



April 27, 2022

Ministry of Municipal Affairs and Housing  
Via [planningconsultation@ontario.ca](mailto:planningconsultation@ontario.ca)

**Re: Conservation Ontario's Comments on "Community Infrastructure and Housing Accelerator – Proposed Guideline" (ERO #019-5285)**

To Whom it May Concern:

Thank you for the opportunity to provide comments on the "Community Infrastructure and Housing Accelerator – Proposed Guideline" ("guideline"). Conservation Ontario is the network of Ontario's 36 conservation authorities (CAs). These comments are not intended to limit consideration of comments submitted individually by CAs through this consultation.

It is understood that Bill 109, the *More Homes for Everyone Act* includes amendments to the *Planning Act* as part of Schedule 5. The amendments include the creation of a new Community Infrastructure and Housing Accelerator (CIHA) tool. The amendments to the *Planning Act* also include a requirement for the Minister of Municipal Affairs and Housing (MMAH) to create guidelines for the use of the CIHA tool prior to its use. The purpose of this consultation is to receive feedback on the proposed guidelines.

### **General Comments**

This proposed CIHA tool is a significant shift in planning practices in Ontario. The CIHA would go beyond an enhanced Minister's Zoning Order and enable the Minister to provide an exemption for other necessary planning-related approvals from provincial plans, the Provincial Policy Statement (PPS) and municipal official plans outside of the Greenbelt. Conservation Ontario has previously expressed concern with providing approvals which are not consistent with the PPS. 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 (i.e., natural and human made hazards) and enhancing the quality of life for all Ontarians. It is recommended that these objectives be maintained when using the Community Infrastructure and Housing Accelerator tool.

## **Types of Development**

As per the proposed guideline, the community infrastructure and housing accelerator order would apply to the following types of developments:

- Community infrastructure that is subject to *Planning Act* approval including: lands, buildings, and structures that support the quality of life for people and communities by providing public services for matters such as health, long-term care, education, recreation, socio-cultural activities, and security and safety;
- Any type of housing, including community housing, affordable housing and market-based housing;
- Building that would facilitate employment and economic development; and,
- Mixed-use developments.

The guideline indicates that the CIHA will address zoning matters only and will not address environmental assessment matters related to infrastructure which are not subject to *Planning Act* approval in either case. Conservation Ontario notes that the scope of the CIHA is broad and not limited to Bill 109's focus on housing. It is recommended that the Minister consider further scoping the use of the tool to focus on the stated intent of Bill 109, including community housing, affordable housing, health, recreation and long-term care.

## **Subsequent Approvals**

As per the proposed amendments to the *Planning Act*, when making a CIHA order, the Minister could provide that specific subsequent approvals are not subject to provincial plans, the PPS and municipal official plans when required by the municipality. These approvals include licences, permits, permissions or other matters that are required before the use could be established, including plans of subdivision and site plan control. The guideline indicates that the Minister would only consider these exemptions where the municipality provides a plan that would adequately mitigate any potential impacts that could arise from the exemption. These impacts include environmental protection/mitigation.

Through its review of the *Conservation Authorities Act*, 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.

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. Further, conservation authorities provide mandatory programs and services and 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 respectfully requested that the Minister continue, at minimum, to be in conformity with sections 2.1.4, 2.2.1 (f) and 3.1 of the Provincial Policy Statement to ensure that public health and safety is protected when issuing Community Infrastructure and Housing Accelerator Orders.

### Natural Hazards

It is recommended that the Minister be consistent with **section 3.1 (natural hazards)** of the Provincial Policy Statement when issuing CIHA 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 **section 2.1.4 (significant wetlands and significant coastal wetlands)** in the issuance of any CIHA 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 ensures 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 CIHA issued by the province be consistent with **section 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*.

Conservation authorities and the government of Ontario have worked in partnership to safely direct development outside of areas at risk due to natural hazards and to protect sources of drinking water. Conservation authorities are committed to working with the province to expedite development associated with Community Infrastructure and Housing Accelerator Orders while not jeopardizing public health and safety.

Once again, thank you for the opportunity to provide comments on the “Community Infrastructure and Housing Accelerator – Proposed Guideline”. Conservation Ontario looks forward to engaging with the province as they move forward with their housing supply action plans to ensure that public health and safety continue to be held to a high degree of importance, while looking towards solutions to deliver community infrastructure and housing in a timely matter. Should you have any questions about this response, 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, MES RPP  
Policy and Planning Specialist

c.c. All CA CAOs/ GMs