

Chapter 1

Section 1.10

Ministry of Municipal Affairs and Housing

Follow-Up on 2021 Value-for-Money Audit:

Land-Use Planning in the Greater Golden Horseshoe

RECOMMENDATION STATUS OVERVIEW

| | # of Actions Recommended | Status of Actions Recommended | | | | |
|-------------------|--------------------------|-------------------------------|-------------------------------------|-----------------------|-------------------------|----------------------|
| | | Fully Implemented | In the Process of Being Implemented | Little or No Progress | Will Not Be Implemented | No Longer Applicable |
| Recommendation 1 | 3 | | | 3 | | |
| Recommendation 2 | 1 | | | 1 | | |
| Recommendation 3 | 3 | | | 3 | | |
| Recommendation 4 | 2 | 2 | | | | |
| Recommendation 5 | 2 | | | 2 | | |
| Recommendation 6 | 1 | | | 1 | | |
| Recommendation 7 | 3 | | | 3 | | |
| Recommendation 8 | 2 | | | 2 | | |
| Recommendation 9 | 1 | | | 1 | | |
| Recommendation 10 | 2 | | | 2 | | |
| Recommendation 11 | 1 | | | 1 | | |
| Recommendation 12 | 3 | | | 3 | | |
| Total | 24 | 2 | 0 | 22 | 0 | 0 |
| % | 100 | 8 | 0 | 92 | 0 | 0 |

Overall Conclusion

The Ministry of Municipal Affairs and Housing (Ministry), as of July 19, 2023, has fully implemented only 8% of actions we recommended in our 2021 Annual Report.

The Ministry has fully implemented only our recommendation to determine the information and supports needed by municipalities to help them conform with Ontario's land-use planning policies, including meeting conformity deadlines; and to provide sufficient

information and support to municipalities in a timely manner to help them meet those deadlines.

The Ministry has made little or no progress on 92% of the recommended actions, including establishing and publicly communicating a deadline for the Ministry to finalize the performance indicators for Ontario's A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan); developing and publicly reporting on the performance indicators for the Growth Plan; establishing and publicly communicating a formal application and review process for Minister's Zoning Orders; collecting and analyzing information to

report on performance indicators, such as density and long-term housing supply targets for the Growth Plan; and reviewing the impact of the amendments contained in Schedule 6 of Bill 229, the *Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020*, considering comments received from municipalities, conservation authorities and the public, and addressing the concerns identified in the review. The Ministry has also not made any progress on assessing whether other provincial ministries should be included in the One Window Protocol that allows input/feedback on municipal planning submissions. The Ministry has not added the Ministry of Health or the Ministry of Education to the Protocol despite these ministries being responsible for long-term planning for schools and hospitals. The work on many of the recommendations has been put on hold pending the review of the Growth Plan and the Provincial Policy Statement. However, the Ministry could not provide a timeline for the completion of the policy review.

The status of actions taken on each of our recommendations is described in this report.

Background

Land-use planning is the process that guides decisions about where and what type of development can occur—for example, where to build homes, factories, hospitals, schools, roads and other essential infrastructure—and where different types of development should not occur. In Ontario, the government—primarily through the Ministry of Municipal Affairs and Housing (Ministry)—develops legislation, regulations, policies and plans that govern how land-use planning is to be conducted for private and municipal lands. These laws, policies and plans set provincial priorities and thresholds for growth and the protection of significant natural and cultural heritage features. Municipalities then decide, through their own official plans and zoning bylaws, how lands within their jurisdiction are used.

Our audit examined land-use planning in the Greater Golden Horseshoe (GGH), the region centred

around the City of Toronto and stretching north to Georgian Bay, south to Lake Erie, west to Wellington County and Waterloo region, and east to the counties of Peterborough and Northumberland. In the 25-year period from 1996 to 2021, the GGH's population increased by 57%, from 6.5 million to an estimated 10.2 million. The Ministry forecasts it will increase another 45% to 14.8 million by 2051. Historically, much of the growth in the region occurred in the form of sprawl, characterized by scattered, low-density development, which highlighted the need for effective land-use planning.

