

Performance Audit

Minister's Zoning Orders

// Independent Auditor's Report



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1.0 Audit at a Glance

// Why We Did This Audit

- Minister's Zoning Orders (MZOs) are regulatory tools under Section 47 of the *Planning Act* that authorize the Minister to make zoning orders that regulate the use of land in Ontario. Zoning orders are made at the discretion of the Minister of Municipal Affairs and Housing (Minister). The Ministry of Municipal Affairs and Housing's (Ministry's) responsibilities include providing information to support the Minister's decision-making on MZOs.
- In Ontario, land zoning is typically determined through the municipal planning process as outlined in the *Planning Act*. This process includes specific requirements that must be adhered to, most of which are not required under an MZO.
- In the five-year period from 2019 to 2023, 114 MZOs were made in Ontario, an average of 23 per year. This represents a 17-fold increase from the previous two decades. These MZOs have been used to override municipal zoning.
- With their increased use, the public wants to know how and why MZOs are being made, and how this way of zoning land is likely to impact their communities and agricultural and natural spaces.



// Our Conclusion

Our audit concluded that the Ministry does not consistently provide the Minister with timely and complete information relating to the projects proposed for an MZO. We found that on average, it took the Ministry 14 weeks to assess MZO requests, more than twice its target of six weeks, which was in place until June 2023. About one-third of MZOs were assessed within six weeks.

We also found there was no protocol and no apparent rationale for prioritizing some MZO requests over others. The Minister's Office often selected which of the MZO requests to work on, setting *ad hoc* (and often short) timelines for the Ministry to review the request.

The Ministry did not consistently assess whether re-zoning by MZO, as opposed to the municipal planning process, was needed. For the vast majority of MZO requests, the Ministry did not provide zoning alternatives or any recommendations on whether to make the MZO or not, based on its expertise in land-use planning. We found that on occasions when the Ministry did make recommendations, such as to assess risks or perform risk mitigation, the Minister's Office did not accept them.

Most information packages prepared for the Minister's Office did not contain the kind of detailed risk information normally factored into municipal zoning decisions. This includes key information about infrastructure capacity and servicing; natural hazards and the environment; and financial burdens to regions, municipalities and taxpayers.

Some projects on the sites re-zoned with an MZO will not have access to servicing (for example, water and wastewater) for years and sometimes decades. They now face foreseeable and significant delays. These delays beg the question why an MZO was used instead of the municipal planning process.

Finally, our audit concluded that the Ministry did not have mechanisms in place to measure whether the projects enabled by MZOs were progressing. The Ministry did not set or track specific goals for individual MZOs or goals for MZOs collectively, such as to create a targeted number of housing units, including affordable housing units, or permanent jobs.

The Ministry has accepted all 19 recommendations.

// What We Found

No Assessment Made About Whether MZOs Were Needed or Justified

- Proponents of MZOs, which can include developers, landowners, municipalities and other ministries, often cited speedier timelines for development as the main reason why they were asking for an MZO rather than following the municipal zoning amendment process. The Ministry did not assess whether the use of an MZO was justified or necessary for any given project, including whether it would expedite it.
- The *Planning Act* requires the Minister to have regard for matters of provincial interest when making planning decisions. Yet, in more than half of the MZOs in our sample, the information prepared for the Minister's review did not identify or assess how the potential re-zoning affected provincial interests, for example by safeguarding the environment and agricultural lands, or providing adequate employment opportunities and housing.

» **Recommendation 1**

Ministry Did Not Accommodate Conditions Asked For by Municipalities

- Half of the MZOs made from 2019 to 2023 were for housing developments, and the inclusion of affordable housing was the most commonly requested condition sought by municipalities in exchange for their support of MZO requests. But the Ministry does not track the number of new affordable housing units to be created through MZOs.
- Municipal requests to assess and/or mitigate risks associated with an MZO request, such as environmental degradation, were often not included in the information provided to the Minister's Office. In these cases, no adjustments were made to address these conditions before issuing the MZO.

» **Recommendations 3 and 4**

Some MZO Requests Were Given Priority by the Minister's Office, Others Were Left Unanswered for Years

- The Ministry does not have a protocol for prioritizing MZO requests and has no target time frames for replying to proponents. Some MZO requests remained unanswered for years.
- It took the Ministry an average of 14 weeks to assess an MZO, more than twice its internal target of six weeks, which was in place until June 2023; 32% of MZOs were assessed within six weeks.

// What We Found

- The Minister's Office prioritized 36% of the MZO requests in our sample (nine out of 25).
- Staff at the Minister's Office instructed that some requests be assessed and provided to the Minister by *ad hoc*, tight deadlines. No rationale was documented for either the timelines given to the Ministry, or why certain MZO requests were prioritized above other requests.

» **Recommendations 5, 6 and 7**

Infrastructure Capacity, Local Planning Issues and Potential Financial Impacts Were Often Not Considered, Unlike in the Municipal Planning Processes

- Access to infrastructure capacity and servicing (for example, water and wastewater) is a key consideration for any development and is taken into consideration in the municipal zoning amendment process. We found that, for most MZOs, there was no assessment of whether the sites for re-zoning had access to servicing.
- As of April 2024, 18% of projects relating to MZOs were still facing significant delays related to servicing.
- The Ministry never sought input from local and regional municipalities on the potential impact that the projects relating to MZO requests might have on other planned development in the affected communities.
- The Ministry does not assess the financial impact of MZOs on local and regional municipalities or taxpayers.

» **Recommendations 8, 9 and 10**

Ministry Did Not Consistently Identify or Mitigate Environmental Risks and Agricultural Impacts of MZOs

- When reviewing MZO requests, the Ministry did not consistently engage with key experts to identify the natural hazards, like flooding, or environmental risks, such as loss or degradation of natural features, associated with re-zoning.
- In cases where the Ministry engaged with these experts, it often did not act on their recommendations to assess risks, nor did it recommend actions to mitigate risks before or after re-zoning.
- Prime agricultural land is typically protected from most forms of development in Ontario's land-use planning process. We found that the Ministry did not assess the agricultural impacts of MZOs when looking at re-zoning these areas.

// What We Found

- Re-zoned agricultural land saw an average increase in value of 46%, based on an assessment performed at our request by the Municipal Property Assessment Corporation.

» Recommendation 11

The Ministry's Approach to Indigenous Consultation on MZOs Lacks Consistency and Transparency

- In 12 (48%) of the 25 MZOs we sampled, there was no evidence the Ministry engaged with any affected Indigenous communities prior to the MZO being made.
- According to leaders of the Indigenous communities we spoke to, the extent and timing of the Ministry's engagement with their communities was not meaningful and was delayed, and did not meet the Province's Duty to Consult with regards to their Aboriginal or treaty rights that apply to land re-zoned using an MZO. Some felt they could have supported development by being engaged earlier in the process.

» Recommendation 12

The Ministry Stopped Providing Recommendations to the Minister About MZOs

- In 2019 and 2020, 46% of the information packages prepared for the Minister's Office included an analysis of options for re-zoning the site for which the MZO was requested. A few also included a recommendation on whether to make the requested MZO. This practice stopped almost entirely in 2021.
- Professional land-use planning advice could provide important context and analysis for decision-making about requested MZOs. We noted that while the Ministry employs professional land-use planners, it does not have a consistent process in place to provide professional opinions relating to MZO requests to the Minister's Office regardless of whether or not their recommendations are accepted.
- The Ministry's senior staff told us that to keep up with the increasing number of MZO requests and pressure from the Minister's Office to prioritize and draft MZO regulations within short time frames, they asked their land-use planning staff to focus on providing summarized factual information rather than providing the full context, analysis and recommendations for informed decision-making.

» Recommendation 13

// What We Found

Design of the New Zoning Order Framework Does Not Address All of MZO's Significant Issues

- The Ministry introduced a Zoning Order Framework in April 2024 that is intended to provide a consistent set of expectations for proponents of MZO requests about what to submit and how the Minister may assess such requests.
- The framework does not address some of the significant issues identified in this report, such as documenting the prioritization and time frames for assessing MZO requests, and a lack of timely identification of risks relating to natural hazards and the environment.

» **Recommendation 19**



2.0 Background

2.1 Ontario's Land-Use Planning Framework

Land-use planning is the strategic planning process that guides decisions about the management of growth and change in communities, including where and how development can occur, and where it should not. In Ontario, the Ministry of Municipal Affairs and Housing (Ministry) is responsible for the overarching land-use planning framework, including the *Planning Act*, the Provincial Planning Statement, 2024 (PPS) and certain provincial land-use plans. Municipal governments are responsible for implementing provincial land-use policies at a local level and for regulating where and how development occurs within their communities.

Under the *Planning Act*, land-use planning ordinarily involves municipal decision-making consistent with policy direction from the Province. This typically requires the co-ordination of multiple ministries, agencies, the public and municipal decision-makers. The PPS provides policy direction on land-use planning matters to promote “appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment.” **Appendix 1** provides a description of key elements of Ontario’s land-use planning framework. With the exception of MZO, decisions must be consistent with the hierarchical land-use planning framework. For example, zoning bylaws must conform to municipal Official Plans, which in turn must be consistent with the PPS.

Figure 1 lists the purposes of the *Planning Act*. Planning decisions must have regard for matters of provincial interest. Some examples of these include the protection of ecological systems, including natural areas, features and functions; the protection of the agricultural resources of the Province; and the adequate provision of a full range of housing, including affordable housing. See **Appendix 2** for a complete list of matters of provincial interest within the *Planning Act*.

Figure 1: Purposes of the *Planning Act*

Source: The *Planning Act*, Section 1.1

The purposes of the <i>Planning Act</i> are to:	
» promote sustainable development in a healthy natural environment;	» provide for open, accessible, timely, efficient, and fair planning processes;
» provide for a land use planning system that is led by provincial policy;	» encourage co-operation and co-ordination among various interests; and
» integrate matters of provincial interest in provincial and municipal planning decisions;	» recognize municipal council decision-making authority and accountability in planning.

2.2 Minister's Zoning Orders

Section 47 of the *Planning Act* authorizes the Minister to use zoning powers that are typically exercised by local municipalities. A Minister's Zoning Order, or MZO, is an Ontario regulation (O. Reg.) under the *Planning Act* that can create, change or override the existing requirements for development as outlined in a municipality's zoning bylaws. Enhanced MZOs (a type of MZO introduced in the *Planning Act* in 2020), can also be used to override municipal site plan approvals and to add or remove requirements for affordable housing units.

MZOs are made at the sole discretion of the Minister. They can apply to any land in Ontario and can:

» permit the use of land for a specific purpose (for example, for manufacturing, housing, health care, long-term care uses, etc.);
» prohibit the use of land for a specific purpose (for example, to protect an environmentally sensitive feature); or
» regulate the location, use, height, size and spacing of buildings and structures.

If the Minister makes an MZO, it does not need to conform to municipal or provincial plans. As of 2021, MZOs also do not have to be consistent with the PPS, except within the Greenbelt Area (a swath of about two million acres of protected farmland, wetlands and woodlands encircling the densely populated Greater Golden Horseshoe region in southern Ontario). This change was applied retroactively, so that MZOs made before that date also did not have to be consistent with the PPS.

If there is a conflict between an MZO and a municipal zoning bylaw, the MZO prevails.

2.3 History of MZO Usage

The ability to make an MZO has existed since 1946, when the *Planning Act* (the Act) was enacted. Since then, there have been significant changes to the Act and the way MZOs are being used by government.

Initially, an MZO could only be made with respect to land that was not covered by an Official Plan or zoning bylaw. As of 1968, MZOs could be made anywhere in Ontario, but had to conform to Official Plans (where one was in effect). In the 1970s, the Act was again amended to include the requirement to provide public notice following the filing of an MZO.

The Province's 1979 White Paper on the Act stated that MZOs were intended to be used:

- » in special circumstances where a provincial interest must be protected until municipal zoning bylaws can be amended to provide adequate safeguards;
- » in parts of Northern Ontario without a municipal government where new growth must be controlled; and
- » to impose controls in areas where lack of adequate municipal regulations could cause problems owing to pressure for growth.

Figure 2 shows the number of MZOs made under the Act in the 25-year period from 1999 to 2023. **Figure 3** identifies historical and recent MZOs by primary purpose.

Figure 2: Minister's Zoning Orders Made under the *Planning Act*, 1999–2023

Prepared by the Office of the Auditor General of Ontario

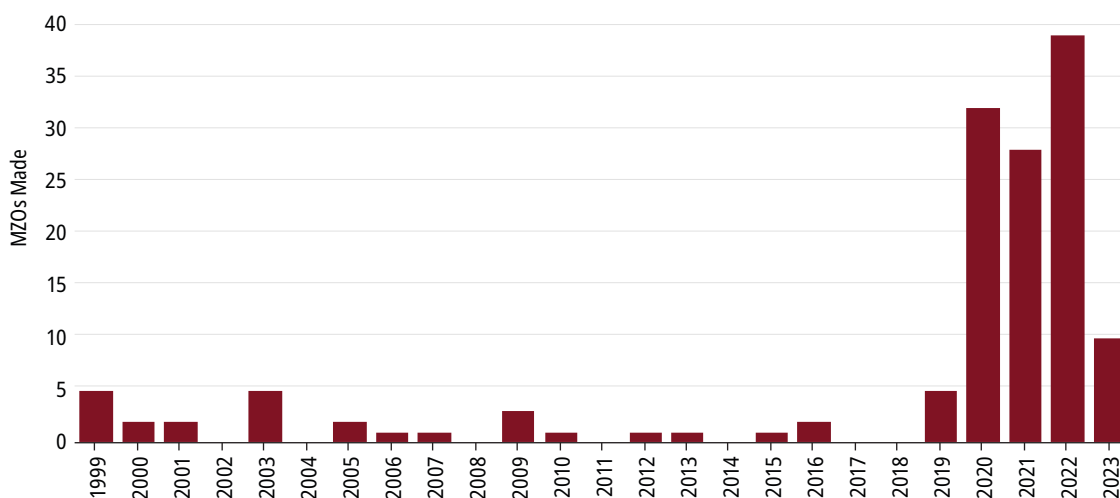
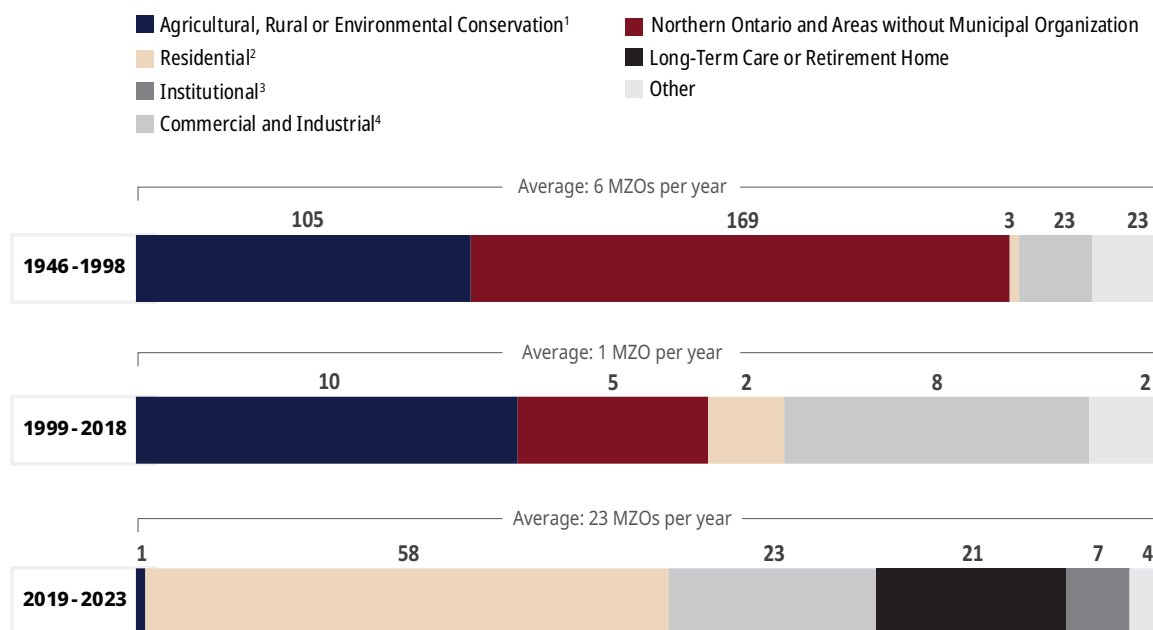


Figure 3: Number of Minister's Zoning Orders, by Primary Purpose, 1946–2023

Prepared by the Office of the Auditor General of Ontario



1. Prior to 1999, includes MZOs issued to prohibit commercial development in rural areas.
2. After 2019, includes MZOs issued for large residential or mixed-use developments, affordable and supportive housing, and Transit-Oriented Communities.
3. Includes MZOs issued for hospitals, health-care facilities, schools and other public buildings.
4. Includes MZOs issued for commercial, industrial or manufacturing use, and warehouse developments.

Our review of Ministry data and historical records of MZOs made between 1946 and 1998 identified that 323 MZOs were made, which is an average of six per year. The vast majority (85%) of these were made to establish zoning regulations in Northern Ontario in areas without municipal organization, and to protect agricultural and natural areas from development pressures, in line with the 1979 White Paper.

In the 20-year period from 1999 to 2018, 27 MZOs were made, with an average of just one per year. During this time, 55% of MZOs were used for agricultural and environmental conservation or in areas without municipal organization, and two MZOs (7%) were used for minor residential projects.

In contrast, in the five-year period from 2019 to 2023, 114 MZOs were made, with an average of 23 MZOs per year. There was also a clear shift in the purpose for which MZOs were being made, as 51% of MZOs were to support residential projects, and only one was used for environmental conservation. Over this five-year period, 32 MZOs were made at the request of partner ministries such as the Ministry of Infrastructure and the Ministry of Long-Term Care. **Figure 4** shows the location of recent MZOs, which are concentrated around the Greater Toronto Area.

2.4 Zoning Changes Through the Municipal Planning Process vs. MZOs

Typically, if a landowner or developer wishes to use, develop or protect land in a way that is not permitted by a municipality's Official Plan or a zoning bylaw, they can apply to the municipality for a zoning amendment through the prescribed process set out in the *Planning Act* and its associated regulations.

According to the municipalities we spoke with during our audit, this municipal planning process can take months or more than a year to complete, in part due to requirements for technical studies (such as environmental, traffic or noise studies), delays in receiving comments from external stakeholders and the applicant, and public consultations. Municipal council decisions on zoning amendments are typically informed by reports, studies and recommendations from their municipal planning staff and consultants.

In recent years, an increasing number of landowners, developers, municipalities and other ministries proposing to change existing zoning (referred to as proponents in this report) have requested that the Minister make an MZO. The municipal zoning amendment process includes specific requirements within the *Planning Act* that must be adhered to, most of which are not required under an MZO. **Figure 6** compares how land-use zoning is changed through the municipal planning process and through an MZO.

Unlike most municipal land-use planning decisions, MZOs cannot be appealed to the Ontario Land Tribunal by anyone, including the proponents. The only way to challenge an MZO is to apply to the Divisional Court for a judicial review, where the court would assess if the MZO decision was lawful, procedurally fair and reasonable. This is rarely done. See **Case Study 6** for an example of an MZO challenged through Divisional Court.

