Municipal Act* in 2017:

City of Toronto Act

108.1 (1) Without limiting sections 7 and 8, those sections authorize the City to pass a by-law respecting the protection or conservation of the environment that requires buildings to be constructed in accordance with provisions of the building code under the *Building Code Act, 1992* that are prescribed under that Act, subject to such conditions and limits as may be prescribed under that Act.

(2) Despite section 35 of the *Building Code Act, 1992*, if there is a conflict between that Act or the building code under that Act and a by-law to which this section applies, that Act or the building code prevails.³¹

...

Municipal Act

97.1 (1) Without limiting sections 9, 10 and 11, those sections authorize a local municipality to pass a by-law respecting the protection or conservation of the environment that requires buildings to be constructed in accordance

³¹ *City of Toronto Act, 2006*, SO 2006, c 11, Sched A, (“*City of Toronto Act*”), s. 108.1

with provisions of the building code under the *Building Code Act, 1992* that are prescribed under that Act, subject to such conditions and limits as may be prescribed under that Act.

(2) Despite section 35 of the *Building Code Act, 1992*, if there is a conflict between that Act or the building code under that Act and a by-law to which this section applies, that Act or the building code prevails.³²

(3) Without limiting sections 9, 10 and 11, the power described in subsection (1) includes the power to require the construction of green roofs or of alternative roof surfaces that achieve similar levels of performance to green roofs.

(4) For the purposes of subsection (3),

“green roof” means a roof surface that supports the growth of vegetation over a substantial portion of its area for the purpose of water conservation or energy conservation.

Section 108.1 of the *City of Toronto Act* and section 97.1 of the *Municipal Act* were included in 2017. Those powers have always been subject to the requirements of the *Building Code* and should be maintained to provide clarity about municipal authority.

Recommendation 6: CELA recommends that Section 108.1 of the *City of Toronto Act* and section 97.1 of the *Municipal Act* not be removed or amended.

Schedule 1 – Amendment of Section 35 of the *Building Code Act*

³² *Municipal Act, 2001*, SO 2001, c 25, (“*Municipal Act*”), s 97.1

Section 35 of the *Building Code Act* has always restricted municipal legal authority to pass construction standards. The current section 35 states:

35 (1) This Act and the building code supersede all municipal by-laws respecting the **construction** or demolition of buildings.

(1.1) For greater certainty, sections 9, 10 and 11 of the *Municipal Act, 2001* and sections 7 and 8 of the *City of Toronto Act, 2006* do not authorize a municipality to pass by-laws respecting the **construction** or demolition of buildings

(2) In the event that this Act or the building code and a municipal by-law treat the same subject-matter in different ways in respect to standards for the use of a building described in section 10 or standards for the maintenance or operation of a sewage system, this Act or the building code prevails and the by-law is inoperative to the extent that it differs from this Act or the building code.

(3) For the purpose of this section, a municipal by-law includes a by-law of an upper-tier municipality and a local board as defined in the *Municipal Affairs Act*.³³

Bill 98 proposes to include the following new provision:

35(4) For greater certainty, municipal by-laws respecting the construction or demolition of buildings referred to in subsection (1) include municipal by-

³³ *Building Code Act*, 1992, SO 1992, c 23, s 35

laws that prescribe construction standards for the protection or conservation of the environment.

We recommend not proceeding with this amendment. Provincial authority over construction standards has always been clear. Other approaches to improving buildings, especially residential buildings with low-income tenants, should be pursued by municipalities and all levels of government, to better protect low-income people from the risks of environmental harm and climate risk.

Schedule 1 - Amendment to Site Plan Controls

Bill 98 seeks to limit site plan control authority. Upfront plans to ensure that new buildings are environmentally safe and will be resilient to climate change impacts is sound policy.