The Province developed the Growth Plan for the GGH to avoid the negative outcomes of unchecked growth, such as the loss of farmlands and natural spaces, poor air and water quality, increased traffic congestion and commute times, increased risk of chronic diseases, and costly infrastructure and services. The Growth Plan came into effect in 2006 and was last amended in 2020. It contains high-level policies about where growth and development should occur in the region. Under the Growth Plan, municipalities must meet targets for intensification, density, transit and designated greenfield area.

Our audit found that the goals of the Growth Plan had been undermined by numerous changes to land-use planning policies, insufficient collaboration between the Ministry and other entities responsible for infrastructure planning, and the Province's intervention in municipalities' decision-making through Minister's Zoning Orders.

Some of our significant findings were:

- Many municipalities were falling short of 2006 Growth Plan targets. We found, for example, that only three of the 20 single- and upper-tier municipalities in the GGH (excluding the City of Toronto) met the 40% intensification target each year from 2015 to 2019. Intensification aims to make efficient use of existing infrastructure and avoid continuously expanding urban areas. When municipalities do not meet these intensification targets, more new residential

development occurs outside already-developed areas, creating further sprawl. We also found that, as of 2016 (the most recent year for which data was available), actual density rates in downtown and major transit station areas in the GGH varied widely, for example, from a low of 26 residents and jobs per hectare in the Vaughan Metropolitan Centre area (which is 15% of the target) to a high of 575 residents and jobs per hectare in the Yonge-Eglinton Centre area. Our analysis of population and employment growth rates of all downtown areas between 2011 and 2016 found that, based on current trends, only four (Downtown Hamilton, Downtown Toronto, Downtown Mississauga, and Uptown Waterloo) of the 25 urban growth centres were on pace to meet their density targets by 2031—the first year that municipalities are expected to meet their density targets for downtown areas.

- MZOs were being used to fast-track development and circumvent normal planning processes. In the two-year period from March 2019 to March 2021, 44 MZOs were issued. Prior to this, an MZO was issued about once a year. Planning processes that often took months or years to complete because they ensured that sufficient due diligence was conducted through technical studies and public consultation were being bypassed by MZOs. While originally intended to be used only in special circumstances, such as in areas with no municipal governance, since 2019 the government had publicly stated on several occasions that its reason for issuing MZOs was to overcome potential barriers and delays to development.
 - Lack of transparency in issuing MZOs was generating criticisms of conflict of interest and unfairness. We found that there was no formal process that interested parties were required to follow to request an MZO. We also found that there were no established criteria according to which the Minister assessed requests for MZOs.
- Therefore, we could not determine what factors the Minister considered in deciding whether to issue an MZO, or whether the Minister assessed the merits of each MZO against the same set of factors. The Ministry was able to provide us with supporting documentation for all 44 MZOs issued from March 2019 to March 2021, but the level of detail in those documents varied greatly. In our review of the documentation, we noted that 17 (or 39%) of the 44 MZOs facilitated development projects by the same seven development companies or groups of companies.
- MZOs disrupted other planning processes. The various stakeholders we interviewed—including subject-matter experts, municipal planners, and those involved in long-term planning for schools, hospitals and transportation—informed us that MZOs disrupted other planning processes that normally require years of preparation and consultation. For example, 13 or nearly one-third of the 44 MZOs issued from March 2019 to March 2021 permitted development in areas that may not have had existing or planned municipal services, such as water and wastewater systems. Municipal representatives told us that these MZOs presented significant challenges not only to their land-use planning but also their fiscal planning processes. This is because municipal services such as water and wastewater systems require significant upfront costs and must be planned prior to developments proceeding.
 - “Enhanced” MZOs could trump municipal Site Plan Control, and were no longer required to be consistent with provincial land-use policy. Bill 197, the *COVID-19 Economic Recovery Act, 2020*, expanded the scope of the Minister’s powers, allowing the Minister to issue enhanced MZOs. Enhanced MZOs could override the use of site plan control, by which a municipality examines the design and technical aspects of a proposed development to ensure it is attractive and compatible with the surrounding area. In addition,

Bill 257, the *Supporting Broadband and Infrastructure Expansion Act, 2021*, amended the *Planning Act* to provide that all MZOs were not required, and were deemed never to have been required, to be consistent with the Provincial Policy Statement. This amendment goes against one of the purposes of the *Planning Act*, which provides for a land-use planning system led by provincial policy.

