

Regulation detailing new Minister's Permit and Review powers under the *Conservation Authorities Act*

AMO COMMENTS TO THE MINISTRY OF NATURAL RESOURCES AND FORESTRY

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Executive Summary

AMO is concerned about the cumulative impact of various changes to *Planning Act* and *Conservation Act* that have shifted responsibilities in environmental management among municipalities, Conservation Authorities and Ministries. Taken together, the changes put pressure on lower and single-tier municipalities to undertake new responsibilities for the environment and have the potential to create liability risks for municipalities and the Province.

This includes the proposed regulation, which currently scopes the Minister's ability to intervene in the Conservation Authority permitting process across development activity where the Minister has a "specified provincial interest". Certain proposed provincial interest development activity (e.g., community services) are defined as "Institutional use" in the Provincial Policy Statement (PPS) and are not permitted in/on hazardous lands and sites. Permitting construction of vital community buildings, such as hospital or long-term care homes, in areas that may pose health and safety risks should not be considered by the Ministry.

Municipalities also rely on Conservation Authorities to help identify broader impacts that might cross municipal boundaries, helping ensure watersheds are protected and the risks of building in hazard areas is mitigated based on the information and expertise they provide. If the Ministry proceeds with regulations AMO would strongly encourage the Ministry to work with Conservation Authorities to implement how it will transparently evaluate projects as part of issuing a permit, including the key information (e.g., natural hazard mapping and modelling) and processes required to ensure consistency and due diligence is taken when making Minister decisions. While it may be rare, the regulatory proposal has the potential for property damage or human health impacts following a Minister decision if key information is not used, and AMO is greatly concerned that liability may also fall to the municipality.

The Province must ensure that municipalities do not have any new liability as a result of this regulation, should it proceed, and broader *Conservation Authorities Act* changes made in recent years.

Conclusion

AMO supports a shared goal of trying to improve development and permitting processes to increase housing for Ontarians, but it needs to be done in a way that balances environmental responsibility, and especially mitigates potential risks to property and public health. Based on this, AMO recommends the Ministry pause these regulations, and work with technical experts in municipalities and Conservation Authorities to re-review Bill 23 changes and this proposal to ensure risks to public health and property or potential liability for municipalities. If the Ministry wishes to proceed, then AMO recommends that it clarifies liability of associated parties to indemnify municipalities in instances where decisions made within the scope of the Minister's authority results in risk or harm to property or people. AMO asks the Province to set out this municipal indemnification in the legal framework for clarity and certainty.