Figure 6: Comparison of Re-Zoning Land in Ontario Through the Municipal Process and Through an MZO

Prepared by the Office of the Auditor General of Ontario

Step	Zoning Application through the Municipal Process (<i>Planning Act</i> , s. 34) ¹	Zoning Request through the Provincial MZO Process (<i>Planning Act</i> , s. 47)
Pre-application Consultation	Proponent provides preliminary proposal information for municipal staff to identify requirements for the application and discuss potential issues. Under the <i>Planning Act</i> , municipalities could require pre-consultation in bylaws, but as of June 6, 2024, this is now voluntary for proponents.	Voluntary.

Step	Zoning Application through the Municipal Process (<i>Planning Act, s. 34</i>) ¹	Zoning Request through the Provincial MZO Process (<i>Planning Act, s. 47</i>)
Zoning Application or Request	<p>Proponent must submit an application form to the municipality along with required supporting plans and studies. Depending on the proposal, these may include environmental studies; archaeological and cultural heritage assessments; and air quality, noise impact or traffic studies.</p> <p>Proponent pays the application fee of an average of \$15,000–\$30,000.</p>	<p>Proponent makes a written request to the Minister. As of April 10, 2024, there is a framework outlining the Minister's expectations for MZO requests and the Ministry may request certain studies, reports or other information and evidence (see Section 4.11).</p> <p>No fee is imposed for MZO requests.</p>
Receipt of Application or Request	<p>Within 30 days of receiving the application and required fee, the municipality must advise the proponent whether the application is complete. If deemed incomplete, the proponent can challenge this determination at the Ontario Land Tribunal (OLT).</p>	<p>No requirement to respond; no time limit or requirement for decision-making.</p>
Notice	<p>A sign with the details of proposed development must be installed on the site and written notice of the public meeting must be given to all properties within 120 metres of the subject lands; or, a notice must be published in a local newspaper or on the municipality's website.</p> <p>Within 15 days of acceptance of a complete application, the municipality must notify stakeholders (such as neighbours and public agencies), and make information available to the public.</p>	<p>No requirement to notify the public, the municipality, other ministries or relevant public agencies in advance of making an MZO.</p> <p>The Minister may decide to share information about the request with affected parties and partner ministries, or provide public notification, as outlined in the new Zoning Order Framework (see Section 4.11).</p>
Public Consultation	<p>The municipality must make relevant application information available to the public and hold a public meeting. Notice and relevant information must be given at least 20 days prior to the date of the meeting, where any person has an opportunity to comment.</p> <p>The municipality may also choose to hold an informal open house (with at least 7 days' notice) to hear comments from the public.</p>	<p>No legislated requirement for public consultation.</p> <p>See Section 4.9 for description of Ministry consultation practices in the new Zoning Order Framework.</p>

Step	Zoning Application through the Municipal Process (<i>Planning Act, s. 34</i>) ¹	Zoning Request through the Provincial MZO Process (<i>Planning Act, s. 47</i>)
Assessment	Municipal staff assess written and oral submissions received from the public, agencies and municipal departments, and may prepare a report summarizing comments and giving the municipal planning committee's recommendation (if any) to council to approve or refuse the application. The report may also recommend further actions that must be satisfied prior to the amendment if the application is approved.	There is no legislated requirement for the Ministry to review or complete assessments to satisfy any municipally requested conditions prior to the Minister making the MZO. The Ministry's new Zoning Order Framework states that staff may request additional information to support their assessment of the MZO request.
Decision	<p>The municipal council may pass or refuse to pass the amendment.</p> <p>The proponent, prescribed agencies and those who have requested to be notified of the decision must be notified within 15 days of the council's decision and provided an explanation of how any submissions affected the decision.</p> <p>The council's decision must be consistent with the PPS and conform with provincial plans and municipal Official Plans.</p>	<p>The Minister decides to make the MZO, refuse the request or take no action.</p> <p>If an MZO is made, public notice must be given within 30 days, in such manner as the Minister considers proper.</p> <p>The decision does not need to be consistent with the PPS or conform with provincial plans or municipal Official Plans.</p>
Appeals	<p>If the municipal council approves a zoning amendment, as of June 6, 2024, only the proponent, applicable landowners, a specified person, public body or the Minister can appeal to the OLT. If the municipal council refuses the amendment, or fails to decide within 90 days of receiving a complete application, only the proponent or the Minister may appeal to the OLT.</p> <p>The OLT's decision must be consistent with the PPS and conform with relevant provincial plans and the municipality's Official Plan. If no appeals are submitted to the OLT after notification of the municipality's decision, the amendment comes into effect.</p>	MZOs cannot be appealed to the OLT.

1. All of the steps listed are required under the *Planning Act* (s. 34, s. 69 and O. Reg. 545/06) for zoning bylaw amendments, with the exception of pre-consultation.

2.4.1 Permits and Approvals After MZO Filing

Once made, an MZO functions as a local zoning bylaw. In other words, proponents must still obtain subsequent approvals before construction or site preparation can begin. These include site plan approvals and building permits, and, potentially, permits from conservation authorities or other provincial ministries.

An MZO does not in itself exempt landowners from complying with other legislation, which may require approvals or permits regulated by other ministries, such as:

- » environmental compliance approvals and endangered species permits (Ministry of the Environment, Conservation and Parks);
- » highway corridor management permits (Ministry of Transportation); and
- » completing archaeological assessments and obtaining approvals under the *Ontario Heritage Act* (municipalities or the Ministry of Citizenship and Multiculturalism).

As of 2023, the Minister may order, when making an MZO, that the PPS, provincial plans and municipal Official Plans do not apply to these other required approvals. (See **Appendix 3** for a summary of the key permits and approvals that may be required after an MZO is filed).

Conservation authorities are created under the *Conservation Authorities Act*. They are mandated to identify and reduce risks to public safety associated with natural hazards and water quality. For example, they can prohibit or regulate development within their jurisdiction that could impact flood risk or other natural hazards, or interfere with a wetland or watercourse. For any development or site alteration within a conservation authority's prescribed regulated area, a proponent must obtain a permit.

2.5 How MZO Requests Are Processed

From 2019 to 2023, the Ministry tracked 169 requests for MZOs. As of May 2024, 114 of those requests had been granted, 35 were refused and no decision had been made on the remainder.

Prior to the introduction of the Zoning Order Framework in April 2024 (described in **Section 2.6**), there was no formal application or review process for MZOs. There are no specific criteria the Minister must consider or meet when making MZOs. The Ministry receives requests for MZOs from proponents either through Ministry staff or through the Minister's Office.

The Ministry supports the Minister's review and granting of requests for MZOs through the following governance structure:

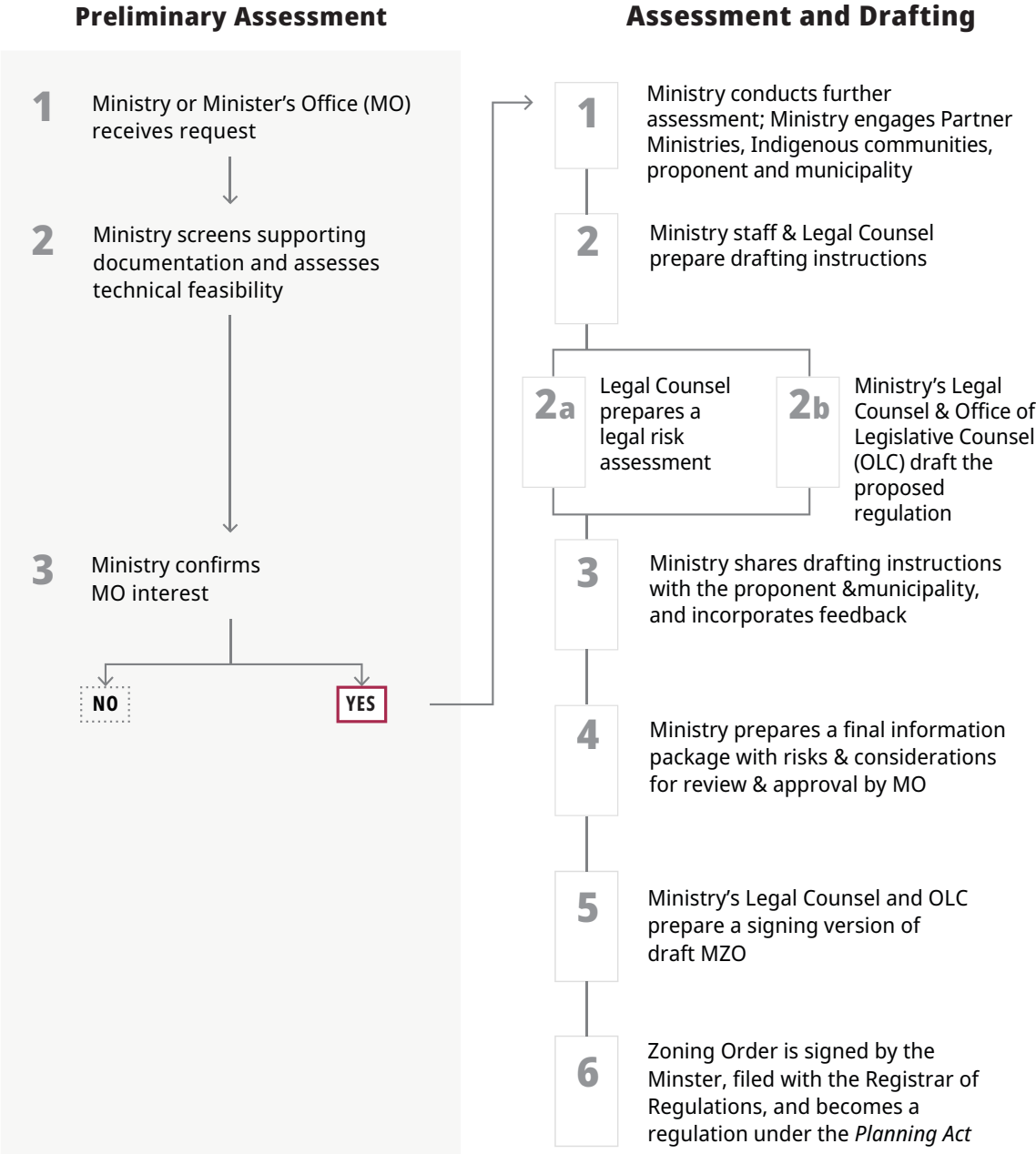
» **Minister's Office** staff are political public servants working directly for the Minister (such as the Chief of Staff, Deputy Chief of Staff and Director of Housing Policy) who provide overall and MZO-specific direction to Ministry staff on matters of municipal affairs and housing, including confirming with Ministry staff which MZO requests the Minister would like to consider, and overseeing Ministry staff's preparation of supporting information for MZOs.

» **Ministry** staff are non-political public servants who advise decision-makers on matters relating to municipal affairs and housing, such as land-use planning. They also provide guidance to municipal staff, and communicate key government priorities (such as housing initiatives) to stakeholders. The Ministry's staff gather relevant information relating to MZO requests and provide it to the Minister and the Minister's Office for decision-making.

Figure 7 provides an illustration of the typical process the Ministry used to address a request for an MZO between January 1, 2019, and December 31, 2023. As shown in the figure, Ministry staff prepare two key packages of information to inform the Minister's decisions on MZO requests. The Ministry first prepares a preliminary information package that it provides to the Minister's Office. If the Minister's Office provides direction to proceed with the MZO request, the Ministry completes further assessments and provides a final information package to the Minister's Office, together with a draft MZO regulation. At this point, the Minister reviews the information provided and decides whether or not to make the MZO.

Figure 7: Typical Process for Making Minister's Zoning Orders, 2019–2023

Prepared by the Office of the Auditor General of Ontario



* Note: The Ministry's MZO process evolved throughout 2019 to 2023. This flowchart is illustrative of the process used during the last two years of this period (2021–2023). This flowchart may not reflect the Ministry's current process introduced in April 2024 under the new Zoning Order Framework.

2.6 Recent Review and Changes to the MZO Process

2.6.1 Internal Review of MZOs

Shortly after the commencement of our audit on August 30, 2023, the Ministry announced an internal review of MZOs on September 6, 2023, “to increase transparency and support government priorities.” The review focused on MZOs that had been made between January 2019 and December 2022.

The Ministry's criteria included determining whether the project facilitated by each MZO had achieved substantial progress in terms of obtaining additional downstream approvals (for example, site plan approvals and building permits) and addressing water and wastewater servicing for the MZO sites within a reasonable time frame. This time frame has not been publicly defined by the Ministry.

On December 13, 2023, the Ministry launched public consultation on the Environmental Registry of Ontario (Environmental Registry) for several proposals related to MZOs, including:

- » revoking or amending eight MZOs where limited progress has been made (as a result of this consultation, in April 2024, the Minister revoked six and amended one of these MZOs);
- » placing an additional 14 MZOs under “enhanced monitoring” by the Province
- » over the next 18 months and considering these for amendment or revocation in the absence of significant progress; and
- » enhancing the monitoring framework relating to the implementation of all MZOs, with a focus on ensuring reasonable progress toward completion.

2.6.2 Recent Legislative Changes

Legislative changes to both the *Planning Act* and the *Conservation Authorities Act* from 2020 to 2023 have expanded the Minister's powers relating to MZOs, including by:

- » introducing Enhanced MZOs;
- » providing that MZOs do not have to be consistent with the PPS;
- » prohibiting conservation authorities from refusing development permits for any MZO areas outside of the Greenbelt;
- » exempting certain subsequent approvals on sites where an MZO has been made from having to align with provincial plans or policies; and
- » limiting the government's potential liability relating to MZOs.

See [Appendix 4](#) for further details on legislative changes' impact on MZOs.

2.6.3 Zoning Order Framework

During our audit, on April 10, 2024, the Ministry published a new Zoning Order Framework that guides proponents on what to expect for the:

- » **Intake of requests** – the Minister will only consider MZO requests from a Minister or those that are supported by a municipality.
- » **Submission components** – examples of the types of information that should be provided in the request.
- » **Ministry assessment** – which requests the Ministry will assess and the types of additional information it may ask for.
- » **Consultation and communication** – the Minister will consult on MZO requests through the Environmental Registry before finalizing the MZO, except in cases of time sensitivity. The Ministry will provide notification of the final decision on the registry.
- » **Refusal notification** – if a request is refused, the proponent will be notified as appropriate.

The new Zoning Order Framework notes that “as a discretionary matter, the Minister may elect to proceed with a zoning order where some, but not all, submission requirements are fulfilled.” Ministry staff further clarified that the Zoning Order Framework is a set of expectations, not requirements, as under the *Planning Act*, MZOs are made at the sole discretion of the Minister.

Although the Minister's compliance with this framework is not required, Ministry staff told us that the framework is intended to provide a consistent set of expectations for proponents and stakeholders, including municipalities, to understand what should be included with a request for an MZO and how the Minister may assess such requests.



3.0 Audit Objective and Scope

Our audit objective was to assess whether the Ministry of Municipal Affairs and Housing (Ministry):

- » provides timely and complete information relating to proposed MZOs to support informed decision-making and implementation of MZOs in accordance with the *Planning Act*; and
- » has established mechanisms to measure whether MZOs achieve their intended objectives.

We reviewed information prepared by Ministry staff to inform the Minister's decisions for all 114 MZOs made from 2019 to 2023, and performed in-depth assessments for 25 of those MZOs, based on our risk assessment (see **Audit Approach** for selection methodology).

For more details, see our **Audit Criteria**, **Audit Approach** and **Audit Opinion**.



4.0 What We Found

4.1 MZOs Can Help Address Urgent Matters and Provide Benefits to Ontarians

As described in **Section 2.3**, the 114 MZOs made in the five-year period from 2019 to 2023 represent a marked increase relative to the 27 MZOs made over the previous 20 years (1999–2018). While the frequent use of MZOs can undermine the municipal planning process in Ontario (described in **Section 2.4**), the municipalities and regions we contacted during the course of our audit highlighted several instances where they believed MZOs were needed.

Some of these MZOs bypassed planning requirements when urgent action was required and/or helped secure important benefits for Ontarians. For example:

O. Reg. 343/20 and O. Reg. 354/20 in the City of Toronto (City)

- » Zoned land for the development of 100 supportive housing units to provide safe and secure accommodation for members of the City’s homeless population in 2020 during the COVID-19 pandemic.
- » While the City Council could have adopted the zoning amendment on its own, those opposed to the project might have appealed that decision to the Ontario Land Tribunal, whereas MZOs cannot be appealed. These units have now been built.
- » The City also requested an MZO for another site for a similar project (described in **Section 4.3.2**), which has yet to be granted or refused by the Minister.
- » When the MZO was not made on a similarly expedited timeline, the City elected to go through its own municipal zoning amendment process nine months after it requested the MZO to enact the zoning change. The associated project was delayed for over two years while appeals were heard by the Ontario Land Tribunal.

O. Reg. 169/21 in the Municipality of Markham (Municipality)

- » Zoned land for development of a 160-bed long-term care home and a seniors' residence in 2021. According to the Municipality, which supported this MZO, the subject lands were previously zoned as an employment area. Changing their zoning to residential would have had to wait for the Municipal Comprehensive Review process, which was not expected to occur until the end of 2022.

O. Reg. 470/22 in the City of Windsor

- » Zoned lands to support the development of the province's first large-scale electric vehicle battery manufacturing plant in 2022, a \$5 billion investment that is estimated to create 2,500 jobs.
- » According to a government press release, funding for this project included private investors, as well as incentives of up to \$15 billion from the federal and provincial governments.
- » The private investors requested assurances that suitable zoning would be in place for the project. The MZO was made on August 19, 2022. As of April 2024, this project was under construction, targeting occupancy later in 2024.

While MZOs can help address urgent planning matters and contribute to public benefits, making them without performing due diligence can also result in challenges and negative consequences, as we outline in the following sections of this report.

4.2 Ministry's Preliminary Assessment of MZO Requests

4.2.1 Ministry Did Not Review Requests to Assess the Necessity or Appropriateness of Making an MZO

We reviewed the preliminary information packages that Ministry staff prepared for the Minister's Office for all 114 MZOs made from 2019 to 2023 and found that none of them contained an assessment as to whether the MZO was necessary (though a few did highlight reasons why a project might not be successfully re-zoned using the municipal planning process). We noted that there were no standard criteria for what should be included in the information package.

The Ministry confirmed that it did not generally challenge proponents (including municipalities) to confirm why the MZO was needed, nor why the project for which the MZO was being requested cannot be done using the municipal planning process.

The *Planning Act* requires the Minister to have regard for matters of provincial interest, such as safeguarding environmental and agricultural lands, and providing adequate employment opportunities and housing when making any planning decisions, including MZOs (see **Appendix 2** for a full list of provincial interests listed in the *Planning Act*). The Ministry told us it typically includes a list identifying the most relevant provincial interests relating to an MZO in information packages prepared for the Minister's Office. However, we found that:

- » 13 of the 25 MZOs (52%) in our sample did not include such a list or any other identification of provincial interests relevant to the MZO.
- » 15 of the 25 MZOs did not include a rationale for how the MZO would advance any provincial interest, while the remaining 10 provided some rationale relating to advancing one or more provincial interests.
- » None of the preliminary information packages for these 25 MZOs had an assessment of potential impacts (whether positive or negative) on all provincial interests relevant to those MZOs.