- Opportunities existed to better co-ordinate infrastructure planning with land-use planning. Our audit found examples where decisions about important public infrastructure and services appeared to be disconnected from, or inconsistent with, land-use planning policies. For example, the proposed GTA-West Highway (also known as Highway 413), which would run from the Highway 401/407 interchange near Milton to Highway 400 near Kleinburg, had been the subject of criticism from environmental groups, municipalities, and members of the public. An August 2020 report by Environmental Defence, Sustainable Vaughan and Transport Action Ontario noted that the proposed highway would result in the loss of thousands of hectares of prime agricultural lands, including about one thousand hectares in the Greenbelt, and would have a significant impact on rivers, valleys, wetlands, conservation areas and forested areas. Despite the concerns and criticism, the Ministry of Transportation, which was developing the Transportation Plan for the GGH at the time of our audit, told us that it was including the GTA-West Highway in its proposed Transportation Plan.

We made 12 recommendations, consisting of 24 action items, to address our audit findings. We received commitment from the Ministry that it would take action to address our recommendations.

Status of Actions Taken on Recommendations

We conducted assurance work between March 2023 and September 2023. We obtained written representation from the Ministry of Municipal Affairs and Housing that effective November 20, 2023, it has provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

Insufficient Data on Whether 2006 Growth Plan Policies Have Controlled Urban Sprawl in the Greater Golden Horseshoe

Recommendation 1

So that the Ministry of Municipal Affairs and Housing (Ministry) can assess and publicly report on whether the policies in the A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan) are effective in meeting the objectives of the plan, we recommend that the Ministry:

- *establish and publicly communicate a deadline for the Ministry to finalize the performance indicators for the Growth Plan;*
- *develop and publicly communicate the performance indicators by the established deadline, including the date by which the Ministry will begin reporting on the indicators and the frequency of ongoing reporting; and*
- *publicly report on the results for each performance indicator, including what the results mean in terms of achieving the vision of the Growth Plan, by the dates communicated in the second action item in this recommendation.*

Status: Little or no progress.

Details

In our 2021 audit, we found that 15 years after the Province first released its A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan) in 2006, the Ministry of Municipal Affairs and Housing (Ministry) did not know whether the policies contained in the Growth Plan had been effective in achieving its goals. Consequently, the Ministry did not have the necessary data to inform changes to Growth Plan policies. The purpose of these policies is to provide targets municipalities are expected to achieve, such as focusing on new development to accommodate population and employment growth, and designing communities that are transit-friendly. Since 2006, the Ministry had only once, in 2015, publicly reported on municipalities' progress in implementing the Growth Plan policies. Our review of the 2015 performance report identified areas where progress was still needed to achieve the visions of the 2006 Growth Plan. For example, in 2011, there were insufficient densities (defined as the number of people and jobs per hectare) within 43% of major transit station areas to support basic transit service. At the time of our audit in 2021, the Ministry was still finalizing the updated set of performance indicators to measure outcomes following the most recent amendments to the Growth Plan in 2019 and 2020.

In our follow-up, we found that the development of performance indicators for the Growth Plan was put on hold following the 2022 election while the Province completes its policy review of the Growth Plan and the Provincial Policy Statement, which may result in the revocation of the Growth Plan. As of July 2023, the Ministry was conducting public consultations on a proposed Provincial Planning Statement that takes policies from the Growth Plan and the Provincial Policy Statement. The public consultation deadline for comments was August 4, 2023. The Ministry was unable to provide a timeline for the policy review and only planned to proceed based on government direction following the completion of the policy review.

Recommendation 2

So that the Ministry of Municipal Affairs and Housing (Ministry) can assess whether the policies in the A Place to Grow: Growth Plan for the Greater Golden Horseshoe are effective in meeting the objectives of the plan, we recommend that when municipalities are not making progress towards meeting Growth Plan targets, the Ministry work with municipalities to determine, understand and address the reasons for not making progress.

Status: Little or no progress.

