



January 28, 2021

Provincial Planning Policy Branch  
777 Bay Street  
13<sup>th</sup> Floor  
Toronto, ON M7A 2J3

Re: **Conservation Ontario's Comments on the "Proposed implementation of provisions in the Planning Act that provide the Minister enhanced authority to address certain matters as part of a zoning order" (ERO #019-2811)**

Provincial Planning Policy Branch:

Thank you for the opportunity to provide comments on the "Proposed implementation of provisions in the Planning Act that provide the Minister enhanced authority to address certain matters as part of a zoning order". Conservation Ontario is the network of Ontario's 36 conservation authorities (CAs). Comments submitted by Conservation Ontario should not be construed as limiting any comments submitted by individual CAs.

It is understood that changes were made to Section 47 of the *Planning Act* through the enactment of Bill 197, the *COVID-19 Economic Recovery Act* in July, 2020. These changes provide the Minister of Municipal Affairs and Housing with enhanced powers related to site plan control and inclusionary zoning outside of the Greenbelt Area when issuing a zoning order. These enhanced Minister's Zoning Orders (MZO) would supersede municipal site plan authority and could be used to require agreements related to inclusionary zoning to facilitate affordable housing. These enhanced powers could be applied to new MZOs or retroactively, without giving notice beforehand.

Through its review of conservation authorities, the province has identified mandatory programs and services that CAs shall provide including: risk of natural hazards; and, duties, functions and responsibilities as a source protection authority under the *Clean Water Act*; and, under the *Lake Simcoe Protection Act*. Our comments are focused on these mandatory programs and services.

#### *Natural Hazards*

It is recommended that the Ministry consider a limitation on the use of (enhanced) Minister's Zoning orders in areas subject to natural hazards, particularly as it relates to the control of flooding and erosion. This will help minimize the risk to people and property associated with development in areas prone to natural hazards. It is acknowledged that recent changes to the *Conservation Authorities Act* provide for the consideration of Section 28 permits as it relates to properties zoned through the MZO process, including the requirement to enter into an agreement with the CA. It is recommended that the province continue to treat hazardous lands as a constraint to development through the planning process.

Addressing hazardous lands through the zoning process or at minimum through site plan control, will reduce the potential for increased risks to public safety.

The site plan stage is where detailed design is developed. Beyond comments related to section 3.1 of the Provincial Policy Statement, it is at this point that conservation authorities through agreements with their municipal partners, provide expertise on items such as stormwater management. CA staff work collaboratively with their municipal partners and the applicants to negotiate reasonable terms with regard to hazards management as part of site plan control. In some cases, site plan control is utilized to enable tools such as easements to be granted. These easements can be critical for the maintenance of slope protection works, floodplains and setback from wetlands. The removal of the municipal use of site plan control will remove the ability of CAs to provide input and apply their expertise through this planning process. This will in turn, limit the CAs' (and other regulatory agencies') ability to work collaboratively with the municipalities, which could result in a delay to the approval of the overall development.

#### *Source Protection Authority under the Clean Water Act*

The *Clean Water Act* ensures communities protect their drinking water supplies through prevention – by developing collaborative, watershed-based source protection plans that are locally driven and based on science. Careful implementation of the source protection plans ensure that the drinking water of 95% of Ontarians is safeguarded. The *Clean Water Act* requires that a decision under the *Planning Act* that relates to the source protection area shall conform with the significant threat policies and designated Great Lakes policies and have regard to other policies set out in the source protection plan. Section 105 of the *Clean Water Act* requires that if there is a conflict between the *Clean Water Act* and another Act, regulation or instrument, the provision that provides the greatest protection to the quality and quantity of the water prevails. Therefore it is strongly recommended that any MZO issued by the province conform with the Source Protection Plan Policies as described in s. 39 (1) (a) (b) in the *Clean Water Act* and ensure that any conflicts are resolved with regard to the greatest protection of drinking water.

#### *Duties, Functions and Responsibilities under the Lake Simcoe Protection Act*

It is noted that site plan control is where the Lake Simcoe Region Conservation Authority (LSRCA) has the greatest ability to implement many of the policies of the *Lake Simcoe Protection Plan (LSPP)*, including related to stormwater management and hydrogeology. Section 41 of the *Planning Act* allows for legal agreements to be entered into as a part of the approval process. Working with municipal partners, many of the technical requirements recommended by LSRCA to support the implementation of the LSPP have traditionally been addressed through the agreement process. There is concern that without the ability to enter into these agreements that the targets of the LSPP will not be met.

**Recommendation: enable municipal site plan control to address natural hazards, source protection and the Lake Simcoe Protection Act as part of the Minister's Zoning Order process or require that these topics be addressed as part of an agreement between the municipality and the development proponent.**

Thank you for the opportunity to provide comments on the “Proposed implementation of provisions in the Planning Act that provide the Minister enhanced authority to address certain matters as part of a zoning order”. Should this letter require any clarification, please contact me at extension 226.

Sincerely,

A handwritten signature in black ink that reads "Leslie Rich". The signature is written in a cursive, flowing style.

Leslie Rich, RPP  
Policy and Planning Liaison

c.c. CA CAOs/GMs

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