As neither the need for MZOs, nor how they advance provincial interests, were consistently assessed, many MZOs may have been made where they were not needed. Such MZOs included the following:

O. Regs. 170/21 and 171/21 in the City of Vaughan and the Town of Caledon

- » Made in 2021, these MZOs allowed for a mix of uses, including residential and commercial. These regulations were proposed for building around future GO Transit stations.

- » At the time of the MZO request review in 2021, the Concord GO station, in the City of Vaughan, had not been funded or committed to by the Ministry of Transportation (MTO). The business case analysis by Metrolinx, the provincial operator of GO Transit, did not support a new station in this location.
- » Similarly, the Bolton GO station, in the Town of Caledon, had also not been funded or committed to by MTO at the time of the MZO request review in 2021. There is no GO railway line passing through the area, and the Metrolinx capital plan did not anticipate such a station until beyond 2041.
- » Both the Ministry of Transportation and Metrolinx expressed concerns, in writing, to the Minister about issuing these MZOs before any formal provincial commitment and funding to build the GO stations have been made. They noted that the re-zoning was likely to result in increased expectations that stations would be provided. This information was provided to the Minister.
- » In addition, for O. Reg. 170/21, the Toronto and Region Conservation Authority (TRCA) informed our Office of significant flooding concerns with development in the MZO area. There was no mention of the provincial interest related to public health and safety or any information on potential flood risk in the information package for the Minister's Office. The Ministry did not engage with the TRCA before providing the information package to the Minister.

O. Reg. 167/21 in the Municipality of Clarington (Municipality), discussed in more detail in Section 4.6.3.

- » Zoning for this land was requested for the construction of a new Home Hardware Building Centre, which was supported by the municipality's council.
- » The preliminary information package prepared for the Minister's Office stated that the project would support economic recovery from the COVID-19 pandemic by creating local employment opportunities, and included a description of natural features on the site and its land-use designations.
- » The package did not explain how building a local store outside of settlement area boundaries would affect competing matters of provincial interest. For example, how provincial interests such as "the protection of ecological systems, including natural areas, features and functions" and "the supply, efficient use and conservation of energy and water" would be impacted by this development, and if it could support the provincial interest of "the adequate provision of employment opportunities," while planning for "the appropriate location of growth and development."

» The Ministry of the Environment, Conservation and Parks (MECP), the Ministry of Natural Resources (MNR), and the local conservation authority, who were asked for feedback by the Ministry, expressed significant concerns with the potential MZO to the Ministry, citing the loss of significant natural features and potential risks to groundwater, private wells and species at-risk habitat. See **Figure 8** for an aerial view of the site.

» The site area was highly protected from development in the Municipality's Official Plans. MECP stated in its feedback to the Ministry on the potential MZO, that "careful consideration should be given as to the appropriateness of approving re-zoning in cases where the proposal is not a matter of provincial interest" and/or "would be in direct non-conformity with all levels of policy in a significant way (especially without the completion of appropriate studies or reports)."

» The zoning order was made by the Minister in 2021 and the Home Hardware Building Centre was built in 2023. The wetland, woodland and meadow within the developable area have been removed. Other environmental impacts, including impacts on water quality, water quantity and species-at-risk, are unknown at this time.

Figure 8: Proposed MZO Boundary in Clarington (O. Reg.167/21)

Source: Municipality of Clarington Staff Report, 2020



Recommendation 1

We recommend that for each requested MZO, the Ministry of Municipal Affairs and Housing:

- assess and document whether there is a rationale for a project to be zoned by an MZO rather than going through the municipal planning process, including any timing considerations for the development;
- assess and document whether making the MZO would help to achieve the project's goals and the Minister's objectives for making MZOs relative to the municipal planning process;
- assess and document how the MZO could impact (positively or negatively, for example, risks and benefits) all applicable matters of provincial interest under the *Planning Act*; and
- include the results of these assessments, stakeholder outreach results and concerns identified, and the planning advice of the Ministry's land use planning experts in the information package for the Minister to ensure they are making an informed decision.

For the auditee's response, see **Recommendations and Auditee Responses**.

4.2.2 Ministry Did Not Assess the Plausibility of the Benefits Proposed by MZO Proponents

Requests for MZOs can include claims regarding potential project benefits, such as housing units to be constructed and new jobs to be created. We found that proponents' claims were communicated by the Ministry in information packages provided to the Minister's Office as is, without indicating that they had not been reviewed for reasonableness or plausibility by the Ministry's land-use planning experts.

We reviewed a sample of 25 MZOs and found that 17 or 68% included claims submitted in MZO requests that were not supported by evidence (such as with studies) and not challenged through due diligence. For example:

O. Reg. 525/22 in Collingwood (Town)

- » Zoned land for development of a health and wellness village in the Town. The proposal included the creation of approximately 16,000 construction jobs and between 3,500 and 6,500 permanent jobs. No evidence or due diligence were completed or provided to or by the Ministry to substantiate these claims.
- » According to a 2023 labour force report by the Town, 13,757 people are estimated to be in the Town's labour force. The number of permanent jobs expected to be created by this development would amount to between 25% and 47% of the labour force.
- » Ministry staff did not report to the Minister's Office on whether the proponent's claims appeared unrealistic, given the potential impact on the size of the labour force.

O. Reg. 157/22 in Caledon

- » Zoned land was requested for the development of a warehouse and distribution centre. The MZO request claimed that "due to the timing required to complete the Regional and Town Municipal Comprehensive Review, as well as the site-specific planning process, we expect that the buildings would not be operational until 2025 at the earliest, jeopardizing the commitment from the users who are ready to begin construction immediately, with the goal of having jobs online by the end of 2022 or early 2023."
- » This MZO request was received in October 2021 and made in March 2022 without first confirming that construction could begin immediately. As of April 2024, no construction had begun. Only a grading permit has been obtained and site plan approval was expected in 2024.

We spoke with Ministry staff about their process for validating and assessing beneficial claims within requests for MZOs, such as claims regarding the number of housing units expected to be built or the number of new jobs expected to be created. Ministry staff confirmed that they do not

assess whether such claims are supported by studies, and do not assess the reasonableness or plausibility of the claims through their own due diligence work.

Over the past five years, the Ministry has on several occasions prepared briefing documents regarding the expected accomplishments of MZO for elected officials based on unsubstantiated claims provided by proponents. These included claims that, collectively, making the MZO would:

- » support the construction of over 117,000 housing units, and around 900 supportive housing units;
- » facilitate thousands of long-term care beds; and
- » help create over 152,250 new jobs.

The briefing materials did not mention that all of this information came directly from the MZO proponents, and that no due diligence work had been performed by Ministry staff to assess the appropriateness of any of the assertions made.

Recommendation 2

We recommend that for each MZO request, the Ministry of Municipal Affairs and Housing (Ministry):

- perform due diligence to assess, to the extent possible, and document whether the project's expected outcomes and benefits are feasible and plausible, such as by requesting and reviewing supporting studies, evidence or calculation methodologies; and
- include the results of this due diligence in the information package (where applicable) for the requested MZO prepared for the Minister's decision-making.

For the auditee's response, see [Recommendations and Auditee Responses](#).

4.2.3 Ministry Did Not Accommodate Conditions the Municipalities Asked For

The *Planning Act* does not require that MZO be agreed to by the municipality in which they are located. The government's public communications, however, have highlighted municipal support for MZO requests as an important factor for the Minister.

Municipalities that chose to support a proponent's request for an MZO within their jurisdiction often did so on the basis of specific conditions, such as the proponent ensuring a minimum number of affordable housing units, or assessing and addressing environmental risks.

While there is no mechanism to include specific conditions in a regular MZO (such as requirements for affordable housing or for specific studies to be completed prior to development) due to the constraints of MZOs as defined in the *Planning Act*, we found several methods available to the Minister and the Ministry to work around this limitation. For example, MZOs can contain zoning parameters, such as limits on building height, setbacks (buffer areas from roads or natural features) and Environmental Protection Zones. In addition, Enhanced MZOs (eMZOs), a type of MZO introduced into the *Planning Act* in 2020, allow the Minister to exercise “Inclusionary Zoning” powers in MZOs. Inclusionary Zoning is a land-use planning tool that some municipalities have to require affordable housing units to be included in residential developments in certain areas.

As well, the Minister can delay making an MZO, or make an MZO with a future commencement date (as was recommended by Ministry staff for O. Reg. 362/19 in the Township of Oro-Medonte). Both options would allow a period of time for the proponent to meet municipal conditions. For example, the proponent could complete technical studies or sign a development agreement with the municipality to ensure that a site is developed in a particular manner that could secure specific public benefits, such as affordable housing.

However, as described in the following two sections, we found that for many MZOs we reviewed, the Ministry told the municipality that the requested conditions could not be accommodated through an MZO. In these cases, the Ministry did not consistently present all available alternative options that could have helped achieve the municipality's goals. In many instances, the draft MZO was shared with municipal staff for consideration prior to filing. In other cases, the MZO was made without the Ministry checking to see if the municipality still supported the MZO without the conditions.

The Ministry Does Not Track the Number of New Affordable Housing Units Created Through MZOs

On November 22, 2021, the former Minister said to the Legislature: “We are using every resource at our disposal to put affordable home ownership within reach for more Ontarians. That includes Minister's Zoning Orders.”

During the period of 2019 to 2023, 58 MZOs were made primarily for housing. Of these, 10 were made specifically for affordable or supportive housing projects. This amounts to 687 units, or less than 1% of the 129,525 new housing units that proponents communicated to the Ministry would be created through MZOs.

None of the remaining 48 MZOs made required affordable housing, including 12 (25%) where a municipality specifically requested affordable housing as a condition. While an eMZO could have been used to include a requirement for affordable housing units after this power was enacted in 2020, the Minister has never used an eMZO to do so.

The Minister's Office noted internally that affordable housing should be worked out between the proponent and the municipality through an Inclusionary Zoning framework instead of an MZO.

We noted, however, that most municipalities do not have Inclusionary Zoning frameworks, so this option is not available to them.

We also found that between 2019 and 2023, 10 eMZOs were made to override the possibility of using municipal Inclusionary Zoning. In these cases, affordable housing could now only be included if the developer voluntarily agreed to it, since the municipality cannot impose such a condition through Inclusionary Zoning that conflicts with the eMZO. The Ministry advised that, for these sites, affordable housing would be addressed separately through commercial agreements between the Crown and the Transit Oriented Communities (TOC) building partner. We noted that during this period, eMZOs had never been used to add Inclusionary Zoning for affordable housing.

Ministry staff told us that, for some MZOs, the Minister waited for municipalities and developers to sign agreements that included affordable housing units before granting the MZO. However, the Ministry did not track which MZOs had such agreements in place or how many affordable housing units were agreed to.

Examples where municipalities requested the inclusion of affordable housing included the following:

O. Reg. 525/22 in the Town of Collingwood (Town)

- » As described in **Case Study 1**, the Town of Collingwood supported the request for an MZO on the condition that 10% of the new development be a mix of affordable or attainable housing.
- » The Ministry had discussions with municipal staff about the potential use of a Community Infrastructure and Housing Accelerator (CIHA), whereby conditions could be imposed. The Ministry did not recommend to the Town that an eMZO could be requested instead of a CIHA to implement Inclusionary Zoning. A CIHA would have required greater effort to implement for the Town.
- » The municipality was not asked whether it was still supportive of the re-zoning without the affordable housing. The MZO was made before the Town was able to negotiate a development agreement with the proponent.

O. Reg. 170/21 and O. Reg. 643/20 in the City of Vaughan (City)

- » The City submitted two MZO requests to the Ministry asking for the proposed developments to include 10% or more affordable housing units. However, neither MZO accommodated this condition, and the City was not notified of this before the MZOs were made.
- » The Ministry subsequently received a media question about the absence of any affordable housing requirements for one of these MZOs, citing the frustration of one Vaughan City Council member whose support for the MZO was predicated on affordable

housing benefits to the community. In an email response on October 27, 2021, to an inquiry about this from a member of the Minister's Office, another member of the Minister's Office stated internally that "a council resolution is simply a request from a municipality for the minister's consideration. Whether the Minister wants to incorporate it or not is up to his discretion."

O. Reg. 40/23 in Seguin Township (Township)

- » As part of its support for an MZO, the Township's Council requested the proposed development include 25% affordable housing units. The Minister's Office directed Ministry staff to prioritize this MZO request and prepare it for the Minister's signature within two weeks as a regular MZO (which cannot accommodate affordable housing conditions).
- » In this case, Ministry staff recommended against the two-week deadline and further recommended to process the request as an eMZO that included the Township's request for affordable housing.
- » The Minister's Office rejected the recommendation and the MZO was made approximately two weeks later without any affordable housing requirements. The Township was never informed that an eMZO was possible.

We found multiple instances where Ministry staff told municipalities that, while their MZO request could not accommodate affordable housing requirements, the municipality could explore other mechanisms like development agreements with the proponent.

O.Reg. 170/21 in the City of Vaughan was made without the inclusion of the City's request of 10% affordable housing. When City staff tried to reach a development agreement with the proponents after the MZO was made, they were unable to. One Vaughan councillor told us that once the Minister made the MZO without any affordable housing requirements, one of the proponents was no longer willing to include affordable housing in the development.

Municipal Conditions to Assess and Mitigate Potential Risks Were Not Accommodated in the MZO

We found that for six of the 25 MZOs in our sample, municipalities wanted specific technical studies or stakeholder engagements to take place, as would be done for municipal zoning amendments, or asked that the MZO include commitments to specific environmental policies.

In four of these cases, the conditions requested by the municipality were not included in the preliminary information package provided to the Minister's Office. In all six cases, no adjustments were made, including to the timing of the MZO, to address these conditions before issuing the MZO. For example:

O. Reg. 156/22 in the City of Vaughan (City)

- » The MZO was requested with several conditions, including that the function and extent of natural features on the property (wetlands, valley, streams and woodlands) be assessed by the landowners "in accordance with Provincial and TRCA standards, to the satisfaction of the TRCA and the City."
- » Assessing the function and relative importance of natural features before zoning changes is critical, as some provincial protections for such features can be removed if their area is zoned for development within an MZO (see **Section 4.6.1**).
- » The TRCA proactively submitted information to the Ministry between December 2020 and May 2021, related to the environmental and natural hazard risks on the site, including the removal of a wetland that was evaluated according to provincial standards five years earlier and designated for protection.
- » The TRCA recommended avoiding development over key natural features and completing technical studies prior to any development.
- » The Ministry did not request any further information from the TRCA to inform its review, and the MZO was made without completing any of the recommended actions for mitigating risks.

O. Reg. 172/21 in the City of Markham (City)

- » The MZO was requested by the City on February 9, 2021, for a residential development that included several conditions. The City wanted the proponent to complete all studies that are normally required before zoning decisions are made, including an Environmental Impact Study, and to address any conditions requested by the TRCA.
- » On February 24, 2021, Ministry staff were directed by the Minister's Office to draft the MZO within two weeks. Ministry staff noted that they would need to engage with the City to determine the degree to which the City's requests could be fulfilled, and asked if the requests were expected to be fulfilled prior to making the MZO.
- » Ministry staff noted in the final information package to the Minister that the TRCA opposed the MZO based on the "need for the completion of environmental and other studies prior to any MZO coming into effect" after engaging with the TRCA.
- » The MZO was made nine days later without any studies being completed, absent any conditions being met.

Recommendation 3

We recommend that the Ministry of Municipal Affairs and Housing:

- inform all municipalities about what options and parameters are possible for MZOs and eMZOs, and what additional tools may be available to achieve municipal objectives;
- in cases where an MZO request is supported by a municipality, confirm whether this municipal support is contingent on the inclusion of any conditions;
- clearly identify whether, and upon what basis, municipal support exists within the preliminary information package prepared for the Minister of Municipal Affairs and Housing's (Minister) Office; and
- provide options, including risks and benefits of those options, for the Minister's consideration for how the conditions of municipal support can be addressed.

For the auditee's response, see [Recommendations and Auditee Responses](#).

Recommendation 4

We recommend that the Ministry of Municipal Affairs and Housing:

- assess and document the potential impact of any studies requested by the municipality, including the risk of not completing them;
- identify to the Minister the risks of not completing these studies before making the MZO; and
- provide the Minister with options that would allow for the completion of the studies after the MZO is made.

For the auditee's response, see [Recommendations and Auditee Responses](#).

Case Study 1

O. Reg. 525/22 in the Town of Collingwood

On August 29, 2022, the Ministry received an email containing a letter from the Mayor of the Town of Collingwood (Town) supporting a developer's request for an MZO. The MZO would facilitate the development of a proposed mixed-use community called the **Poplar Regional Health and Wellness Village (Poplar Village)**. A Town Council Resolution of August 18, 2022, was included in the email. As one of the conditions for its support, the council had set a minimum of 10% of new housing units to be a mix of affordable and attainable housing.

The proponent for the re-zoning projected that Poplar Village would create 16,000 construction jobs and between 3,500 and 6,500 permanent jobs. Given that there are 13,757 people in Collingwood's labour force, this estimate of between 3,500 and 6,500 permanent jobs created would amount to between 25% and 47% of the town's labour force. Ministry staff did not assess the likelihood that these proposed economic benefits will be realized and the estimates themselves were not supported by any evidence, such as cited studies.

The site proposed for the Poplar Village is located in the Nottawasaga River Valley, an area containing locally significant creeks, meadows and woodlands. The local conservation authority, the Nottawasaga Valley Conservation Authority, regulates the land for flooding and erosion hazards. Since this is an MZO, the conservation authority was not required to be consulted during the review as they would have done in the municipal planning process. There was also no Environmental Impact Study completed to assess potential environmental and natural hazard risks of the MZO.

When the Ministry of the Environment, Conservation and Parks was informed by the Ministry during its review of the MZO about the proposed re-zoning, it identified the site as a potential habitat for endangered or threatened species such as butternut trees, barn swallow, bobolink, chimney swift and the eastern meadowlark. This information was provided to the Ministry, and the Ministry provided this information to the Minister.

By October 2022, an MZO had been drafted. The Town was focusing its efforts on finalizing an agreement with the developer to secure additional community benefits, such as a donation of land for a future hospital. The Ministry's internal documentation noted, on October 31, 2022, that "the Town of Collingwood will confirm the final draft MZO, which will form the basis of [the Ministry's] drafting instructions." The Town reiterated to the Ministry in early November that its support for the re-zoning was *in principle* support, since an agreement with the developer had not been finalized.

Then, on November 14, 2022, Ministry staff received an email from the Deputy Minister's Office stating that the direction from the Premier's Office was to "move forward on the Collingwood MZO immediately." The next day, the draft MZO was shared with the developer for an "expedited review." It was not shared with the Town.

The final version of the MZO, which did not include any affordable or attainable housing requirements, was sent to the Minister for signature on November 16, 2022. Staff noted in the accompanying MZO information package to the Minister: "in order to meet desired timelines the Ministry and [Legislative] Counsel were unable to complete the normal due diligence. As a result, there may be errors that result in the MZO not achieving the intended outcomes and a need to amend this MZO post-filing."