Details

In our 2021 audit, we found that many municipalities were falling short of 2006 Growth Plan targets. For example, only three of the 20 single- and upper-tier municipalities in the Greater Golden Horseshoe (excluding the City of Toronto) met the 40% intensification target each year from 2015 to 2019. We also found that, as of 2016 (the most recent year for which data was available in 2021), actual density rates in downtown and major transit station areas in the Greater Golden Horseshoe varied widely, for example, from a low of 26 residents and jobs per hectare in the Vaughan Metropolitan Centre area (which is 15% of the target) to a high of 575 residents and jobs per hectare in the Yonge-Eglinton Centre area. Our analysis of population and employment growth rates of all downtown areas between 2011 and 2016 found that, based on current trends, only four (Downtown Hamilton, Downtown Toronto, Downtown Mississauga, and Uptown Waterloo) of the 25 urban growth centres were on pace to meet their density targets by 2031—the first year that municipalities are expected to meet their density targets for downtown areas.

In our follow-up, we found that the Ministry had not done any analysis to understand the reasons why municipalities are not making progress on the Growth Plan targets. Although the Ministry confirmed that it had access to some municipal data (including Municipal Property Assessment Corporation data), all analysis of municipal data was put on hold pending completion

of the policy review of the Growth Plan and the Provincial Policy Statement, as noted in **Recommendation 1**. According to the Ministry, it plans to consider comments received from municipalities as part of the policy review to better understand municipal-specific challenges in meeting Growth Plan targets.

Recommendation 3

So that the Ministry of Municipal Affairs and Housing (Ministry) can assess whether the policies in the A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan) are effective in meeting the objectives of the plan, we recommend that the Ministry:

- *determine how it will collect the information necessary to report on established performance indicators such as density targets for designated greenfield areas and long-term housing supply information;*
- *obtain and analyze this information on an ongoing basis; and*
- *work with municipalities to establish a consistent basis for calculating municipalities' progress toward targets set out in the Growth Plan.*

Status: Little or no progress.

Details

In our 2021 audit, we found that the absence of consistent, reliable and timely data limited the Ministry's ability to accurately measure municipalities' performance against targets and to assess the effectiveness of the policies in achieving the objectives of the Growth Plan. We also found that the Ministry was not collecting the necessary information to accurately measure whether municipalities were achieving density targets in the developed portions of the designated greenfield areas (target of 40 or 50 people and jobs per hectare). The Ministry also did not have information about long-term housing supply to assess whether municipalities were maintaining enough residential housing supply to support population growth for at least three years—a requirement introduced in the 2017 amendment to the Growth Plan. In addition,

the audit found that the Ministry and municipalities used different data when calculating intensification rates. The Ministry used property assessment data from the Municipal Property Assessment Corporation (MPAC) to calculate intensification, while municipalities used the number of building permits issued. Building permits are counted at the time a development is approved, while MPAC property assessments are based on built structures. The difference in data sources can mean the difference between municipalities meeting or not meeting their targets.

In our follow-up, we found that the Ministry introduced a new regulation under the *Planning Act* called Municipal Planning Data Reporting (O. Reg. 73/23). Starting in June 2023, the regulation requires 29 single- or lower-tier municipalities to report information on planning matters both quarterly and annually. Application data for planning approvals (for example, official plan amendment applications, zoning bylaw amendment applications, plans of condominium, plans of subdivision) must be reported on a quarterly basis. However, there is no requirement for data to be collected from the remaining 74 lower-tier municipalities in the Greater Golden Horseshoe area.

In February 2022, the Ministry procured updated property assessment data from the Municipal Property Assessment Corporation and, as of September 2023, the Ministry had engaged with Statistics Canada to access 2021 Census data. However, according to the Ministry, all work related to collecting data and developing performance indicators is on hold pending completion of the policy review of the Growth Plan and the Provincial Policy Statement, as noted in **Recommendation 1**.

Municipalities Face Challenges Implementing Growth Plan Policies

Recommendation 4

So that municipalities have the necessary information and sufficient time to update their official plans to conform with provincial plans, we recommend that the Ministry of Municipal Affairs and Housing work with municipalities on an ongoing basis to:

- *determine what information and supports are needed by municipalities to help them conform, including meeting conformity deadlines;*

Status: Fully Implemented.

Details

In our 2021 audit, we found that significant changes in land-use planning policies over the previous 10 years created instability in the land-use planning process in the Greater Golden Horseshoe (GGH). This instability made it challenging for municipalities to ensure their planning documents were up to date and conformed with these policies. For example, when the Ministry amended the Growth Plan in 2017, it gave municipalities five years, until July 2022, to update their official plans. However, the Ministry amended the Growth Plan again in 2019 and 2020. This forced many municipalities to redo studies and planning work that they had completed. One municipality (Regional Municipality of York) had to redo the technical work that cost “several millions.”

