



March 25, 2021

Via Email: PlanningConsultation@ontario.ca

Re: Conservation Ontario's Comments on "Proposed changes to Minister's zoning orders and the Planning Act" (ERO #019-3233)

MMAH staff:

Thank you for providing the opportunity to provide comments on the "Proposed changes to Minister's zoning orders and the Planning Act". 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 through this consultation process.

It is understood that the government is currently consulting on proposed changes to the use of Minister's Zoning Orders (MZOs) under the *Planning Act*. The proposed amendments to the *Planning Act* would make it so that a Minister's Zoning Order would not have to be consistent with the Provincial Policy Statement (PPS). This proposed amendment would not apply to lands located within the Greenbelt Area. In addition, the proposed changes would apply retroactively, such that any existing Minister's Zoning Orders never had to be consistent with the Provincial Policy Statement.

Conservation Ontario has had an opportunity to review the proposal and recommends that the government carefully consider the comments provided by conservation authorities and other stakeholders prior to making any decision to proceed with this amendment to the *Planning Act*. The purpose of the *Planning Act* includes: "to provide for a land use planning system led by provincial policy" and "to provide for planning processes that are fair by making them open, accessible, timely and efficient". The preamble of the Provincial Policy Statement notes that it is "a key part of Ontario's policy-led planning system" and that it "sets the policy foundation for regulating the development and use of land". Primary objectives of the PPS include protecting public health and safety and enhancing the quality of life for all Ontarians. It is recommended that these objectives be maintained through the use of a Minister's Zoning Order.

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*. From this lens of fulfilling the requirements of conservation authority mandatory programs and services, we offer the following comments.

Natural Hazards

It is recommended that the Minister be consistent with **3.1 (natural hazards)** of the Provincial Policy Statement when issuing zoning orders. This will help minimize the risk to people and property associated with development in areas prone to natural hazards. Through Section 28 of the *Conservation Authorities Act* conservation authorities are empowered to regulate development and activities in or adjacent to river or stream valleys, Great Lakes and inland lakes shorelines, watercourses, hazardous lands and wetlands. They also regulate the straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream, watercourse or for changing or interfering in any way with a wetland. As wetlands are considered to be hazardous sites/hazardous lands it is further recommended that the Minister be consistent with **2.1.4 (significant wetlands and significant coastal wetlands)** in the issuance of any zoning order.

It is further noted that outside of CA watersheds there is no equivalent to the Section 28 regulation. In these cases the Minister may have an increased duty of care to ensure that development is directed outside of areas subject to natural hazards.

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 be consistent with **2.2.1 (f) (municipal drinking water supplies)** of the Provincial Policy Statement and conform with the Source Protection Plan Policies as described in s. 39 (1) (a) (b) in the *Clean Water Act*.

In summary, the fundamental principles of good land use planning are established within the Provincial Policy Statement. These principles should apply across the province as was intended by the *Planning Act* and not be limited in application to the Greenbelt Area. Given that the ordinary public notification and consultations processes do not apply to the issuance of Minister's Zoning Orders, it is especially important to maintain a transparent set of public policies to guide the Minister in their decision-making. Conservation authorities providing mandatory programs and services have a responsibility to address risks related to natural hazards (including regulatory responsibilities under Section 28 of the *Conservation Authorities Act*) and fulfilling their roles as source protection authorities under the *Clean Water Act*. It is therefore respectively requested that the Minister continue, at minimum, to be in conformity with 2.1.4, 2.2.1 (f) and 3.1 of the Provincial Policy Statement when issuing Zoning Orders.

Once again, thank you for the opportunity to provide comments on the “Proposed changes to Minister’s zoning orders and the Planning Act”. Should you have any questions regarding this letter, 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. all CA GMs/CAOs

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