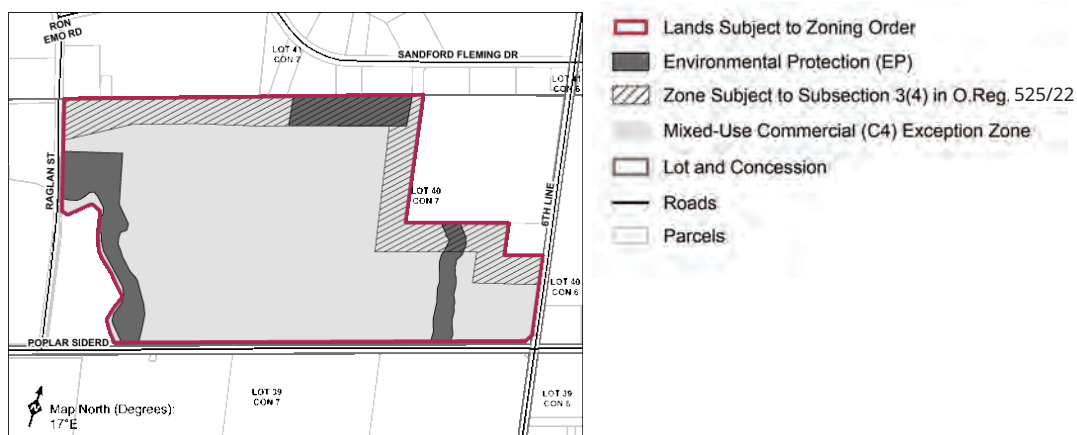
Meanwhile, on that same day, the Collingwood Town Council voted to pause support for the MZO and sent the Minister a letter requesting the Minister to pause the MZO decision, at least until the development agreement could be negotiated. The next day, the Town received an email from the Ministry that the MZO had been made (see **Figure 9**). The development agreement between the Town and the developer was not yet finalized.

The Town informed us that servicing for Poplar Village will require significant upgrades to municipal servicing capacity, including an expansion of the water treatment plant. According to the Town, as of June 2024, these upgrades are not yet in place. The Town ultimately finalized a development agreement with the developer on December 6, 2023, which included a commitment to provide a mix of affordable and attainable housing (10% of housing units) and a donation of up to 30 acres of land for a hospital—13 months after the MZO was made.

According to an Environmental Registry notice on December 13, 2023, the Ministry placed this MZO on "enhanced monitoring" for limited progress. Enhanced monitoring means that the Minister may consider potential revocation or amendment to the MZO in the future if there is a lack of significant progress.

Figure 9: MZO Boundary in the Town of Collingwood (O. Reg. 525/22)

Source: Ministry of Municipal Affairs and Housing



4.3 Some MZO Requests Went Unanswered for Years While Others Were Prioritized by the Minister's Office Without Any Documented Rationale

One of the key reasons that proponents give for requesting an MZO is to expedite zoning changes. We analyzed how long it took from the receipt date of the request to the date the Ministry provided a draft MZO regulation to the Minister's Office, for each of the 109 MZOs made from January 2019 to May 2023. We found that the time frame varied significantly, from less than one week to 84 weeks (19 months). The average time frame was 14 weeks (3.3 months), more than double the Ministry's internal target of six weeks that was established in 2021. About one-third of the MZOs met this target. Subsequently, in June 2023, the Ministry changed its target to 13 weeks (three months); four out of five MZOs made between June and December 2023 met this target.

The *Planning Act* sets statutory timelines for municipalities to make decisions on amendments to zoning bylaws within 90 days (three months) of receiving a complete application, the same time frame as the Ministry's revised target for MZOs. Timelines for decisions on amendments to Official Plans are 120 days (four months) after receiving a complete application. We found that 29 of the 114 MZOs, or 25%, of the final information packages were shared with the Minister for consideration to make the MZO more than 120 days (four months) after the request was received. Thirteen of these 29 requests took longer than six months. **Figure 10** shows how long it took MZOs to be presented to the Minister for review.

By comparison, the municipalities we spoke to during our audit told us municipal zoning amendments took between three and 18 months to accomplish, depending on the location and complexity of the requested amendment, and the completion of applicable technical studies.

As we detail in **Sections 4.3.1** and **4.3.2**, many MZOs were prioritized for assessment without any documented rationale, and some requests were never assessed at all.

Figure 10: Number of MZOs Prepared for Minister's Review Within a Specified Time Frame

Source of data: Ministry of Municipal Affairs and Housing

Up to 6 weeks	Up to 13 weeks (3 months)	Up to 120 days (4 months)	Up to 6 months	Up to 20 months
37 (32%)	69 (61%)	85 (75%)	101 (89%)	114 (100%)

4.3.1 The Minister's Office Prioritized Certain MZO Requests with Short Timelines Without a Documented Rationale

We found there is no protocol for prioritizing the requests for MZOs, nor for documenting the rationale for such prioritization. The Minister's Office prioritized nine (or 36%) of the 25 MZOs in our sample above other pending MZO requests. In these cases, the Minister's Office asked that the requests be reviewed and information provided to the Minister within specific timelines. No rationale was documented for either the prioritization or any of the time frames given to the Ministry to complete its work.

Seven of these nine MZO requests were granted within a month of being prioritized by the Minister's Office. Some of these MZO requests were prioritized while the Ministry was in the early stages of its review, while in other cases the Ministry's review was further along. Accordingly, the information packages the Ministry provided to the Minister's Office for decision-making varied in depth and analysis. The Minister made each of these requests within two days of receiving the Ministry's information package.

O.Reg. 698/20 in Richmond Hill

- » One of these requests became O. Reg. 698/20 in Richmond Hill, which zoned land for the development of residential units and a senior care facility.
- » Approximately four weeks after receiving this request for an MZO, the Ministry was given a seven-day deadline by the Minister's Office to make this a high priority and prepare the draft MZO regulation for the Minister's consideration.
- » Ministry staff internally raised various issues and considerations surrounding the complex drafting requirements for this MZO and cautioned that an accelerated timeline may lead to a higher risk of errors or omissions. Accordingly, Ministry staff noted that there was a likelihood that amendments would have to be made to this MZO in the future.
- » Notably, this was one of 14 MZOs made by the Minister without receiving a corresponding information package from the Ministry's land-use planning staff that summarizes relevant risks and concerns and other information for the Minister's consideration in decision-making. All 14 of these MZOs were made in 2020.

Appearance of Preferential Treatment for Some MZO Requests

The *Public Service of Ontario Act, 2006* states that: "When performing his or her duties to the Crown, a public servant shall endeavour to avoid creating the appearance that preferential treatment is being given to a person or entity that could benefit from it."

For four (or 16%) of the 25 MZOs we sampled, we found documentation that a high-ranking member of the Minister's Office staff (who most recently held the title of Deputy Chief of Staff) directed Ministry staff to prioritize an MZO request for which this individual had been directly lobbied.

In one of these four cases, this individual told Ministry staff that the Minister and Premier were asking for that MZO, specifically, to be finalized. While this was conveyed to Ministry staff by the individual, the Ministry indicated that it did not have documentation from the Minister and/or Premier asking for this request to be prioritized. No other documented rationale was given as for why these four requests should be prioritized ahead of others. As described in **Case Study 2**, this individual from the Minister's Office also personally made technical edits to the wording in the MZO regulation; directed staff to remove zoning protections for specific natural features from the MZO map, which would allow these natural features to be removed from the land; and passed on exact wording for the MZO regulation from the developer to the Ministry staff.

Actions such as this give the appearance of preferential treatment for some proponents of MZOs over others.

4.3.2 Some MZO Requests Were Left Unanswered for Years

We found there was no policy or protocol in place to notify proponents if their request for an MZO was refused, or was no longer being considered by the Minister. The *Planning Act* does not require the Minister to come to a decision about an MZO request, nor does it specify when or how the proponent should be notified of a refusal. The Ministry sent out refusal letters to proponents relating to 35 MZO requests that were received from 2019 to 2023.

We found that the average time it took to issue a refusal letter was nearly a year (331 days). Amongst these refusals were two requests from the City of Brampton that lingered for 895 days (nearly 2.5 years) before the City was notified. Without an established notification policy, proponents may waste considerable time waiting for a response.

As of February 2024, the Ministry had a total of 48 pending MZO requests; 34 (71%) of these requests were older than six months, and 14 (29%) had been pending for over one year.

City of Brampton

- » The City of Brampton sent a request for an MZO to the Ministry on September 29, 2021. After waiting for almost a year for an answer, the City Council instead approved an Official Plan amendment for the same development on August 26, 2022.
- » Brampton's mayor subsequently received a refusal letter from the Minister on November 29, 2022. In this letter, the Minister stated that the reason for refusing the MZO request was that Brampton City Council had already approved an Official Plan amendment.

City of Toronto

- » Another case involved an MZO request from the Toronto City Council in 2021 to fast-track zoning changes for a “modular housing initiative” for people experiencing homelessness. The MZO request proposed a three-story building with up to 60 supportive housing units that was to be partially funded by the federal government. After waiting more than a year for the MZO, the council adopted a zoning bylaw amendment in May 2022 to permit the development.
- » This amendment was then appealed at the Ontario Land Tribunal by neighbourhood groups.
- » Although the Ontario Land Tribunal eventually found no land-use planning basis for the appellants’ opposition to the project, and dismissed the appeal in January 2024, the project was stalled for nearly three years.
- » In contrast, seven similar requests for MZOs by the City of Toronto, which were made by the Minister in 2020 and 2021, have already been built.
- » The City of Toronto noted in June 2024 that the costs of the modular housing project had gone up substantially since its original request, by at least \$22 million.

The Ministry told us that, with the introduction of the new Zoning Order Framework (described in **Section 2.6**), it plans to introduce a timeline for providing an update to MZO proponents about their request in instances where the Minister had not made a decision after a certain period of time. The Ministry noted that the Minister still retains full discretion whether to make a decision on MZO requests on a timeline that the Minister deems appropriate.

Recommendation 5

We recommend that the Ministry of Municipal Affairs and Housing (Ministry) document the Ministry’s priorities in processing MZO requests and instances where requests for MZOs are not prioritized in accordance with those priorities.

For the auditee’s response, see [Recommendations and Auditee Responses](#).

Recommendation 6

We recommend that the Ministry of Municipal Affairs and Housing (Ministry):

- maintain a record of each request for an MZO, including the date it was received, and the timeline of key milestones up until the Minister of Municipal Affairs and Housing's (Minister's) decision relating to it;
- establish target time frame to notify requestors about the status of their request for an MZO, where a decision on the MZO has yet to be reached by the Minister; and
- monitor and publicly report on an annual basis whether service standards and requestor notification standards are met.

For the auditee's response, see [Recommendations and Auditee Responses](#).

Recommendation 7

We recommend, in instances where the Ministry of Municipal Affairs and Housing (Ministry) has to expedite its review of MZO requests, that:

- the Ministry clearly document and communicate to the Minister the assessments or due diligence steps it was unable to undertake or complete; and
- where practical, provide an estimated time frame to the Minister for undertaking and completing such steps.

For the auditee's response, see [Recommendations and Auditee Responses](#).

Case Study 2

O. Reg. 160/22 in the Township of Cavan Monaghan

On December 6, 2021, the Township of Cavan Monaghan (Township) passed a resolution supporting an MZO for a “tourist-related and residential development” project that included a horse-racing track, a casino and residential housing called Kawartha Downs. The Township’s Mayor and his staff sent their MZO request directly to a senior member in the Office of the Minister of Municipal Affairs and Housing (Minister). This senior member most recently held the title of Deputy Chief of Staff, and is hereinafter referred to as MDCS.

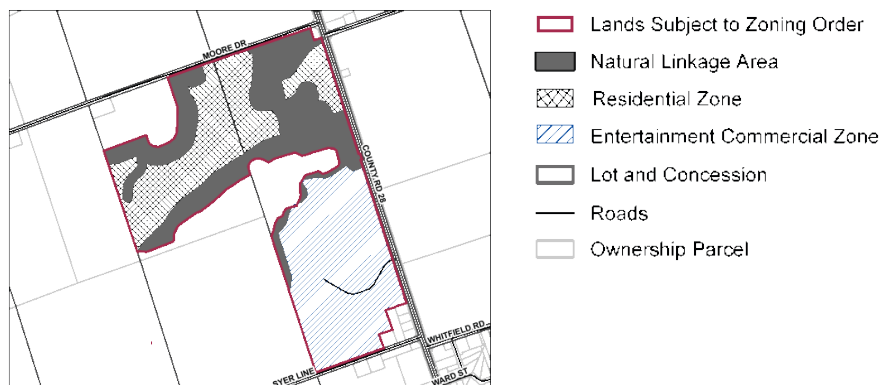
In typical practice, the Minister’s Office provided instructions to staff at the Ministry for all MZO’s, and MDCS usually brought MZO information packages and drafts prepared by staff to the Minister for his review and granting. The Minister’s Office promptly relayed the Township’s request to Ministry staff to action it.

The developer’s environmental study noted there was a provincially significant wetland (PSW) on portions of the subject lands, as well as watercourses, unevaluated wetlands, significant woodlands, and habitat for endangered and threatened species on or adjacent to the site. The developer told the Ministry, the Township and the Otonabee Region Conservation Authority (ORCA) that the “residential development will not impact the natural heritage system” and provided a draft MZO map that excluded several areas with natural features from the developable area.

During the Ministry’s engagement with the Williams Treaties First Nations, Ministry staff presented the map showing which areas were to be protected from development (see **Figure 11**), and explained that the PSW would not be included within the potential MZO boundary.

Figure 11: Potential MZO Boundary for Developable and Protected Areas (O. Reg. 160/22)

Source: Ministry of Municipal Affairs and Housing

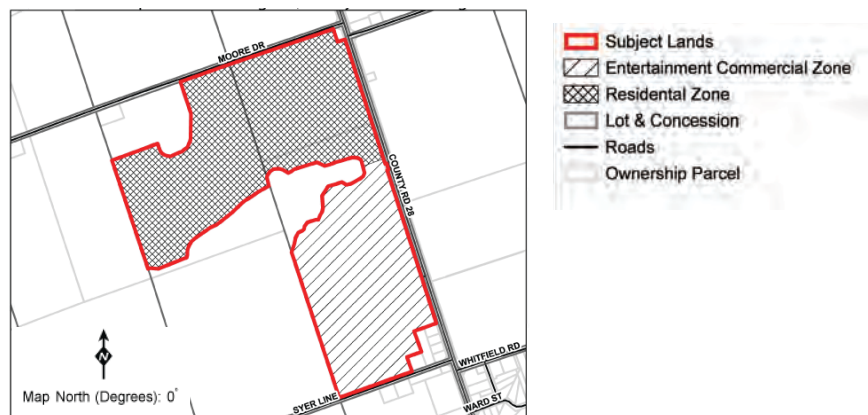


Note: Natural Linkage Areas were proposed to be protected from development and used only for conservation, forest management and low intensity recreation.

Two days before the MZO was made, the consultant, working on behalf of the developer, requested that some of the natural areas, including portions of the PSW, be included in the developable area as protecting them would have resulted in constraints for development. MDCS sent Ministry staff an email directing them to alter the mapping of the MZO, and attaching the exact mapping changes (see **Figure 12**) that removed municipal zoning protections from many of the natural features.

Figure 12: Final MZO Developable Area (O. Reg. 160/22)

Source: Ministry of Municipal Affairs and Housing



Neither the Williams Treaties First Nations nor ORCA was notified or consulted on these changes prior to the MZO being made. Ministry staff noted in an internal email that this sudden change increased risks associated with Indigenous community engagement because, during a meeting with Williams Treaties First Nations representatives, “ministry staff conveyed in no uncertain terms that the natural environmental features on the properties (including portions of the Cavan Creek PSW) would be protected/will not be developed.”

The MZO for Kawartha Downs was filed on March 4, 2022, as O. Reg. 160/22.

Three months after the MZO was made, the Township’s Mayor and staff emailed a request for an amendment to the MZO directly to the political party email, as well as to MDCS. The amendment request was to clarify that outdoor venues for concerts and music festivals and outdoor amphitheatres are permitted in the Entertainment Commercial Zone of the subject lands.

Ministry staff reviewed this additional application for three months before a consultant for the Kawartha Downs project (who was not a registered lobbyist) set up a lunch meeting with MDCS at a downtown Toronto restaurant for September 20, 2022. On September 23, 2022, the MZO amendment was made.

The Kawartha Downs consultant set up another lunch meeting with MDCS at the same restaurant six days later. On September 27, 2022, the consultant passed along information for a request to remove land from the Greenbelt. MDCS provided the request to the Minister's Chief of Staff (see our 2023 Special Report on Changes to the Greenbelt.)

This same consultant also represented another project in the Township, for which an MZO was requested on March 7, 2022. MDCS sent Ministry staff an email on December 23, 2022, asking them to prioritize the March 7 MZO request "as the next MZO to be done" and "as soon as we can make it happen." In a follow-up email on the same day, MDCS noted to Ministry staff that "the Minister and Premier are asking for this." While this was conveyed to Ministry staff by MDCS, the Ministry did not have documentation from the Minister and/or Premier asking for this request to be prioritized.

The MZO was promptly prepared for filing and O. Reg. 5/23 was filed on January 20, 2023, around one month later. For information on environmental issues relating to O. Reg. 5/23, see **Section 4.6.3.**

For yet another Township MZO (O. Reg. 250/22), MDCS personally made highly technical edits to the draft MZO (including increasing the permitted building height) two days prior to being made. MDCS provided these edits to Ministry staff to process with no explanation regarding the reason or purpose of the changes.

In each of the three Township MZOs, MDCS directed Ministry staff to prioritize these MZOs after communicating directly with developers or their consultants, whether by email or in meetings.

The development for O. Reg. 160/22 was based on municipal water and sewer services, which requires an extension of municipal servicing to the site. More than a year after the MZO was made, the Ministry was notified, through its quarterly update process with municipalities, that municipal servicing will not be available at all. The developer will likely have to proceed with private servicing. Aside from additional costs, private servicing requires environmental studies, delaying this project by at least another year.

As of June 2024, three major municipal applications relating to this project (site plan, official plan amendment and plan of condominium) have still not been approved, because, to date, the environmental assessment has not been completed. As part of the Ministry's internal review in December 2023, O. Reg. 160/22 was assessed and placed on an "enhanced monitoring" list due to its lack of progress.

4.4 Infrastructure and Site Servicing Issues Were Often Not Identified Prior to Making an MZO

Housing development would typically require the provision of utilities (including water, sewage and electricity), road networks and supporting services in the vicinity (such as schools, hospitals, fire stations and police stations). This is why an assessment of servicing capacity and availability is a key step in the municipal zoning amendment process and can influence the municipality's decision to approve or reject the application.

In two-tier municipalities, servicing is typically managed by the upper-tier offices, whereas in single-tier municipalities, servicing is typically managed by municipal offices.

Access to site servicing is a key consideration for any development. For 83 of the 114 MZOs made from 2019 to 2023, we found that the Ministry did not provide the Minister's Office with an assessment of whether the sites for which the re-zoning was requested had any access to servicing.

As of April 2024, 18% of projects relating to MZOs were still facing significant delays because of site servicing issues.

We noted that MZOs located in two-tier municipalities accounted for 52 out of 114 MZOs made from 2019 to 2023. We met with the four regional planning departments in central Ontario (Peel, Niagara, York and Durham) where 47 of these 52 MZOs are located.