In our follow-up, we found that the Ministry, between November 2021 and December 2022, held 107 meetings with 20 of the 21 relevant municipalities to determine the information and supports needed, and to support municipalities’ work toward conforming with provincial plans. According to the Ministry, it did not meet with the City of Orillia because Orillia was undergoing a municipal restructuring. As of July 2023, 19 of the 21 municipalities conformed with provincial plans through their own Official Plans or Official Plan Amendments.

- *provide such information and supports to municipalities in a timely manner that will enable municipalities to meet conformity deadlines.*

Status: Fully Implemented.

Details

In our 2021 audit, we found that municipal staff received little guidance from the Ministry about how to implement land-use planning policies such as those in the Growth Plan. In our survey of municipal planners in 2021, 70% of respondents said that, based on their experience over the previous five years, they have not

received sufficient guidance or direction from Ministry staff whenever they asked for help or clarification, for example in areas such as land needs assessment and Indigenous engagement.

In our follow-up, we found that the Ministry had met with municipalities in an effort to determine the information and supports they need, and to support municipalities’ work toward conforming with provincial plans. As noted in the first action item of **Recommendation 4**, as of July 2023, 19 of the 21 GGH municipalities conformed with provincial plans through their own Official Plans or Official Plan Amendments. The remaining two relevant municipalities (City of Orillia and City of Kawartha Lakes) were still working toward conformity. According to the Ministry, the City of Orillia is currently consulting the public on: 1) options for intensification, which could affect the amount of land needed to conform; and 2) the preliminary results of its technical land evaluation, which will help determine the recommendations it makes to City Council in fall 2023/winter 2024 related to municipal restructuring. The Ministry told us that the City of Kawartha Lakes has not yet conformed with provincial plans because it has been focusing on resolving ongoing Ontario Land Tribunal appeals of its previous Official Plan and various secondary plans.

Recommendation 5

So that municipalities have the information they need to effectively implement the policies in the Provincial Policy Statement and various provincial plans, we recommend that the Ministry of Municipal Affairs and Housing work with municipalities to:

- *determine what areas existing and new Ministry staff can benefit from training in; and*
- *provide such training on a regular ongoing basis.*

Status: Little or no progress.

Details

Our review of Ministry staffing data found that, at the time of our 2021 audit, nearly two-thirds of the 43 staff responsible for liaising with municipalities had been in their positions for only two years or less. The

average length of time that Ministry staff had been in their position was four years. Our review of the 2019 and 2021 Employee Engagement Survey results for all Ministry staff in the central region, including those involved in the planning function, noted that only 35% of respondents in 2019 and 50% of respondents in 2021 stated that they had a clear understanding of their job and what was expected of them; and only 15% of respondents in 2019 stated that their directors and senior managers provided clear direction.

In our follow-up, we found that in July 2022, the Ministry had asked the Long Range Planners of Ontario (a stakeholder group representing 20 large single- and upper-tier municipalities) about training recommendations for Ministry staff. As of September 2023, however, no suggestions on training had been received.

The Ministry told us that it has offered training related to, for example, Indigenous consultation and legislative changes, and has led virtual forums between municipal planners and their peers to promote leading practices; however, it is unclear which staff participated because training is optional and the Ministry does not record attendance. Also, the Ministry informed us that it has not offered internal training in land needs assessment in recent years, even though this was another needed training area highlighted by municipal planners in our 2021 audit. According to the Ministry, the focus on land needs assessment may not be necessary once the new Provincial Planning Statement is adopted, and any need for future internal training in this area will depend on the outcome of the policy review.

Improvements Needed in Ministry's Collaboration with Local and Provincial Partners

Recommendation 6

So that land-use planning is well integrated with other related planning processes in the province, consistent with the policies of the Growth Plan for the Greater Golden Horseshoe, we recommend that the Ministry of Municipal

Affairs and Housing proactively engage with other provincial ministries and entities responsible for planning processes related to land-use planning on an ongoing basis, for example through the Planning System Implementation Committee.

Status: Little or no progress.