Bill 98 proposes to amend the *City of Toronto Act* as follows:

114(5) No person shall undertake any development in an area designated under subsection (2) unless the authorized person referred to in subsection (5.1) or, where an appeal has been made under subsection (15), the Ontario Land Tribunal has approved one or both, as the authorized person may determine, of the following:

1. Plans showing the location of all buildings and structures to be erected and showing the location of all facilities and works to be provided in conjunction therewith and of all facilities and works required under clause (11) (a), including facilities designed to have regard for accessibility for persons with disabilities.
2. Drawings showing plan, elevation and cross-section views for each building to be erected, except a building to be used for residential purposes

containing fewer than 25 dwelling units, which drawings are sufficient to display,

- i. the massing and conceptual design of the proposed building,
- ii. the relationship of the proposed building to adjacent buildings, streets, and exterior areas to which members of the public have access,
- iii. the provision of interior walkways, stairs, elevators and escalators to which members of the public have access from streets, open spaces and interior walkways in adjacent buildings,
- iv. matters relating to building construction required under a by-law referred to in section 108 or 108.1,
- ~~v. the sustainable design elements on any adjoining highway under the City's jurisdiction, including without limitation trees, shrubs, hedges, plantings or other ground cover, permeable paving materials, street furniture, curb ramps, waste and recycling containers and bicycle parking facilities, if an official plan and a by-law passed under subsection (2) that both contain provisions relating to such matters are in effect in the City, and~~
- v. the elements on any adjoining highway under the City's jurisdiction, including trees, shrubs, hedges, plantings or other ground cover, paving materials, street furniture, curb ramps, waste and recycling containers and bicycle parking facilities, if an official plan and a by-law passed under subsection (2) that both contain provisions

relating to such matters are in effect in the City, **but only to the extent that such elements are necessary to address matters of health, safety, accessibility or the protection of adjoining lands,** and

vi. facilities designed to have regard for accessibility for persons with disabilities

The proposed restriction would limit site plan controls to matters of health and safety. Most of the climate reliance measures of concern, such as permeable paving materials or trees, need to be designed to account for increasing climate risks and do impact on matters of health and safety. However, to avoid any ambiguity we recommend removal of this proposed amendment to allow municipalities to plan for safe and environmentally sound communities.

Bill 98 also proposes the following changes to section 114(6) of the *City of Toronto Act*:

114(6) The following matters are not subject to site plan control:

1. The interior design.

1.1 Exterior design, except to the extent that it is a matter relating to exterior access to a building that will contain affordable housing units or to any part of such a building ~~or is a matter referred to in subparagraph 2 iv of subsection (5).~~

2. The layout of interior areas, excluding interior walkways, stairs, elevators and escalators referred to in subparagraph 2 iii of subsection (5).

3. The manner of construction and ~~construction standards~~ “standards for construction”.

114(6.1) The appearance of the elements, facilities and works on the land or any adjoining highway under the City’s jurisdiction is not subject to site plan control, except to the extent that the appearance impacts matters of health, safety, accessibility, ~~sustainable design~~ or the protection of adjoining lands.

114(6.2) For greater certainty, the manner of construction and standards for construction referred to in paragraph 3 of subsection (6) includes standards for the protection or conservation of the environment.

Similar amendments are proposed to the *Planning Act* under Schedule 1.

CELA recommends that these proposed amendments not proceed. The amendments create uncertainty as to what is possible in a site plan for new buildings. There is significant value in explicitly allowing for the design of new buildings to meet the needs of the community going forward, especially in light of escalating climate risks.

Recommendation 7: CELA recommends that the proposed amendments to the *Planning Act, City of Toronto Act, Municipal Act or Building Code Act* in Schedule 1 which purport to undermine municipal legal authority to pass standards to ensure that new buildings are environmentally safe and resilient to climate change impacts **not be adopted.**

VII: Bill 98 Amendments to *Water and Wastewater Public Corporations Act, 2025* and Consequential Amendments to the *Safe Drinking Water Act, 2002*

ERO 026-0301

Schedule 9 - Water and Wastewater Public Corporations Act, 2025

Schedule 9 in Bill 98 proposes to amend the *Water and Wastewater Public Corporations Act* which was recently passed by Ontario in late 2025. The Act provides that the designated Minister may designate a corporation as a “water and wastewater public corporation to provide water and sewerage services on behalf of the lower tier municipalities that are prescribed by the regulations.”