Planners in three of these regions informed us that the Ministry never asked whether their region had the capacity to service the sites before granting the MZOs; planners in the fourth region also noted the Ministry rarely did so. In our discussions with these regions and municipalities, servicing challenges for MZO sites was the most commonly cited issue with accommodating MZOs, often creating years of delays before development can even begin.

Areas outside of municipal settlement boundaries typically have not been studied or assessed for most types of development, and would not be part of municipal plans for servicing until at least the next Official Plan review, which occurs every five to 10 years. Of the 114 MZOs made from 2019 to 2023, we found that 37 (32%) were for development projects outside of settlement areas at the time the MZOs were made.

We also reviewed information packages provided to the Minister's Office for all 114 MZOs made from 2019 to 2023 and found that the availability of servicing for the sites was not considered in the majority of cases. We found that the availability of servicing was mentioned in just 31 (or 27%) of the packages.

In September 2021, the Ministry began to contact municipalities to request quarterly updates on the status of MZO-related projects in their jurisdictions. We obtained all such status updates for April 2024 and found that 21 (18%) out of 114 MZOs made from 2019 to 2023 were still facing significant delays resulting from site servicing issues. Municipalities had estimates for servicing

relating to nine of these 21 MZOs (43%). The municipalities estimated that servicing the sites relating to these nine MZOs would take between three and 20 years. For the remaining 12 of these 21 MZOs (57%), the municipalities expected long-term servicing delays, but did not have an estimated time frame.

For 15 of these 21 MZOs, site servicing concerns were not identified and assessed in the information packages provided to the Minister's Office. We found examples of MZOs where system capacity is not available to accommodate the related development:

- » O. Regs. 161/22, 162/22 and 165/22 in the Township of Southgate;
- » O. Reg. 171/21 in the Town of Caledon; and
- » O. Reg. 525/22 in the Town of Collingwood, also discussed in [Case Study 1](#).

In these cases, expansions to treatment plants and piping infrastructure would be needed, requiring years of work at a significant capital expense. In some cases, such as MZOs made in the City of Kawartha Lakes (O. Regs. 771/22 and 40/22) or the City of Markham (O. Reg. 172/20), this will postpone development on the lands relating to the MZO by at least five years.

For the remaining six of these 21 MZOs, information packages provided to the Minister's Office identified servicing concerns but did not assess and describe the implications of these challenges on the overall project and its timelines.

For example, as described in [Case Study 3](#), before one MZO (O. Reg. 40/23) was made for Seguin Township, Ministry staff determined that the municipality did not have a municipal water or sewage system. The adjacent Town of Parry Sound told the Ministry that it would not service the development, and Seguin Township agreed to proceed with constructing its own sewage system.

Ministry staff did not inform the Minister's Office how lengthy and expensive site servicing could be for a project of this magnitude. Seguin Township subsequently estimated that servicing the site could take up to 10 years. The MZO was made on March 17, 2023, and as of June 2024, the site does not have municipal water or wastewater servicing to enable development.

4.4.1 Many MZOs Made to Support Housing May Not Meaningfully Speed Up Development

The government has publicly stated that speeding up housing development is one of the key reasons it has made MZOs. We noted that 58 or 51% of the 114 MZOs made from 2019 to 2023 were primarily for housing developments. We also found that the proponents who requested these 58 MZOs commonly cited slow municipal planning processes as their reason for requesting an MZO instead.

Municipalities told us that their zoning amendment processes usually take between three and 18 months, depending on the area and complexity of the request. Comparatively, Ministry processing times (from the date of request to the date of the Minister's receipt of the information package) for these 58 MZOs ranged from one week to 14 months and averaged 2.6 months.

Although MZOs provide an opportunity to expedite amendments to municipal zoning, MZOs are often made for projects where the required infrastructure to service the project site for housing development has not been secured. This includes the following MZOs that were made for projects where development would not be able to start for years because they lacked the required infrastructure, and where the developments themselves would take decades to complete.

O. Reg. 166/21 in the Town of New Tecumseth (Town)

- » Zoned for the development of land with a mix of residential, commercial and parkland uses. As of April 2024, the Town noted that there is no water capacity for this or other developments in the Town, and a potential long-term solution requires a \$270 million infrastructure investment with earliest availability by 2028. Although the Town communicated to the Ministry its commitment to fund this infrastructure, the source of funding has not yet been determined.

O. Regs. 771/21 and 40/22 in the City of Kawartha Lakes (City)

- » Zoned for the development of land for residential and commercial uses. The majority of the site areas are outside of settlement area boundaries and require water and sewage capacity upgrades before development can begin, which the City noted usually takes more than five years to study, review, fund and provide.

4.4.2 Lack of Engagement with Municipal Planning Offices Created Planning and Development Issues

Municipal Official Plans guide development and infrastructure needs, in advance, for planned projects for the next 20 to 25 years. When MZOs are made, they typically result in regions and municipalities having to adjust their priorities, plans and resources to accommodate the projects related to the MZOs.

When compiling information on MZO requests for the Minister's Office, the Ministry has rarely sought input from municipalities on the potential impact that MZO-related projects could have on other planned development in the affected communities, as highlighted in the following examples.

O. Reg. 91/23 in the City of Mississauga (City)

- » Prior to the Minister making O. Reg. 91/23 that zoned land for development of 16,000 housing units in the City, the municipal planning department had raised concerns to the Ministry that, should this MZO be made, the road network would not be able to

accommodate this project and another adjacent development project that the City had already planned for. Road and transit networks for this area may not be feasible to expand because of other existing surrounding developments.

- » The City's council had already approved a zoning amendment for the very same project, but at half of the capacity with 8,050 housing units. The proponent instead requested the MZO directly from the Ministry, seeking to double the number of housing units that had been approved by the City.
- » Municipal zoning amendment applications typically require traffic and other servicing studies—the results of which may influence the municipal decision to grant the zoning amendment when assessed against their Official Plan. Ministry staff identified to the Minister's Office that this MZO may have transportation concerns, but that there was insufficient time to do the typical assessment of land-use planning considerations.
- » Ministry staff did not explain that road capacity is insufficient to support the influx of road users from both projects.

O. Reg. 92/23 in the City of Mississauga (City)

- » Ministry staff reached out to the municipal planning staff prior to the MZO being made, but municipal planning staff told us that the Ministry's time frame for providing comments was too short to analyze the full potential impact of the MZO, which covered two sites.
- » After this MZO was made, it was discovered that one of the sites as authorized by the MZO would be in the flight path of the nearby Toronto Pearson airport. The MZO therefore had to be amended to exclude this site entirely, taking up additional staff time, altering the project design and delaying the project timeline.

Recommendation 8

We recommend that for each MZO request, the Ministry of Municipal Affairs and Housing (Ministry):

- confirm the availability of existing infrastructure, or obtain the estimated timelines and costs for planned infrastructure, needed to service the site from the municipal and (where applicable) regional planners;
- request that municipal and (where applicable) regional planners assess and identify any site issues, or impacts on existing development plans; and
- communicate the results in the information packages provided to the Minister.

For the auditee's response, see [Recommendations and Auditee Responses](#).

Case Study 3

O. Reg. 40/23 in the Township of Seguin

On December 6, 2021, the Township of Seguin's council passed a resolution requesting that the Minister of Municipal Affairs and Housing (Minister) make an MZO to facilitate the development of a 300-hectare new mixed-use community next to the municipal border of the Town of Parry Sound (Parry Sound). The initial zoning request would have facilitated the development of a range of housing types, including rental units and affordable housing units, as well as commercial, light industrial and institutional uses.

The Township of Seguin (Seguin) hired a consultant to help prepare its formal request to the Minister, which Seguin submitted on January 5, 2022. The consultant's letter (included with the request) noted that Seguin's goal for this MZO was "to provide a variety of housing forms and densities at an attainable/affordable price in order to address a shortfall of housing within the municipality. In addition, supporting non-residential uses are also proposed." The consultant's letter included a draft MZO that included 17 allowed uses for the area (including four relating to housing) and a requirement for 25% of all residential units to be affordable. There was no developer identified for this project at the time of the request.

The consultant's assessment of the feasibility of servicing for the area included two options: to extend existing servicing from Parry Sound or to create a municipal servicing system in Seguin, including a water and wastewater treatment plant (which Seguin does not have). The consultant noted that the first option was preferred and more logical, but that both options were feasible.

Parry Sound retained a separate consultant to advise on impacts of servicing the proposed development in Seguin. This consultant noted that Parry Sound would need to borrow money to fund the capital expenditures to service Seguin, which would restrict Parry Sound's debt capacity for other projects. The consultant further noted that if the MZO development were at all delayed, it would put Parry Sound at financial risk.

On January 27, 2022, the Mayor of the Town of Parry Sound wrote to the Minister expressing strong concerns about the Township of Seguin's MZO request, asking the Minister not to make this MZO. Parry Sound's concerns included that:

- Seguin's public and municipal consultation was focused on affordable housing and did not reflect the broader nature of the MZO;
- Seguin's development plan lacked key details and sound analysis to warrant an MZO;
- Seguin misrepresented the local feedback to the Minister; and

- Seguin did not study the impact of the potential MZO on neighbouring municipalities. For example, Parry Sound's consultant estimated that the MZO would result in increased traffic congestion within Parry Sound, the need for road infrastructure expansion to accommodate the increased traffic and the additional capital investments needed beyond what the Town planned for.

Following these concerns, Parry Sound refused to extend its servicing to Seguin.

Ministry staff prepared a preliminary information package on this MZO for the Minister's Office in January 2022. Ministry staff noted that Seguin did not have municipal water and wastewater servicing. Ministry staff also noted that the subject lands contain provincially significant wetlands and coastal wetlands (which are protected under the Provincial Policy Statement), as well as unevaluated wetlands and potential significant wildlife habitats and archaeological resources. The information package stated that impacts of development on lands adjacent to the wetlands and on the water quality of Richmond Lake had not been assessed. A preliminary environmental study by a consultant retained by the Township indicated that Richmond Lake was classified as highly sensitive to phosphorous contamination. Phosphorous contamination is higher with increased fertilization, sewage and stormwater runoff, and other containments associated with development, and the Ministry noted in an internal assessment that the majority of the lake shoreline would be unprotected.

Seguin's Mayor sent an email to the Ministry on February 15, 2022, reiterating support for the MZO and asking for the Ministry's support of the request, noting that Seguin will be meeting with the Minister's Chief of Staff at the Minister's office later in February 2022 to understand how Seguin's request can be expedited. According to a follow-up email from Seguin's Chief Administrative Officer (CAO) to the Ministry on May 2, 2022, the February meeting included the local MPP and that Seguin had been advised to engage with local stakeholders and Indigenous communities. The email contained a summary of Seguin's engagement to date and requested "immediate approval" of the MZO request. The CAO sent another follow-up email to the Ministry on October 19, 2022, confirming that a developer, who had recently purchased the majority of the subject lands, had been identified.

On January 9, 2023, the Deputy Chief of Staff asked Ministry staff to add this request to the "next batch of MZOs" to be prepared. Ministry staff noted in internal emails that they were not aware of what sparked the sudden interest in this MZO from the Minister's Office, but did not wish to ask questions to avoid receiving direction to further expedite the request. Over the next two weeks, Ministry staff presented options to the Minister's Office on how to accommodate Seguin's request in a way that included the affordable housing condition (as a regular MZO cannot include conditions), including the use of an eMZO and another similar planning tool called the Community Infrastructure Housing Accelerator (CIHA); however, both would have required additional time and further engagement with the municipality.

On February 28, 2023, the Chief of Staff sent an email to Ministry staff that the Minister's Office has met with Seguin's Mayor and CAO and that their preference was to use a regular MZO (which could not accommodate conditions) instead of a CIHA. Additionally, this email set a two-week deadline for the Ministry staff to prepare the MZO. In an email to the Minister's Office on March 2, 2023, Ministry staff recommended against the two-week deadline and recommended to process this request as an eMZO that included the municipal request for affordable housing. The Ministry received an updated MZO draft from Seguin on March 3, 2023, which excluded the affordable housing requirement and included additional permitted uses in the zoning parameters.

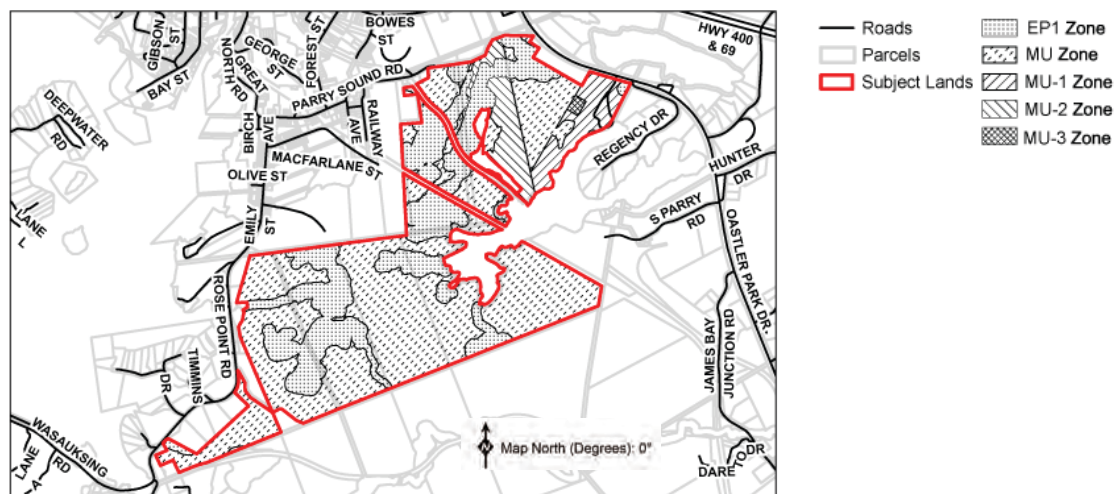
Between March 10 and March 16, 2023, Seguin's CAO sent five emails directly to the Chief of Staff with requests and reminders about the MZO request. On March 14, 2023, the Chief of Staff directed Ministry staff that this MZO needed to be done by the end of that week.

On March 16, 2023, Ministry staff provided the Minister's Office with the final information package for this MZO request, ready for the Minister's consideration. The information package noted Seguin's original request for affordable housing and the removal of this condition, in addition to Seguin's servicing challenges (which included Seguin's lack of a municipal water and wastewater servicing system and the unwillingness of Parry Sound to extend its municipal servicing). Ministry staff noted that Seguin was planning to construct its own municipal servicing system, but did not inform the Minister's Office that such an undertaking would be a significant capital expense for the municipality, nor did Ministry staff communicate how long it might take to service a project of this magnitude. Ministry staff also noted that no details had been provided regarding future development plans for the lands subject to the MZO request.

The MZO was made the next day, on March 17, 2023 (see **Figure 13**).

Figure 13: MZO Boundary in the Township of Seguin (O. Reg. 40/23)

Source: Ministry of Municipal Affairs and Housing



As of June 2024, the site does not have municipal water or wastewater servicing, and the Ministry does not have an estimate of when that would become available.

Seguin's CAO informed our Office via email that Ministry staff have been extremely helpful with any questions that Seguin had during the request review process; however, he noted that: "Regarding servicing, additional assistance from the province would be welcomed in removing all barriers/obstacles to seeing MZOs take hold." The CAO also noted that the Ministry did not advise Seguin that an eMZO could have been used to accommodate their affordable housing request.

Regarding servicing, the CAO confirmed to our Office that Seguin will proceed with constructing its own sewage system, that such undertaking would likely result in a significant capital expense for Seguin, and that it could take up to 10 years to complete.

4.5 Ministry Did Not Assess the Financial Impact of MZOs on Municipalities and Taxpayers

We reviewed the information packages presented to the Minister's Office for decision-making about MZOs, and found that the Ministry did not assess the financial impact that MZOs could have on municipalities, and therefore on taxpayers.

In contrast, when providing a business case to Treasury Board/Management Board of Cabinet (the government's committee of Cabinet that reviews and approves funding requests from ministries) for actions that may have an impact on provincial finances or taxpayers, the Treasury Board's Business Case Guide requires that ministries complete an assessment of financial impact.

4.5.1 Municipalities Face Challenges Recovering Infrastructure Costs for Site Servicing

We found that some municipalities faced difficulties in recovering infrastructure costs relating to MZOs from developers. Municipalities can recover growth-related infrastructure costs from developers through development charges, which are governed by the *Development Charges Act*, and local development charges bylaws. Development charges are fees collected from developers at the time a building permit is issued. They help to pay for the costs of infrastructure required to provide municipal services to new developments, which can be very significant for municipal budgets. For example, as described in **Section 4.4.1**, infrastructure upgrades related to water capacity that were needed to service the development relating to an MZO (O. Reg. 166/21) in the Town of New Tecumseth were estimated at \$270 million.

Development charges are calculated, in part, based on background studies (that are typically done once every five to 10 years) that identify areas of anticipated growth and associated need for services. Several municipalities told us that they have found it challenging to levy development charges for projects relating to MZOs in areas outside of settlement boundaries, because studies were usually not yet done in these areas. Of the 114 MZOs made from 2019 to 2023, 37 were for development projects located outside of settlement area boundaries at the time they were made.

Some municipalities that were unable to levy development charges on projects relating to MZOs have tried to recoup infrastructure costs by entering into cost recovery agreements directly with developers. However, since these negotiations typically take place after MZOs are made, municipalities have little negotiating power (which is mostly derived from the ability to refuse zoning amendments).

Besides this, such negotiations carry additional staff time and costs. Any costs to municipalities resulting from MZOs that are not recovered from developers need to be passed on to local taxpayers.

4.5.2 Costs to Accommodate MZOs Were Often Absorbed by Taxpayers

Most municipalities told us that they did not charge fees for processing MZOs as they would for processing municipal zoning changes. The costs associated with their time is therefore paid for by taxes and not application fees. The municipalities have to dedicate their planning staff time to assess the impact of MZOs, prepare planning staff reports for municipal councils who deliberate on whether to support the MZO, and update Official Plans and servicing master plans (which define municipal long-term servicing objectives). Municipalities told us that these tasks often took as much or more time and resources as they would have for municipal zoning amendments.

Municipalities levy application fees for processing Official Plan and zoning amendments. On average, costs range from \$15,000 to \$30,000 per application. Fees are also levied for site plan approvals (tools under the *Planning Act* that municipalities may use to control certain site-specific elements for a development proposal, such as traffic access, building orientation or landscaping). These fees help cover staff time and other costs relating to processing and analyzing applications and supporting materials for Official Plan amendments and impact assessments. MZOs may negate the need for these applications and related fees, but may still require municipalities to update their bylaws, Official Plans and servicing plans.

In large-scale or complex developments, lost application fees can add up to substantial sums. For example, for a large project in the City of Mississauga for which an eMZO (O. Reg. 91/23) was made, the eMZO removed municipal site plan approval requirements. Ordinarily, such a project would have required multiple Official Plan, bylaw and secondary plan amendments. The City of Mississauga told us that it conservatively estimated that, because an eMZO was made for this project, it was unable to collect approximately \$3.6 million in fees related to the zoning changes.

Ministry staff told us that municipalities could set their own fees for the services they provided and the proponents could appeal the fees through the Ontario Land Tribunal or challenge them in court, if, for example, the fees were considered unreasonable by proponents.