Details

In our 2021 audit, through discussions with stakeholders and our own research, we found examples where planning and decisions on important public infrastructure and services appeared to be disconnected from, or inconsistent with, land-use planning policies, including focusing growth on already built-up areas, and prohibiting development on prime agricultural lands and the Greenbelt. As of March 2021, the Planning System Implementation Committee (established in the 1990s to promote a co-ordinated planning system) included staff from the Ministry of Municipal Affairs and Housing; the Ministry of Agriculture, Food and Rural Affairs; the Ministry of Economic Development, Job Creation and Trade; the Ministry of the Environment, Conservation and Parks; the Ministry of Natural Resources and Forestry; the Ministry of Transportation; the Ministry of Tourism, Culture and Sport; and the Ministry of Northern Development. However, the committee did not include representatives from the Ministry of Education or Ministry of Health—the ministries that oversee long-term planning for schools and hospitals. The committee also met infrequently and often did not adequately cover timely topics, such as significant changes to land-use planning policies.

In our follow-up, we found that, since December 2021, Ministry staff had met with partners in other ministries on 38 occasions to discuss specific Growth Plan conformity matters. The Ministry also held director-level and Assistant Deputy Ministers' meetings with partner ministries in 2022 to provide updates on and discuss the Growth Plan. Although the Planning System Implementation Committee continues to meet regularly, as of July 2023, there were still no representatives on the committee from the Ministry of Health or the Ministry of Education.

Recommendation 7

So that land-use planning interests of other provincial ministries are appropriately considered and reflected in municipal planning policies, we recommend that the Ministry of Municipal Affairs and Housing:

- *finalize the screening criteria for circulating municipal planning submissions to the Ministry of Infrastructure;*
- *formalize the participation of the Ministry of Health and the Ministry of Long-Term Care in the One Window Protocol (Protocol); and*
- *assess, during the next review of the Protocol in 2023, whether other provincial ministries should be included in the Protocol in light of their mandates.*

Status: Little or no progress.

Details

In our 2021 audit, we found that opportunities exist to improve the Ministry's One Window Protocol (Protocol), specifically the process through which it seeks comments from other provincial ministries on municipal planning submissions. The Ministry uses screening criteria to determine which ministries to circulate submissions to and seek comments from based on areas that affect their interests. We reviewed a sample of municipal submissions for official plans and official plan amendments from 2010 to 2020 to determine whether the Ministry sought feedback from other appropriate provincial ministries to ensure that their land-use planning interests were considered. In one-third of the cases we sampled, we found the provincial review could have benefitted from being circulated to other ministries, given the nature of the proposed policies and amendments.

According to the Ministry at the time of our follow-up, it plans to complete the review of the One Window Protocol in June 2024 and the review will provide an opportunity to renew the screening criteria. The Ministry told us that the participation of other ministries (including the Ministry of Health and the Ministry of Long-Term Care) in the One Window Protocol

is currently on hold while the Ministry reviews the Growth Plan and the Provincial Policy Statement, and is subject to government direction.

Recommendation 8

So that conservation authorities continue to effectively exercise independent authority to direct development away from flood- and erosion-prone areas, we recommend that the Ministry, in collaboration with Ministry of Northern Development, Mines, Natural Resources and Forestry:

- *review the impacts of the amendments contained in Schedule 6 of Bill 229 considering comments received from municipalities, conservation authorities and the public;*
- *based on the results of this review, address the concerns identified.*

Status: Little or no progress.

Details

In our 2021 audit, we found that conservation authorities had lost the independent power to exercise their mandate. Conservation authorities perform a key land-use planning role; they ensure that development is directed away from flood- and erosion-prone areas in order to protect people and their properties. In June 2024, Bill 229, the *Protect, Support and Recover from COVID-19 Act (Budget Measures)*, 2020 amended the *Conservation Authorities Act* and the *Planning Act* in a way that significantly reduces the oversight and appeal powers of conservation authorities, and limits their ability to make independent decisions. The changes mean that conservation authorities are required to approve application permits for developments resulting from a Minister's Zoning Order to rezone lands within a municipality. In addition, the Ministers of Northern Development, Mines, and Natural Resources and Forestry are able to issue or reject development permits on behalf of a conservation authority. Prior to the amendments, conservation authorities had the sole authority to decide whether to

issue or reject permit applications in areas within their jurisdiction.

During our follow-up, the Ministry told us that it was not aware of any concerns raised by municipalities in regard to amendments in Bill 229 and therefore had not reached out to the Ministries of Northern Development and Natural Resources and Forestry to collaborate on this recommendation.