The current proposed amendments of Schedule 9 further clarify the intent of the legislation to confirm that such public water utilities must be publicly owned. Schedule 9 provides that a designation can occur only if “no shares of the corporation are held by a person other than a municipality, the Province of Ontario, the Government of Canada or an agent of any of them.” Schedule 9 further provides that no shares can be transferred except to any of these public governments.

Schedule 9 also includes a prohibition on the transfer of the public utilities’ assets unless they are not needed for water services. It states: “A water and wastewater public corporation shall not transfer part or all of an asset used to provide water and sewage services unless the board of directors of the corporation has declared, by resolution, that the asset is no longer needed for the purposes of providing those services.”

Further amendments also strengthen and clarify the continuity of contracts, employment, collective agreements, seniority, and employee rights under the *Employment Standards Act* and provide that these are continued in the successor public utility corporation.

Other contractual obligations are transferred if listed in the transfer agreement, except for long-term municipal debentures which may not be transferred by the municipality who issued or entered into them.

CELA supports the provisions of Schedule 9 in Bill 98. As we submitted in response to the introduction of the *Water and Wastewater Public Corporations Act*,

2025, it is essential that provision of drinking water and wastewater services to Ontario residents remain public. This was a key recommendation of the Walkerton Inquiry as well. Safety must be paramount and is best assured by public ownership and accountability.

In the accompanying Environmental Registry of Ontario posting, ERO 026-0301, the MMAH noted that it will be seeking expressions of interest from municipalities who would like to explore the public corporation model and will then determine next steps.

CELA stresses that close attention must be paid to the watershed boundaries within which municipal drinking water and wastewater systems are located such that any combinations of municipalities pursuing such a public utility corporation model are doing so within the same drinking water Source Protection Area as described in the *Clean Water Act* and regulations.

One amendment that CELA recommends in respect of Schedule 9 to avoid any ambiguity whatsoever as to the public nature of the ownership of public water utilities is to clarify the definition of “agent.” This could be achieved by replacing the term “agent” with the phrase “agent of the Crown” and defining “agent of the Crown” in a manner similar to that found in other legislation such as the federal *Financial Administration Act*³⁴, which states:

“83 (1) In this Part, *agent corporation* means a Crown corporation that is expressly declared by or pursuant to any other Act of Parliament to be an agent of the Crown.”

Recommendation 8: CELA recommends that the term “agent” should be replaced with the term “agent of the Crown” in the proposed Schedule 9 changes to sections 2 and 9 of the *Water and Wastewater Public Corporations Act, 2025* and a definition of the phrase “agent of the Crown” should be added to the Act similar to the federal *Financial Administration Act*.

Recommendation 9: CELA recommends that subject to the previous recommendation on the term “agent”, Schedule 9 of Bill 98 should be supported.

³⁴ *Financial Administration Act*, RSC, 1985, c. F-11

Schedule 8 – Amendments to *Safe Drinking Water Act, 2002*

The accompanying proposed amendment to the *Safe Drinking Water Act* in Bill 98, Schedule 8, would specify that a drinking water system owned by a Water and Wastewater Public Corporation is a municipal drinking water system under the *Safe Drinking Water Act*. Accordingly, all requirements of that legislation will apply. Most of those systems are also defined for source water protection coverage in the *Clean Water Act* in large parts of Ontario and thus existing protections under that legislation would also continue.

CELA supports Schedule 8 as it is entirely appropriate and necessary that drinking water systems owned by a public utility corporation be regulated as municipal drinking water systems with all of the safeguards imposed by the *Safe Drinking Water Act*.

Recommendation 10: CELA recommends that Schedule 8 to Bill 98 be supported.

Bill 98 Amendments to Communal Wastewater and Drinking municipal consent Requirements – ERO 026-0302

Schedule 6 – Amendments to *Municipal Act, 2001*

Schedule 6 proposes amendments to the *Municipal Act* in respect of the requirement for a municipality to consent before a communal drinking water system or wastewater system may be established. The amendments provide that municipal consent is required as a precondition. However, if this schedule is adopted, the province will have regulation making powers to establish conditions that are applicable to such proposals to establish communal water services within a municipality. If the province establishes such a regulation with criteria, then municipalities will be required to issue the consent upon confirmation that the criteria are met. In other words, upon meeting any to-be-specified provincial criteria for such systems, municipalities will have limited discretion to refuse such consents.