Some municipalities (such as the City of Markham and the Town of Collingwood) have implemented new fee structures for considering MZO requests that seek their council support. Other municipalities that we spoke with were unclear whether they were allowed to impose fees on MZO applications; some believed that they could not. We found that the Ministry did not provide any guidance to municipalities about charging fees for MZO requests.

Recommendation 9

We recommend that, for each MZO request, the Ministry of Municipal Affairs and Housing:

- ask municipal staff, where possible, to estimate the financial costs the municipality, region (where applicable) and taxpayers may incur by implementing the MZO; and
- include these estimated financial costs (where provided) in the information shared with the Minister so the Minister is aware of the financial implications to the municipality and region when making their decision.

For the auditee's response, see **Recommendations and Auditee Responses**.

Recommendation 10

We recommend that the Ministry of Municipal Affairs and Housing provide clear guidance on what services relating to an MZO municipalities can charge fees for, and to whom, including any limits on such fees.

For the auditee's response, see **Recommendations and Auditee Responses**.

4.6 Environmental Risks and Agricultural Impacts of Re-Zoning with MZOs

4.6.1 Once MZOs Are Made, the Ability to Mitigate Natural Hazard and Environmental Risks Is Significantly Reduced

In 36% of the 25 MZOs we sampled, Ministry staff advised the Minister's Office that the natural hazard or environmental risks associated with the projects could be addressed *after* the MZO was made. Ministry staff proposed that such risks could be addressed through additional technical studies and subsequent downstream approvals, such as site plan approvals or conservation authority permits. In practice, however, the ability to mitigate risks after the MZO was made was often significantly reduced or impossible.

In the municipal zoning amendment process, municipalities typically require proponents to submit a number of technical studies as part of their initial application, such as environmental impact studies and flood risk assessments. These studies help to identify significant risks with zoning amendment proposals, including risks of soil erosion, ground stability, or flooding that can impact the overall feasibility of a project or significantly reduce the size of developable areas.

Other studies, such as environmental impact studies and wetland evaluations, are used to determine the relative importance of natural features, the presence of species at-risk, any potential impacts on water quality or flow, and environmental impacts on adjacent or downstream areas. Ultimately, municipalities rely on these studies to help determine the appropriate developable areas and areas that should be set aside for environmental protection.

A proponent may also be required to obtain additional downstream permits, based on specific studies or assessments. For example, an *Endangered Species Act, 2007* permit can set out requirements for habitat or financial compensation, or restrictions on the developable area. In practice, such restrictions are rarely imposed. Our 2021 audit on Protecting and Recovering Species at Risk found that no permits to harm species or their habitats had been denied since the Act was passed in 2007.

In addition, conservation authorities may require a development permit, but their review and final decision is still informed by preliminary studies. For example, as part of its internal due diligence process, the TRCA requires that technical studies be completed before its staff assesses mitigation options and decides whether to issue or deny a permit.

While Ministry staff cannot build conditions into MZO regulations to require such studies, there are other mechanisms and tools available to the Ministry to address the risks of natural hazards and environmental degradation.

In order to reduce environmental risks, the Ministry may recommend:

- » to delay the making of an MZO for a specified period of time (as was done for O. Reg. 91/23 in Mississauga), or to make an MZO with a delayed in-effect date to allow time for key studies to be completed (as was recommended for O. Reg. 362/19 in Oro-Medonte, see **Case Study 4**).

To help inform appropriate parameters and boundaries for draft MZOs, Ministry staff request information from relevant stakeholders, including municipalities, developers and partner ministries. Ministry staff are able to incorporate certain environmental protections directly into a potential MZO boundary by:

- » including larger setbacks (buffers between natural features and a proposed development) in the MZO area (as was done for O. Reg. 39/22 in Richmond Hill);
- » implementing Environmental Protection Zones with restricted land uses within the MZO area in order to protect natural features and hazardous areas (as was done for O. Reg. 609/20 in Oro-Medonte, see **Figure 14**); or
- » excluding environmentally sensitive areas from the MZO area entirely (as was done for O. Reg. 495/22 in Belleville, see **Figure 15**).

Figure 14: Part of Lot 17, Concession 8, Township of Oro-Medonte, County of Simcoe

Source of data: Ministry of Municipal Affairs and Housing

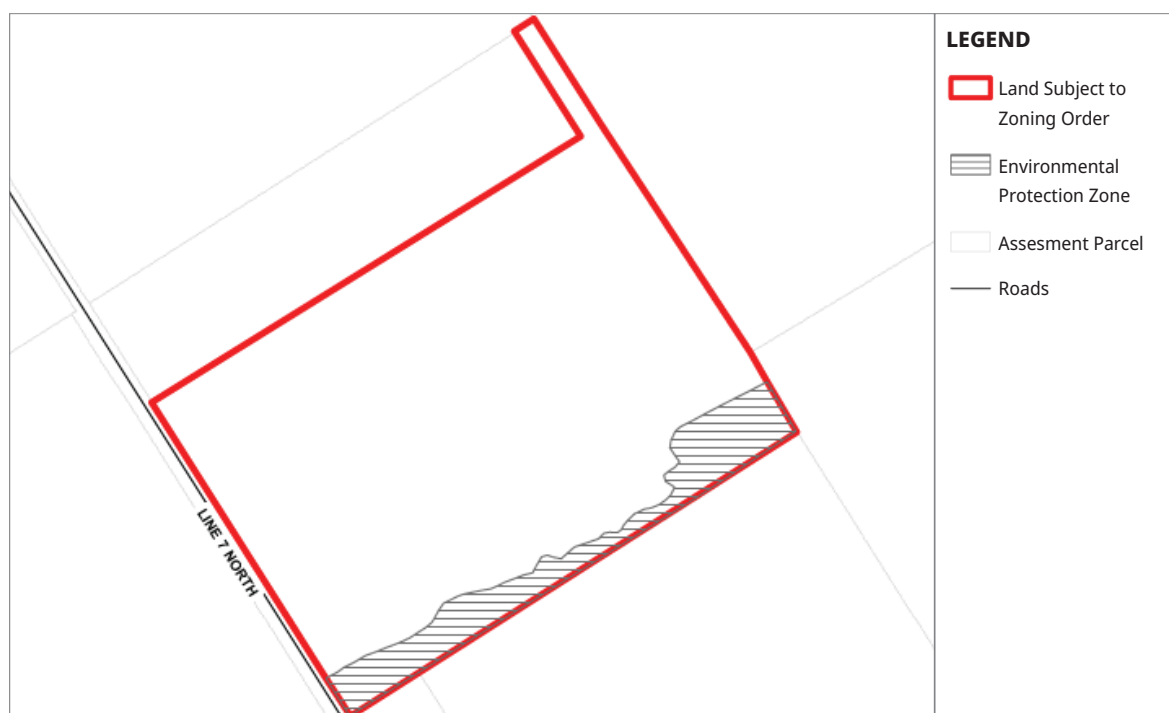
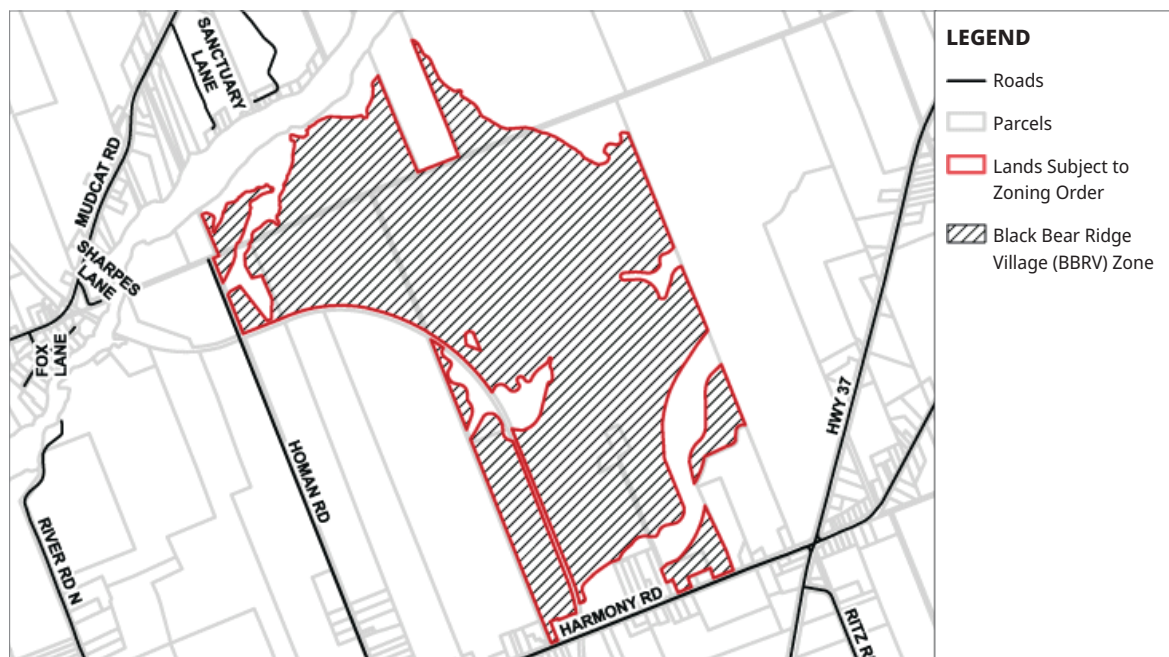


Figure 15: Part of Lots 7-10, Part of the Road Allowance Between Lots 8 and 9, Concession 6 (Thurlow); Part of the Road Allowance Between Concession 5 and 6 (Thurlow); and Part of Lots 7-11, Concession 5 (Thurlow), City of Belleville

Source of data: Ministry of Municipal Affairs and Housing



Ministry staff would not typically recommend these forms of protections in draft MZO prepared for the Minister's Office, unless they are specifically requested to be included by the proponent or already included in the proponent's draft MZO.

Ministry staff told us that they also did not typically expand upon the proponent's requested protections, including in cases where they received information or recommendations around environmental risks from municipalities, partner ministries or conservation authorities.

The Ministry did not have a consistent process in place for Ministry staff to provide recommendations to the Minister's Office, including recommendations intended to proactively minimize environmental risks (see **Section 4.8**).

O. Reg. 160/22 in the Township of Cavan Monaghan (Township)

- » For example, for an MZO requested in the Township, see **Case Study 2**, Ministry staff initially excluded natural areas from the developable area of the draft MZO, based on the maps provided by the Township. However, one day before the MZO was made, the draft MZO was revised to zone these areas for residential development, at the request of the developer and their consultant.
- » Ministry staff documented in the information package that: "Township staff are in support of this approach provided that protection of natural features in the developable areas would be further managed through downstream approvals."

Case Study 4

O. Reg. 362/19 in the Township of Oro-Medonte

In June 2019, the Township of Oro-Medonte (Township) and the County of Simcoe (County) sent a request to the Ministry to amend the planning details in the Province's Growth Plan (A Place to Grow: Growth plan for the Greater Golden Horseshoe) for the "Lake Simcoe Regional Airport Employment District." They were supporting a developer's request to zone an area for the development of an automotive park and race track.

The Township's expectation was that, after the planning details were amended, the developer would follow the municipal planning process to request a zoning amendment, including completing the Township's additional required studies and public consultation prior to any decision by the Township Council.

Ministry staff outlined options for the Minister to facilitate the project by amending the Growth Plan planning details for this area, as requested by the Township. The alternative to the options that amended the Growth Plan was to use an MZO. Ministry staff stated the risks associated with granting an MZO before the completion of these key studies, in part because the MZO may not be consistent with policies in the PPS related to water management, natural areas, cultural heritage and archaeology.

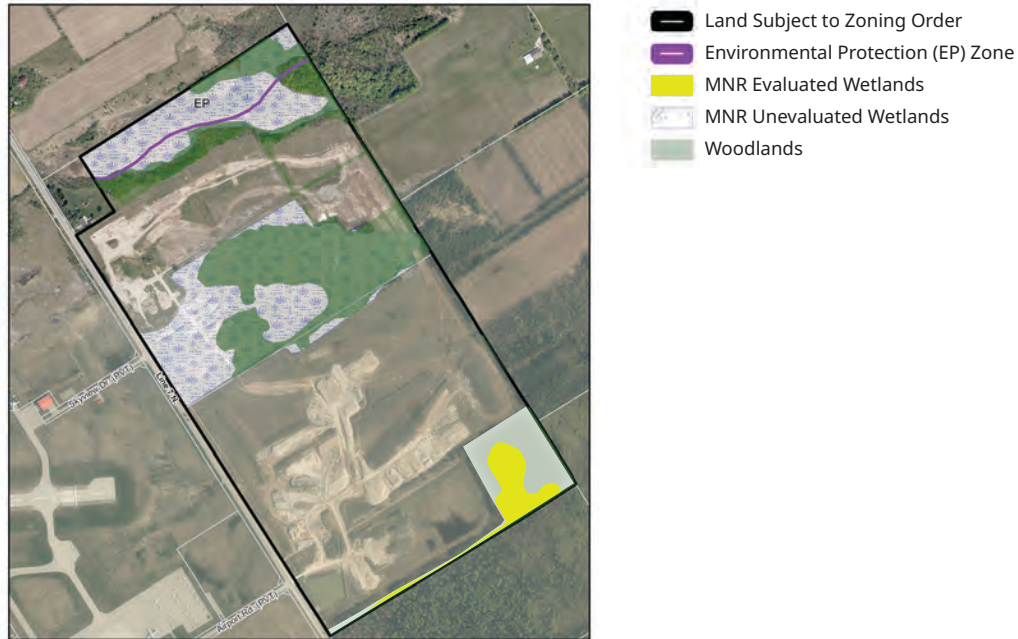
The Ministry did not follow its usual MZO due diligence procedures and did not engage with its partner ministries during the review process. The Lake Simcoe Region Conservation Authority (LSRCA) was not consulted at the time, despite the fact that the site contained over 30 hectares of wetlands and woodlands, the vast majority of which had not been evaluated to determine ecological significance.

Ministry staff recommended to the Minister that, if an MZO was used, it should have a delayed in-effect date to allow for environmental and other studies to be completed. The MZO was made to come into effect immediately, on November 1, 2019, and was made without any further assessments to determine the significance of the site's natural features or the potential impacts of the proposed development on their ecological and hydrological functions.

While the MZO includes a narrow environmental protection zone across the northern end of the site, in the absence of any prior engagement with subject matter experts to delineate boundaries, one-third of the wetland in this area is not captured (see **Figure 16**). The remaining 83% of wetlands and woodlands on the site are left fully unprotected, and at least 60% of this unprotected area was slated for removal.

Figure 16. Wetlands and Woodlands within MZO Boundary (O. Reg. 362/19)

Source: Township of Oro-Medonte



LSRCA was required to issue a permit with conditions to help compensate for the removal of the natural features. The proponent requested a hearing with the LSRCA Board of Directors to contest these conditions, resulting in the removal of certain requirements for monitoring and upfront payment.

For the next three years, the developer did not comply with LSRCA's permit conditions. The Township issued a "stop-work" order temporarily in April 2024 to address the developer's repeated non-compliance with both LSRCA's permit conditions and the Township's soil testing and importation fee requirements.

The developer communicated its intention of building on a portion of the wetland at the northern end of the site, which was designated for protection through the conservation authority permit. Given that LSRCA was unable to prohibit development on land covered by an MZO, its only option was to further revise the permit.

Other than the destruction of wetlands and woodlands on the site, there has been no building development on the re-zoned land since the MZO was made. This MZO is not on the Ministry's enhanced monitoring list.

Downstream approvals, such as site plan approvals or conservation authority permits, can identify some site-specific environmental concerns (for example, the way water drains within the property or how land may be re-vegetated), but any off-site environmental impacts such as flooding risks or water pollution would not be addressed as part of downstream approvals.

More importantly, site plan approvals and conservation authority permits cannot prohibit development that is permitted by the established zoning, including MZOs. In an internal email regarding changes to this MZO, Ministry staff stated that, notwithstanding the intentions of the Township, the zoning change would result in removal of protection for the lands. The proponent could only be compelled to follow the MZO and, as they wrote, it was even “questionable whether the [downstream] approvals could conflict with the MZO.”

4.6.2 Recent Legislative Exemptions for MZOs Have Weakened Environmental Protections

Recent legislative changes have significantly reduced environmental protections on sites where MZOs have been made. In November 2020, the Province received an application for a judicial review that asserted that an MZO (O. Reg. 607/20) in the City of Pickering was allowing development within a provincially significant wetland and therefore was inconsistent with the PPS.

In April 2021, the Province approved an amendment to the *Planning Act* to provide that the Minister's decision to make an MZO does not have to be consistent with the PPS, and that it never had to be. The PPS includes a prohibition on development and site alteration in all provincially significant wetlands in Southern and much of Central Ontario. The amendment eliminated this protection, as well as other protections that are normally afforded through the PPS.

In addition, as described in **Section 2.6.2**, provincial amendments to the *Conservation Authorities Act* in 2020 prohibit conservation authorities from refusing to issue a permit for development authorized by an MZO outside of the Greenbelt.

The permit holders must enter into an agreement with the conservation authority, which may include ecological or financial compensation for negative impacts resulting from the development. Conservation authorities can still include conditions on permits, to attempt to mitigate on-site natural hazard risks; however, proponents have multiple mechanisms to contest and alter these conditions.

Beyond what is included in the PPS, there are other provincial statutes (such as the *Greenbelt Act*, the *Lake Simcoe Protection Act* and the *Clean Water Act*) that provide the ability to create plans with environmental protections for specific areas. However, decisions to make MZOs do not need to conform with protections within those plans.

Essentially, if an area of land is zoned for development through an MZO, absent an Environmental Protection Zone for natural features that may exist on the site, the landowner is free to remove these features. For example, if land that happens to include a provincially significant wetland is

re-zoned for residential development with an MZO, neither the conservation authority permit process nor the policies within the PPS can require that the wetland be protected.

4.6.3 Ministry Did Not Consistently Identify or Mitigate Public Safety Risks, Environmental Risks and Agricultural Impacts Associated with MZOs

In Ontario's land-use planning framework, decisions to alter the way land is used or developed typically involve multiple levels of engagement with subject-matter experts. This process is intended to reduce risks, including to the environment, agricultural land and public safety. In contrast, there is no requirement for Ministry staff to engage with external subject-matter experts in reviewing and drafting MZOs.

As we describe in the following sections, we found that the Ministry did not consistently engage with relevant stakeholders on natural hazards or the environmental risks associated with MZOs, such as flooding or loss of important natural features. When the Ministry did engage with or receive input from stakeholders, it only used that information to flag gaps to the Minister's Office in the proponent's information and high-level risks associated with those gaps. It did not generally undertake or recommend any actions to the Minister's Office to assess or mitigate the risks that had been identified by stakeholders. As well, the Ministry does not consistently assess or address agricultural impacts.

Ministry Did Not Consistently Engage Key Environmental Stakeholders in Its Review of MZO Requests

Although the Ministry has a process to typically engage partner ministries, such as MECP and MNR, about potential environmental risks associated with requested MZOs, we found that the Ministry did not consistently follow this process.

We also found that the Ministry did not typically engage conservation authorities as part of its review of MZO requests in order to gather information on the significance of natural features on the land, natural hazard risks from flooding or soil erosion, and other potential environmental impacts to adjacent or areas downstream of the land proposed for an MZO.