Broad and Frequent Use of Minister's Zoning Orders Undermines the Land-Use Planning Process

Recommendation 9

So that Minister's Zoning Orders (MZOs) are not used as a way to circumvent the normal planning process in order to speed up development projects, we recommend that the Ministry of Municipal Affairs and Housing work with municipalities to identify and implement ways to make the land-use planning process more streamlined and efficient while still complying with due diligence and public consultation requirements under the Planning Act.

Status: Little or no progress.

Details

In our 2021 audit, we found that Minister's Zoning Orders (MZOs) were being used to fast-track development and circumvent normal planning processes. From 2000 to February 2019, an MZO was issued about once a year; however, in the two-year period from March 2019 to March 2021, 44 MZOs were issued.

In our follow-up, we found that, since 2021, the Ministry has introduced changes and launched consultations aimed at streamlining the land-use planning system:

- In April 2022, Bill 109 received royal assent and introduced changes to the *Planning Act*, such as requiring applicants be notified within 30 days to confirm the completeness of their applications or to request additional information; requiring municipalities refund certain planning application fees if decisions are not made within

legislated timelines; and providing the Minister with new discretionary authorities to refer official plan decisions to the Ontario Land Tribunal.

- In October 2022, the Ministry issued a guideline for the Community Infrastructure and Housing Accelerator (CIHA) tool that was enabled by Bill 109. The CIHA guideline sets expectations for the municipality to undertake public consultation before requesting a Minister's Zoning Order (MZO). Moving forward, the CIHA will be the primary tool used to support municipal council requests to advance local priorities. A CIHA order does not need to conform with the municipality's official plan and cannot be appealed to the Ontario Land Tribunal.
- In November 2022, the government passed Bill 23, *More Homes Built Faster Act*, with a series of associated consultations on the Environmental Registry of Ontario. The objective of the changes is to create a more streamlined system to accelerate the development of housing and increase housing supply, according to provincial priorities.

In addition, the Ministry has offered funding to help municipalities modernize and streamline their land-use planning processes. In January 2022, the Province announced three funding programs for municipalities: Streamline Development Approval Fund, Municipal Modernization Program, and Audit and Accountability Fund. The Streamline Development Approval Fund provides \$45 million to help Ontario's 39 largest municipalities modernize, streamline and accelerate processes for managing and approving housing applications. Similarly, the Municipal Modernization Program provides \$28 million to help small and rural municipalities find better, more efficient ways to deliver local services for residents and businesses. The government also announced over \$8 million in the Audit and Accountability Fund for urban municipalities to identify potential savings and efficiencies through third-party reviews.

However, despite these initiatives to streamline municipal planning processes, the Minister has

continued to issue a significant number of MZOs over the last three fiscal years. From 2020/21 to 2022/23, the Minister issued 102 MZOs (75 were in response to requests by municipalities and 27 were identified as a provincial priority directly by the Ministry).

Recommendation 10

To improve transparency and accountability for Minister's Zoning Orders (MZOs), we recommend that the Ministry of Municipal Affairs and Housing:

- *establish and publicly communicate a formal application and review process, which clearly sets out the following:*
 - *the types of matters for which interested parties may request an MZO;*
 - *the criteria that the Minister will use to determine whether to issue an MZO; and*
 - *the required studies, analyses, or due diligence that the requester of the MZO must submit to support its request; and*
- *when issuing MZOs, publicly and clearly communicate the following:*
 - *the parties who requested the MZO;*
 - *the factors that the Minister considered in deciding whether to issue the MZO; and*
 - *the reasons why the development cannot proceed through the normal planning application process.*

Status: Little or no progress.

Details

In our 2021 audit, we found that the application and decision-making processes for issuing MZOs, as well as public communications about them, are not transparent. In addition, MZOs bypass public consultation and cannot be appealed to the Ontario Land Tribunal. This lack of transparency is contrary to the purposes of the *Planning Act* and good land-use planning principles. We found that there is no formal process that interested parties are required to follow to request an MZO. We also found that there are no established criteria according to which the Minister assesses requests for MZOs.