No criteria are currently provided in the proposed legislative amendments nor in the accompanying ERO posting.

While CELA is supportive of new housing, especially affordable housing, CELA has concerns about this proposal, which according to the ERO posting, is intended to provide for greater adoption of non-municipal drinking water and wastewater systems to support new housing. We note that last year the Auditor General of Ontario identified public health risks associated with the management of non-municipal drinking water systems in Ontario.³⁵

CELA, therefore, recommends that full discretion to consent to communal drinking water and wastewater systems remain with the municipality. CELA recommends that Bill 98, Schedule 6 be modified by a motion to alter the word “shall” in section 1 (pertaining to section 93(2)(b)) to read “may”.

In such a case there will still be the option that the province may issue regulations with criteria applicable to communal systems.

Recommendation 11: CELA recommends that Bill 98, Schedule 6 be modified by a motion to alter the word “shall” in section 1 (pertaining to section 93(2)(b)) to read “may”.

CELA will not opine on the adequacy of such regulations and criteria themselves with no proposed wording available. It may be useful, however, to provide additional guidance to municipalities in respect of their consideration of communal system applications, including the need to ensure protection of safety of drinking water, adequate financing, and appropriateness within the broader municipal context.

CELA has serious concern with any measures that encourage expansion of communal systems. CELA is of the view that the public should have the benefit of municipal drinking water provided by publicly owned systems and protected by the provisions of the *Safe Drinking Water Act* that apply to municipal systems, as well as the provisions of the *Clean Water Act* in most cases.

CELA also notes that any such systems once implemented may lack the protection of section 19 of the *Safe Drinking Water Act*, which as recommended by Justice O’Connor, the Commissioner for the Walkerton Inquiry, added additional

³⁵ See Office of the Auditor General of Ontario, Performance Audit: Safety of Non-Municipal Drinking Water Systems (Special Report 2025), online: https://www.auditor.on.ca/en/content/specialreports/specialreports/en25/pa_drinkingwater_en25.pdf

accountability and protection to municipal residents in relation to their drinking water by way of the counsellors' standard of care.

Proliferation of communal water systems would necessitate the updating of many Source Protection Plans under the *Clean Water Act* and render the ensuing coordination of adequate source protection challenging, especially if there are many additional new small systems.

Additional communal drinking water and wastewater systems may also create additional impacts on local water resources including current and proposed municipal systems. This would be particularly the case if the communal systems are proposed to be based on groundwater resources which would often be the case.

A significant issue is often the provision of adequate financing and long-term maintenance of communal systems, as well as the qualifications of their operators. These are matters that are integrally related to drinking water safety and accordingly have been integrated into the multi-barrier system of protection for municipal drinking water.

Communal water systems may also provide an inducement to “sprawl” type development that unnecessarily expands into agricultural and natural heritage land instead of taking advantage of built urban form in a more efficient manner, including access to all the other existing infrastructure and services.

Communal water systems are also generally proposed one by one and lack consideration of the context of municipalities planned growth and other infrastructure pressures for everything from roads to emergency services.

For these reasons, CELA recommends that the province not provide measures in legislation that are intended to increase the number of communal water and wastewater systems serving new housing. Rather new housing should access existing and planned municipal drinking water and wastewater systems.

Recommendation 12: CELA recommends that additional communal drinking water and wastewater systems within municipal boundaries should not be encouraged generally, and should be limited to circumstances based on stringent criteria.

Recommendation 13: CELA recommends that the proposed criteria for municipal consideration of granting consent to new communal drinking water and wastewater systems within municipal boundaries should be the subject of extensive consultation.

Recommendation 14: CELA recommends that new housing should be primarily directed to access existing and planned municipal drinking water and wastewater systems.