In 1946, the Province created the *Conservation Authorities Act* to help protect people and property from natural hazard risks. Historically, conservation authorities' role included the conservation of natural features, in part due to the fundamental role features like wetlands, woodlands and valleys play in mitigating natural hazards. Municipalities relied on their expertise to understand and mitigate risks associated with natural hazards, significance of natural features, pollution and overall watershed health. In 2022, the Province amended the *Conservation Authorities Act* to prevent conservation authorities from advising on any matters beyond natural hazard risks.

Ministry staff confirmed with us that they are not directed to and do not typically engage conservation authorities on MZO requests. We found, in a small number of cases, that

conservation authorities had provided input related to MZO requests, but they generally did so of their own accord rather than in response to a request from the Ministry.

For example, the Lake Simcoe Region Conservation Authority (LSRCA) told our Office that for eight of the nine MZOs made within its jurisdiction from 2019 to 2023, the Ministry never engaged LSRCA staff on the potential risks associated with the proposed projects. In fact, the LSRCA found out about most of these MZOs after they had already been made.

The TRCA identified that 56 MZOs were made within its jurisdiction from 2019 to 2023. Of these, 28 were within areas regulated under the *Conservation Authorities Act*. The TRCA told us it often becomes aware of MZOs by reading municipal council minutes and resolutions. The TRCA told us it has repeatedly asked the Ministry to engage and collaborate on draft MZOs so that information and constraints related to natural hazards could be given for the Minister's consideration, and has specifically requested that the Ministry work with them to develop a framework for engagement. As of June 2024, this has not occurred.

We reviewed a sample of 25 MZOs and found that the Ministry did not ask for or receive any information from conservation authorities for 14 (64%) of the 22 MZOs that were within a conservation authority's regulated area. We also found that the Ministry did not engage both MECP and MNR regarding potential environmental considerations in 10 (40%) of these 25 MZOs.

O. Reg. 170/21 in the City of Vaughan (City)

- » In one example within the TRCA's jurisdiction, the Ministry received a request for an MZO in which the City specified that the proponent must commit to a program to support the preservation of a waterway on the subject lands in co-operation with the City and the TRCA as a condition of the City's support.
- » The Ministry did not engage the TRCA or its relevant partner ministry, MNR, to assess the potential flood risks, and the Ministry was therefore unaware that the site is located within an area susceptible to flooding. The TRCA informed our Office that no flood remediation studies were completed prior to the MZO being made.
- » The Minister's Office was not provided with any information on flooding risk for this site, nor was it informed that the City had based its support for the MZO request on the preservation of the site's waterway. The MZO was made without Ministry staff checking with the City to see if it still supported the project in the absence of any conditions.
- » According to the TRCA, there are significant flooding concerns with some of the planned development in the MZO area, which could lead to public safety risks.
- » While City planning staff were working with the proponent, TRCA and other stakeholders to find solutions, the proponent had not yet completed the studies required by TRCA to assess flood remediation options.

- » The flood remediation, in addition to alterations required to accommodate infrastructure planning for other nearby developments, has created a significant challenge, slowing the project until such solutions could be found and implemented.
- » Typically, zoning changes through the municipal planning process would involve engagement with relevant stakeholders and the completion of key technical studies, such as those required by the TRCA, before a zoning decision is made. In some cases, technical studies might identify prohibitive risks that result in refusal of the proposed zoning change, or in adjustments to the developable area for a proposed project.

O. Reg. 5/23 in the Township of Cavan Monaghan (Township)

- » In another example, the Ministry received a request for an MZO in March 2022 within the Otonabee Region Conservation Authority's (ORCA) jurisdiction.
- » The neighbouring City of Peterborough strongly opposed this MZO and contacted the Ministry to say that the area was susceptible to flooding.
- » In July 2022, the Ministry noted internally that the purpose of the proposed industrial buildings for the MZO area was unknown and no studies of environmental impacts had been provided. Staff wrote that the MZO could "potentially permit intensive uses that may cause significant environmental impacts" on the provincially significant wetland and woodlands to the west of the site.
- » Ministry staff informed the Minister's Office that they would seek confirmation from ORCA that the proposed development was not located on hazardous lands.
- » Ministry staff subsequently received direction on December 23, 2022, from senior staff in the Minister's Office that the MZO was to be prioritized as soon as possible in the new year. See **Case Study 2** for additional details.
- » The Ministry did not engage with ORCA before the MZO was made to determine if there were identified flood risks or other environmental concerns for this area.
- » ORCA informed our Office that there are wetlands and hazardous lands prone to flooding within the MZO area. In addition, it stated that no supporting studies had been submitted by the proponent to demonstrate that the width of buffers intended to protect the provincially significant wetland immediately adjacent to the MZO were appropriate for hydrological and ecological protection.
- » We noted that in August 2024, after the completion of our fieldwork, the Ministry proposed to revoke this MZO.

The Ministry Rarely Addressed Natural Hazard and Environmental Risk Concerns From Key Stakeholders

There were six cases (24%) within our sample of 25 MZOs where MNR, MECP and/or a conservation authority expressed concerns with the potential MZO and recommended specific studies or other measures to be completed to mitigate environmental risks. None of the recommended measures were completed prior to the making of these MZOs. The Ministry also did not recommend to the Minister's Office to delay making the MZOs until studies could be completed. For an example, see [Case Study 5](#).

The Ministry did not generally recommend that the additional mitigation steps proposed by the stakeholders be undertaken. For example:

O. Reg. 537/21 in the Township of McNab/Braeside (Township)

- » During the Ministry's review of an MZO request in the Township, MNR told the Ministry that the subject lands contained sensitive marine clays, a type of hazardous site that "becomes unstable when disturbed, and may be unsuitable for development without further study from qualified professionals."
- » MNR's concerns were shared in the final information package provided to the Minister's Office, but Ministry staff did not gather further information on which studies would best assess these risks, how long they might take and if the proponent could or should undertake these prior to the MZO being made.
- » The MZO was made two days later.

O. Reg. 167/21 in the Municipality of Clarington (Municipality)

- » On October 27, 2020, the Ministry received support for an MZO request from the Municipality's municipal council for a new Home Hardware store (described in [Section 4.2.1](#)).
- » The site was outside of the urban settlement area boundary and the majority of the site had been designated for environmental protection. It contained a large significant woodland, an unevaluated wetland and a meadow. The site is also designated under the *Clean Water Act* as a "highly vulnerable aquifer" and "significant groundwater recharge area," which indicate a higher potential risk that development or site alteration could cause contamination or changes in water level.
- » The Central Lake Ontario Conservation Authority (CLOCA) found that maps provided by the proponent did not appear to accurately reflect the boundaries of the wetland or woodland.
- » CLOCA, MNR and MECP provided letters to the Ministry and commented that no studies had been undertaken to evaluate the natural features on the property, to investigate the potential impacts from changing the zoning or to determine the appropriate

buffers to protect these features. CLOCA and MECP stated that the proponent had not adhered to the policies within the PPS and the Growth Plan that protect important environmental features and require evaluations that demonstrate no negative impacts from development.

- » Both CLOCA and MECP recommended that these studies be completed prior to issuing the MZO. MECP also stated that municipal planning staff “strongly do not support the MZO request,” and recommended that this proposal go through the municipal planning process in order to require appropriate supporting studies.
- » CLOCA suggested that, if the Ministry was not willing to delay the MZO to allow completion of the appropriate studies, the Minister could alternatively create an environmental protection zone to ensure appropriate conservation of the natural features identified. However, the Ministry did not make a recommendation for either of these measures.
- » The MZO was made four weeks later with no protections for natural features. The land was cleared and the Home Hardware store was built in 2023.
- » Clarington planning staff informed our Office that the proponent has paid compensation to the Municipality for the removal of these natural features, but that in their opinion, this was not an adequate replacement for the loss of the ecological functions these features provided in the area.

Ministry Did Not Assess Agricultural Impacts Resulting from MZOs

As of 2021, only about 5% of Ontario's land area (or 11.8 million acres) is farmland, which is vulnerable to ongoing loss to urban development. The federal Census of Agriculture indicated that, from 2016 to 2021, the total farm area actively farmed in Ontario declined by 319 acres a day, on average. Once lost, developed land cannot be converted back to farmland.

In our sample of 25 MZOs we noted 15 that were located outside of settlement boundaries, which are typically in rural areas. In four of the 15 MZOs in our sample, the Ministry of Agriculture, Food and Agribusiness (OMAFRA) or municipal planning staff raised concerns to the Ministry about the impact of re-zoning on agriculturally valuable farmland. While Ministry staff relayed OMAFA's concerns to the Minister's Office, the Ministry did not attempt to assess the agricultural impacts, or recommend that further evaluation of these sites was needed before the MZO was made in any of these cases.

O. Reg. 609/20 in the Township of Oro-Medonte (Township)

- » OMAFA reviewed an MZO request in the Township prior to its granting, and flagged to the Ministry that the lands (which are designated as prime agricultural land) were protected for long-term agricultural use under the PPS and the County's official plan.

- » OMAFA stated that the PPS outlined specific requirements that needed to be met prior to considering any non-agricultural uses on such lands, and these conditions did not appear to have been addressed by the proponent. These requirements include evaluating alternative locations that avoid prime agricultural land and assessing the impacts on surrounding agricultural land.
- » The Ministry presented OMAFA's concerns to the Minister's Office, but did not include options for completing further assessments, or present any recommendations to the Minister that this be done before the MZO was made.

O. Reg. 4/23 in the City of Niagara Falls (City)

- » OMAFA stated in its comments to the Ministry that the affected lands included prime agricultural lands with high-quality soils, and were adjacent to farmland currently under cultivation that could also be negatively impacted by the development resulting from that MZO.
- » OMAFA recommended an Agricultural Impact Assessment be completed as a condition of the MZO in order to "mitigate potential impacts to surrounding agricultural lands and operations before development proceeds." It further noted in its comments to the Ministry that the City had supported the MZO on the condition that a number of studies, including an Agricultural Impact Assessment, be completed before development proceeded on the property.
- » Seven weeks later, senior staff at the Ministry presented this potential MZO to the Minister without documenting any agricultural considerations or communicating OMAFA's concerns in the final information package prepared for the Minister's Office.
- » The Ministry noted within the information package that it was not able to require the proponent to complete any of the studies recommended by the City. However, the Ministry did not recommend that the Minister delay the MZO request to allow the proposed studies to be completed before the MZO was made.
- » Ministry staff were informed by the proponent's consultant that an Agricultural Impact Study and Archaeological Assessment would be completed, and that these were anticipated to form part of the City's pre-consultation checklist for the site plan approval.

MZOs Used to Re-zone Agricultural Land Resulted in Large Increases to Land Value

Agricultural areas are generally located outside of municipal settlement areas, and provincial and municipal policies typically limit the types of uses in these areas to those that are compatible with farming, environmental conservation or other low-impact rural uses.

Under the PPS, prime agricultural areas are defined as areas containing the highest quality of soil for potential agricultural uses, and specialty crop areas, which are best suited for specific valuable fruit and vegetable farming. The PPS states that prime agricultural areas "shall be designated

Case Study 5

O. Reg. 156/22 in the City of Vaughan

On October 30, 2020, the Ministry received a request from the City of Vaughan (City) for an MZO to enable a warehouse and distribution centre to be built. City Council agreed to support a developer's MZO request on the condition that natural features (such as wetlands) on the site be assessed by the Toronto and Region Conservation Authority (TRCA), to the satisfaction of TRCA and provincial standards. The City wrote that it did not have enough information from the developer to comment on whether the areas with natural features were suitable for development. It wanted to rely, as it normally would, on TRCA to provide advice and expertise.

The developer obtained a scoped Environmental Impact Study (EIS) from its consultant in 2020, which concluded that the natural features present on the property (including the provincially significant wetlands) were degraded and provided limited ecological function. The study also stated that "the hydrologic function of the wetlands on Site was not determined as part of this study" and therefore, that the "impacts associated with potential wetland removal and replacement are not fully understood." The consultant's summary nevertheless concluded: "there is no need to delay the MZO planning process to undertake further analysis to justify removal of the "provincially significant wetland" designation on-site."

The developer provided the Ministry with a draft MZO, which included a narrow environmental protection zone (2% of the total site) to help channel water along the edge of the site, adjacent to Highway 400. The developer argued that this zone would "restore and enhance existing ecological and hydrologic functions" and "provide a significant net gain to the ecological function." The proposed site plan involved developing over the vast majority of the property (see **Figure 17**).

TRCA obtained and reviewed the scoped EIS study before the Ministry, and wrote three letters to the Ministry (in December 2020, March 2021 and May 2021) stating that it disagreed with the conclusions in the developer's studies. TRCA estimated that roughly 40% of the 80-hectare site was composed of natural features and areas, including five hectares of provincially significant wetlands (PSWs), which had just been evaluated according to provincial standards four years prior (see **Figure 18**).

Figure 17. Proposed Site Plan and Building Footprints (O. Reg. 156/22)

Source: Toronto and Region Conservation Authority

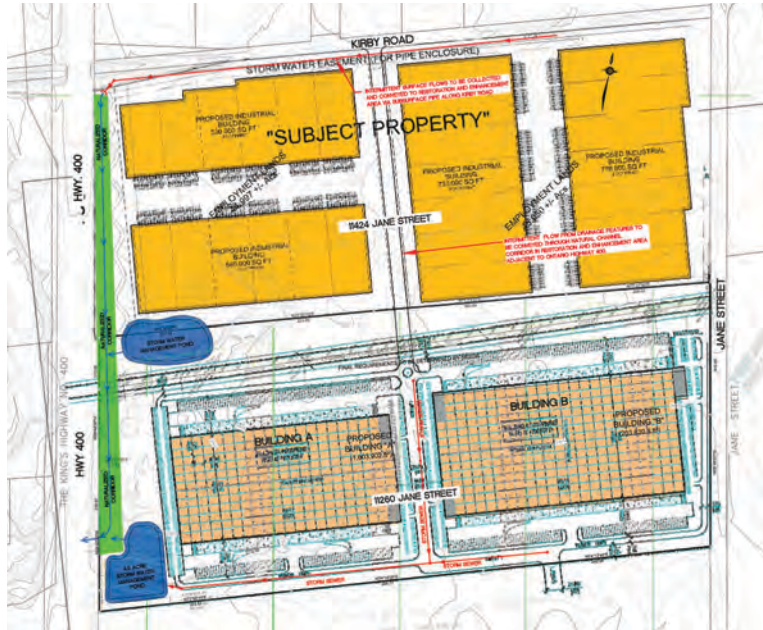
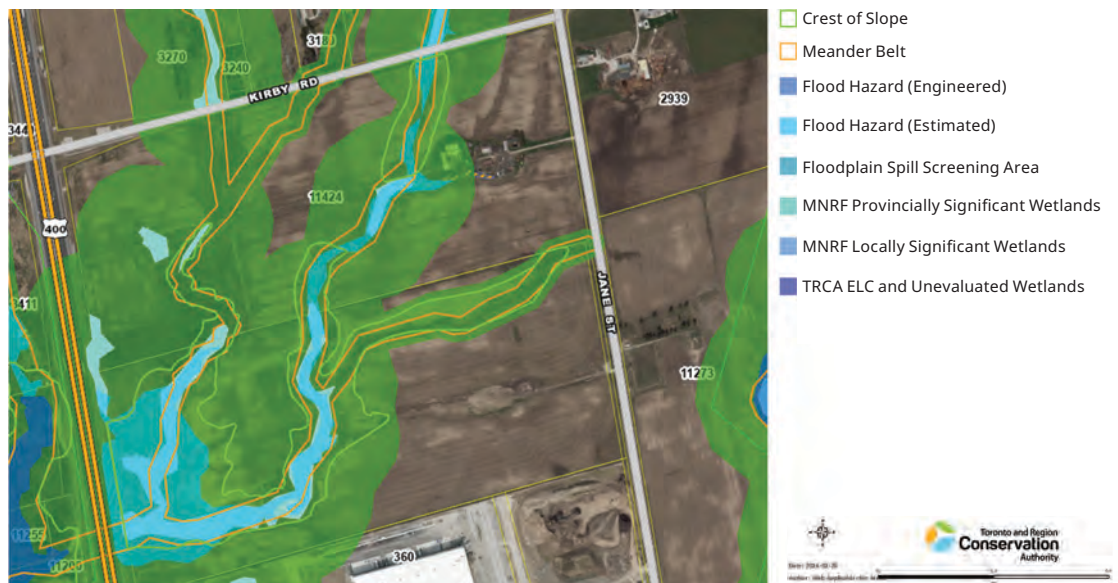


Figure 18. Toronto and Region Conservation Authority Identified Natural Features and Hazardous Areas (O. Reg. 156/22)

Source: Toronto and Region Conservation Authority



That same month, TRCA expressed significant concerns with the impacts of development on these wetlands, as well as on the significant woodland, valley corridor, creek, streams and hazardous areas (prone to flood risk). It cautioned that the removal of the wetlands and filling of the valley corridor could exacerbate flooding and erosion for adjacent properties and downstream areas. For all of these reasons, TRCA formally recommended against the proposal, and recommended specific studies to assess risks prior to any decision.

In August 2021, the Ministry sent notification letters outlining the proposed development to 10 Indigenous communities whose treaty or harvesting rights may be impacted by the MZO. Two responded with concerns about the development on PSWs. The Williams Treaties First Nations wrote to the Ministry, stating their opposition to the development on the PSWs. They stated that "there has been no satisfactory explanation offered by [the Ministry] as to why the construction of a warehouse justifies non-compliance with the PPS and requires bypassing the public consultation and appeal provisions of the Planning Act." They also said that they could not be meaningfully consulted by the Province without an EIS that assessed the impacts of development on the site, and asked that the developer be obliged to work with TRCA and the Ministry of Natural Resources to conduct one.

The Ministry did not request the scoped EIS from the developer until September 2021. In an internal assessment, the Ministry later noted the limits of the developer's scoped EIS, but did not include these concerns in the information package it prepared for the Minister's consideration of this MZO request. The Ministry staff did not request any further information from TRCA or the developer in order to assess the feasibility and time required to complete the recommended studies, nor did it recommend that this be done prior to issuing the MZO.

The Mississaugas of the Credit First Nation (MCFN) also requested that the Ministry provide technical reports to inform their review. In October 2021, the Ministry provided both First Nations communities with the EIS conducted by the developer's consultant. The Williams Treaties First Nations then stated that, in light of the consultant's findings that the PSW has lost its function and given the restoration and enhancement work proposed, they did not intend to oppose the MZO request. The MCFN, on the other hand, expressed its skepticism of the developer's prediction of a net ecological gain or benefit.

In February 2022, the MCFN asked for additional details and concrete reassurances that the Province would protect the sensitive natural features through TRCA permit conditions and the site plan approval.