We also noted that there is no legislative requirement for the Minister to inform the public about an MZO prior to issuing it. As a result, members of the public only become aware of an MZO after it has been issued. We found that none of the publicly available information for issued MZOs described what uses were previously permitted on the lands. The Ministry did not identify what would be lost to the development (for example, agricultural land, parks and open space, employment use), nor did it provide the reasons why an MZO was issued.

In September 2023, the Minister of Municipal Affairs and Housing indicated that the Ministry would undertake a review of the use of Minister's Zoning Orders. According to the Ministry, it has commenced scoping the review. This recommendation will be taken into account as part of the review process.

Recommendation 11

To prevent or minimize disruption in other long-term planning processes that are impacted by Minister's Zoning Orders (MZOs), we recommend that the Ministry of Municipal Affairs and Housing incorporate and document consultation with impacted municipalities (including both upper- and lower-tier municipalities) in the MZO review process to be established in response to Recommendation 10.

Status: Little or no progress.

Details

The various stakeholders that we interviewed as part of our 2021 audit—including subject-matter experts, municipal planners, and those involved in long-term planning for schools, hospitals and transportation—informed us that MZOs disrupt other planning processes that normally require years of preparation and consultation. For example, 13 or nearly one-third of the 44 MZOs issued from March 2019 to March 2021 would permit development in areas that may not have existing or planned municipal services such as water and wastewater systems. Municipal representatives told us that these MZOs present significant challenges not only to their land-use planning, but also their fiscal

planning processes. This is because municipal services, such as water and wastewater systems, require significant upfront costs and must be planned prior to developments proceeding. Of the 44 MZOs issued from March 2019 to March 2021, 38 were issued in municipalities with a two-tier system, yet the Province often does not inform or consult upper-tier municipalities prior to issuing the MZOs.

In September 2023, the Minister of Municipal Affairs and Housing indicated that the Ministry would undertake a review of the use of Minister's Zoning Orders. According to the Ministry, it has commenced scoping the review. This recommendation will be taken into account as part of the review process.

Recommendation 12

So that when Minister's Zoning Orders (MZOs) are issued they are consistent with the purposes of the Planning Act which recognizes the decision-making authority and accountability of municipal councils, and provides for a land-use planning system led by provincial policy, we recommend that the Ministry of Municipal Affairs and Housing:

- *incorporate public consultation in the MZO review process to be established in response to **Recommendation 10**;*
- *work with municipalities when issuing enhanced MZOs so that local considerations are sufficiently addressed in Minister overrides of site plan controls; and*
- *publicly communicate, for each MZO, whether the issuance of the MZO is consistent with the Provincial Policy Statement and where it is not consistent, describe why the MZO is being issued and steps taken to minimize or avoid the negative impact of issuing the MZO.*

Status: Little or no progress.

Details

In our 2021 audit, we found that changes to the *Planning Act* that started in 2017 have reduced the transparency and accountability requirements for issuing MZOs. In 2017, Bill 139, the *Building Better Communities and Conserving Watersheds Act, 2017*, removed the ability for individuals to appeal an MZO to the then Ontario Municipal Board (now the Ontario Land Tribunal). As discussed earlier, MZOs already bypass public consultation requirements and the Minister does not always consult affected stakeholders such as municipalities and conservation authorities. Therefore, removing the ability for anyone to appeal MZO decisions in Bill 139 eliminated the last remaining opportunity for stakeholders and the general public to comment on MZOs outside of judicial reviews.

We found that “enhanced” MZOs can trump municipal site plan control, and are no longer required to be consistent with provincial land-use policy. Bill 197, the *COVID-19 Economic Recovery Act, 2020* expanded the scope of the Minister's powers, allowing the Minister to issue enhanced MZOs. Enhanced MZOs can override the use of site plan control, by which a municipality examines the design and technical aspects of a proposed development to ensure it is attractive and compatible with the surrounding area. In addition, Bill 257, the *Supporting Broadband and Infrastructure Expansion Act, 2021*, amended the *Planning Act* to specify that MZOs are not required, and are deemed to never have been required, to be consistent with the Provincial Policy Statement. This amendment goes against one of the purposes of the *Planning Act*, which provides for a land-use planning system led by provincial policy.

In September 2023, the Minister of Municipal Affairs and Housing indicated that the Ministry would undertake a review of the use of Minister's Zoning Orders. According to the Ministry, it has commenced scoping the review. This recommendation will be taken into account as part of the review process.