That same month, the Ministry provided some additional information on these downstream approvals, but acknowledged internally that there was very little that could be done during the subsequent site plan approval process to address the MCFN's concerns and mitigate against the environmental risks. Senior Ministry staff noted in an internal email about opportunities for future First Nations engagement on this project that "the principle of

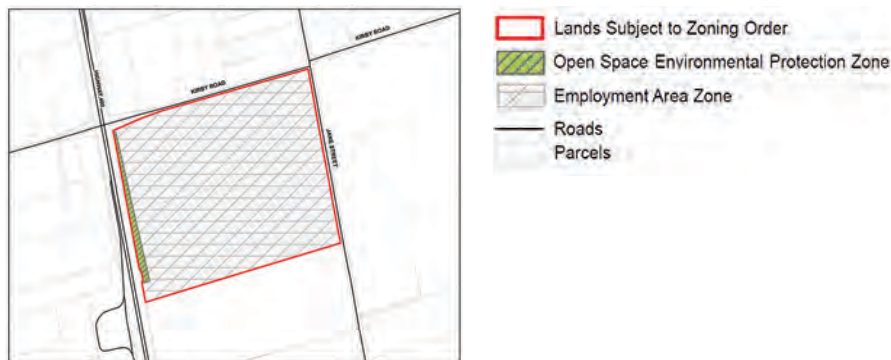
development is set as are the building footprints (essentially). I doubt that much could change or that it would be meaningful so I suggest we not flag it for [this MZO].”

Ministry staff informed the Minister's Office of TRCA's overall opposition and recommendations to continue assessment. Ministry staff did not provide either Indigenous community with the TRCA's letters that identified risks and recommendations, nor did they disclose that TRCA had challenged the accuracy of the developer's EIS.

The MZO was ultimately made on March 4, 2022, without any alterations to the developer's draft MZO or additional environmental protections (see **Figure 19**). The Minister wrote to the TRCA requesting that it work with relevant stakeholders and affected Indigenous communities to find an appropriate solution to address the natural features in the development.

Figure 19: Final MZO Boundary (O. Reg. 156/22)

Source: Ministry of Municipal Affairs and Housing



In March 2024, TRCA was required to issue a permit for this site due to legislative changes to the *Conservation Authorities Act*, but noted in its permit report that it did so “under duress.”

As of September 2024, the developer is working with the City, TRCA and MECP to assess and address environmental concerns. Two site plans for the southern portion of the lands have been approved by the City. No development has yet begun. This MZO is not on the Ministry's enhanced monitoring list.

and protected for long-term use for agriculture.” As a result, farmland and other areas outside of settlement area boundaries are typically priced lower compared to developable land in settlement areas. We noted that in contrast to Ontario, in British Columbia, a tribunal oversees changes to the province’s agricultural land reserve with the intent to protect agriculturally productive lands from non-agricultural development.

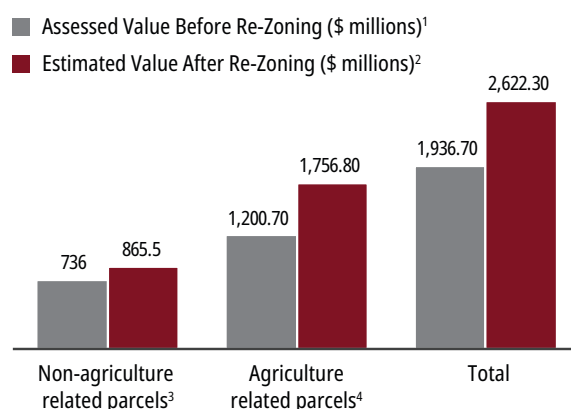
We asked the Municipal Property Assessment Corporation (MPAC), which is responsible for calculating property values for all municipalities in Ontario, to estimate the potential financial impact of the 58 MZOs that were made primarily to support housing development and commercial uses. We did not ask MPAC to estimate the change in value of land re-zoned for projects such as long-term care homes, transit-oriented communities, places of worship or for environmental protection.

MPAC estimated that with the making of these 58 MZOs, the value of the associated land, in aggregate, increased by 35% from \$1.94 billion to \$2.62 billion, as shown in **Figure 20**. MPAC’s estimates were based on a valuation date of January 1, 2016, the most recent data available, and do not account for additional market increases in land values between 2016 and 2024.

Land previously zoned for agricultural uses accounted for about half of the total land area that was re-zoned by these 58 MZOs. According to MPAC estimates, that re-zoning increased its value by 46%. Land already zoned for non-agricultural uses increased in value by 18%.

Figure 20: Estimated Change in Value of Re-Zoned Lands, for a Sample of 58 MZOs Made Between 2019 and 2023

Source of data: Municipal Property Assessment Corporation



1. Land uses in this designation include retail, residential, casino, mall, restaurant, industrial, shopping centre, development land, golf course, residential vacant land, racetrack, commercial, vacant commercial land, laneway, park, mobile park, land on water and communications towers.
2. Land uses in this designation include vacant land and farmland.
3. Based on a valuation date of January 1, 2016 (the most recent valuation date available) and includes existing tax mitigations for eligible properties (e.g., farmland, conservation land).
4. Based on the development permissions defined in each MZO, a valuation date of January 1, 2016, and excluding any tax mitigations that may be applicable. The actual value impact on individual properties cannot be fully realized until development plans are finalized.

While some information packages that the Ministry prepared for the Minister's Office identified the presence of prime agricultural land, none of them highlighted that prime agricultural land is not usually contemplated for non-agricultural development in the municipal planning process.

Bringing such information to the attention of the Minister's Office can provide important context for decision-making.

Recommendation 11

We recommend that, for each MZO, the Ministry of Municipal Affairs and Housing identify and address environmental risks and agricultural impacts by:

- engaging with relevant stakeholders (including conservation authorities, partner ministries and municipal planning staff), to the extent possible, to obtain information on the potential risks and which technical studies should be completed;
- request any outstanding information or technical studies from MZO proponents needed to inform decision-making;
- in collaboration with relevant stakeholders, verify the mapping, including developable areas for an MZO, to mitigate identified risks; and
- provide the Minister with a clear description in the information package of any risks identified by stakeholders, and in cases where a relevant study or assessment has not yet been completed, provide the Minister with options to address the potential risks.

For the auditee's response, see [Recommendations and Auditee Responses](#).

4.7 Indigenous Engagement for MZOs

Virtually all of the land re-zoned in the 114 MZOs made from 2019 to 2023 is land that is covered by at least one treaty with a First Nation. The Province has a constitutional Duty to Consult Indigenous communities where the decision to re-zone land has the potential to adversely impact the exercise of their rights.

Duty to Consult and Accommodate Obligations

The Duty to Consult refers to the Crown's, including the Government of Ontario's, constitutional obligation to meaningfully consult with, and where necessary or appropriate, accommodate the concerns of Indigenous peoples. It applies whenever the Crown contemplates decisions or actions that may adversely impact asserted or established Aboriginal or treaty rights. Consultation may reveal a Duty to Accommodate.

Historical and modern treaties define ongoing rights and obligations, and may address:

- » title or rights to land;
- » self-government; and
- » rights to use and manage lands and resources, such as hunting, gathering and fishing rights;
- » economic, cultural and social rights.

Section 35 of the *Constitution Act, 1982* sets the basis for the Duty to Consult, stating that "the existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed." The Supreme Court of Canada has consistently affirmed that the Crown must act honourably in discharging its Duty to Consult, and that fulfilment of the duty must be meaningful.

4.7.1 Ministry's Approach to Indigenous Consultation on MZOs Lacks Consistency and Transparency

The Ministry of Indigenous Affairs and First Nations Economic Reconciliation (IAFNER) has developed cross-government guidelines, which are in draft, on consultation with Indigenous peoples related to Aboriginal rights and treaty rights. IAFNER's guidelines provide steps for the Crown to fulfill the Duty to Consult. These include:

- » providing information on the proposed project or government decision to the Aboriginal community;
- » listening to any concerns raised by the Aboriginal community; and
- » obtaining information on potentially affected rights;
- » attempting to minimize adverse

impacts on Aboriginal or treaty rights.

According to IAFNER's guidelines, "In all cases requiring consultation, the Crown must act in good faith to provide meaningful consultation appropriate to the circumstances."

The Ministry supports the Minister to discharge the Crown's Duty to Consult. However, we found that the Ministry has not consistently followed the guidelines developed by IAFNER to facilitate consistent and effective consultation with Indigenous communities, including with respect to MZOs, to fulfill its Duty to Consult obligations.

Based on our review of a sample of 25 MZOs, we found that for 12 (48%), there was no evidence that the Ministry had consulted with any affected Indigenous community prior to the MZO being made. For nine (36%) of the 13 remaining MZOs, the extent of the Ministry's engagement with Indigenous communities was limited to providing letters notifying them of the potential MZO before it was made.

In seven of these 13 MZOs, the MZO was made within 30 days of notifying the Indigenous community. Although there is no prescribed time frame for consultation, as described in **Section 4.7.2**, Indigenous communities highlighted that often they were provided with too little time to be able to review the information, discuss the proposal with the Ministry, consult with their community, and respond about impacts, alternatives and potential mitigation. At times they were provided insufficient information from by the Ministry to effectively comment on potential MZOs.

Further, we found that, even when Indigenous communities provided comments, the Ministry did not make any changes to any of the potential MZOs in our sample of 25, in response to the feedback received from Indigenous communities.

The following example, as well as **Case Study 6**, highlights the kinds of problems we observed with the Ministry's engagement with Indigenous communities on MZOs.

O. Reg. 157/22 in the Town of Caledon

- » On December 14, 2021, the Ministry reached out to the Six Nations of the Grand River (SNGR) and two other First Nations to request their input and/or to set up meetings about the proposed re-zoning of the land.
- » SNGR responded on December 16, 2021, and requested all archaeology, heritage and environmental-related studies from the Ministry, and received no response until following up with the Ministry on January 31, 2022.
- » On February 18, the Ministry provided the additional documentation and stated there was no specific deadline for the SNGR commentary, but that the Ministry "would appreciate hearing feedback as soon as possible." SNGR reviewed the documentation and provided comments on March 21. Rather than waiting for SNGR's input, and without notifying the Indigenous community, the MZO was made on March 4, 2022.

The weaknesses we have highlighted in the Ministry's efforts to engage and consult with Indigenous communities, along with the issues also raised by Indigenous communities (described in **Section 4.7.2**), suggest there is room to improve Ministry engagement with Indigenous communities on MZOs. The risk of not engaging is harmful to relationships/reconciliation efforts, and may result in extra costs and environmental damage.

4.7.2 Indigenous Communities Say the Ministry Failed to Meaningfully Consult Them on MZOs

According to leaders and representatives of the Indigenous communities we spoke to, the extent and timing of the Ministry's engagement with their communities was insufficient to meet its Duty to Consult. Indigenous communities stressed that the Ministry's engagement with their communities has been ineffective.

We saw evidence in four (16%) of the 25 MZOs we reviewed in our sample that the Ministry held meetings with Indigenous communities, or made attempts to do so. As noted in **Section 4.7.1**, in the remaining 21 MZOs (84%) we reviewed, engagement, if any, was limited to notifying the Indigenous community in writing about the MZO.

Indigenous Community Perspectives

In the course of our audit work, we spoke with representatives of nine Indigenous communities and one Indigenous organization whose rights may have been impacted by the 114 MZOs made between 2019 and 2023, namely:

- » the Mississaugas of the Credit First Nation (69 MZOs);
- » the Six Nations of the Grand River (73 MZOs);
- » the seven Williams Treaties First Nations (Alderville, Beausoleil, Chippewas of Georgina Island, Chippewas of Rama, Curve Lake, Hiawatha and Mississaugas of Scugog Island First Nations) (96 MZOs); and
- » the Haudenosaunee Confederacy Chiefs Council, as represented by the Haudenosaunee Development Institute (73 MZOs).

We met with the Chiefs of two First Nations, consultation staff at each First Nation, and in some cases, we met with other members of each community.

All of the Indigenous communities and organizations we spoke with told us that the Government of Ontario is not upholding its Duty to Consult and Accommodate in relation to the MZOs being made.

All of these First Nations told us they were opposed to the use of MZOs without consultation, and that meaningful consultation had never occurred for any MZOs made. In their view, the government's failure to meaningfully consult them about the re-zoning constituted a violation, or potential violation, of their rights because re-zoning can impact the natural environment, water sources and wildlife on their traditional or treaty lands, or lands on which they assert Indigenous rights. Multiple Indigenous communities also stressed to us that, as MZOs due to lack of early notice, meaningful consultation or the opportunity to provide feedback, are an override of the typical land-use planning process, they should only be used for emergency purposes.

Many of the Indigenous communities we spoke with stated that the current government does not welcome or value their perspectives, despite the government writing the opposite in notification letters to Indigenous communities for potential MZOs. Most highlighted that the feedback they had submitted to the Ministry on potential MZOs, to request changes, had never been acted on in terms of mitigating impacts or accommodating concerns. Some told us they sometimes cannot allocate the limited resources they have to respond to notifications of potential MZOs, due to the lack of early notice, meaningful consultation or the opportunity to provide feedback, believing the government does not intend to meaningfully consult them or consider their feedback.

First Nations told us that, ideally, the government would engage them to listen to their concerns about potential MZOs early and to accommodate their suggestions into the MZO. Most viewed the Ministry's approach as notification rather than consultation. Several Indigenous communities have pursued legal action in order to try to uphold their rights and interests. All stressed that early engagement and keeping their communities informed of MZO requests and MZOs granted are both key to meaningful consultation. Some noted that while flexibility with the MZO and mitigation may be possible, by the time they are notified of potential MZOs, there is often no longer an opportunity for their feedback to be considered and changes made before the MZO is made.

Many of the Indigenous communities we spoke to also expressed concerns about the Ministry's new Zoning Order Framework (described in **Section 2.6**) because, although the Framework states that "as decisions of the Crown, zoning orders shall be implemented in a manner that is consistent with the recognition and affirmation of existing Aboriginal and treaty rights," it does not explicitly require Indigenous consultation to be undertaken before the Minister considers an MZO request.

The Increase in the Number of MZOs Is a Burden on Indigenous Communities

In discussions with these Indigenous communities, each one noted that between the volume of MZOs recently being proposed, and the short time frames given to respond, they need to divert their resources from other pressing activities to respond.

For example, the Mississaugas of the Credit First Nation told us it had communicated to the Ministry on multiple occasions to say that it was unable to provide comments, not because it had no concerns about the impact of the MZOs on its treaty rights, but because it was impossible to review and evaluate the numerous potential MZOs that the Ministry requested feedback on, in the time frame given, without additional resources.

Many Indigenous communities stated that it should be the government's responsibility to help to identify the impacts of potential MZOs on their rights, and the government's responsibility to propose options for mitigation, as well as to be receptive to proposals of other opportunities or strategies put forward by First Nations.

A consulting firm engaged by the Ministry for an MZO also expressed concerns to the Ministry about the MZO process in general. The consultant stated that, with the higher number and more frequent MZO requests, Indigenous communities could easily become overburdened and frustrated without sufficient resources to support their engagement on the files.

Recommendation 12

We recommend that the Ministry of Municipal Affairs and Housing (Ministry) consistently follow the most current guidance developed by the Ministry of Indigenous Affairs and First Nations Economic Reconciliation, that is intended to help the Ministry meet its obligations to Indigenous communities relating to MZOs.

For the auditee's response, see [**Recommendations and Auditee Responses**](#).

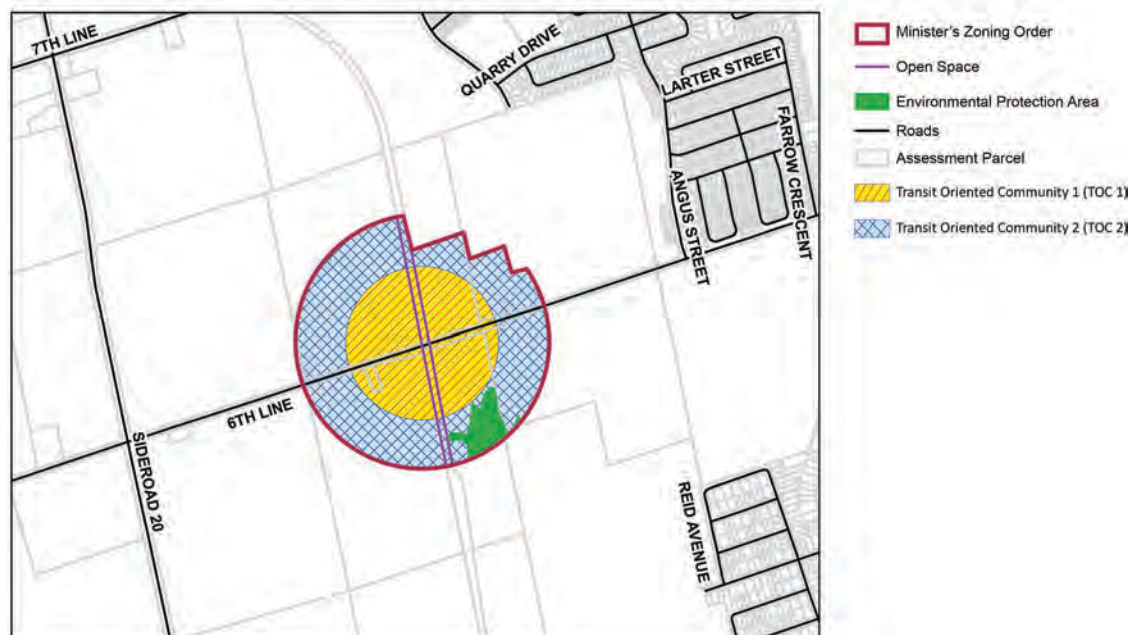
Case Study 6

O. Reg. 568/21 in the Town of Innisfil

On October 16, 2020, the Ministry of Municipal Affairs and Housing (MMAH) received a request from the Town of Innisfil (Town) for an MZO to allow commercial and residential use zoning for a transit-oriented community centred around a proposed GO station. The Town Council voted to support the request for an MZO two days prior, and the request was subsequently supported by the Simcoe County Council in December 2020.

The subject lands are located outside of the settlement area of Alcona (located within the Town), near Lake Simcoe, and contain a potentially significant wetland (PSW), woodlands, groundwater recharge areas and vulnerable aquifers. MMAH staff recommended to scope down the size of the MZO area from the Town's request and to create an environmental protection zone that encompassed most of the wetland and woodlands within the subject area, which the Minister of Municipal Affairs and Housing (Housing Minister) agreed to. The Town requested to re-zone 577 hectares as part of this MZO. On August 6, 2021, the Housing Minister granted a portion of the request for 52 hectares, making O. Reg. 568/21 (see **Figure 21**).

Figure 21: MZO Boundary in the Town of Innisfil (O. Reg. 568/21)



The subject lands are part of the treaty lands of the Williams Treaties First Nations. During review in early July 2021, there were internal MMAH discussions to come up with a plan to address the Province's Duty to Consult obligations to First Nations.

The government communication with the First Nations relating to this potential MZO was led by the Minister of Indigenous Affairs and First Nations Economic Reconciliation (IAFNER) through a meeting and several phone calls held between July and August 2021. After these calls, the IAFNER Minister suggested that MMAH set up a consultation table (roundtable discussions) to allow the parties to exchange information, address any concerns and consult meaningfully.

MMAH did not do so. It provided the Williams Treaties First Nations with an overview of the proposed development. The information included the scope of the project and that the subject lands included a "small portion of a Provincially Significant Wetland as well as a small portion of Woodland and Natural Heritage System." No information was provided to demonstrate that adequate studies had been undertaken to ensure that their treaty rights would not be negatively impacted by the proposed development.

MMAH subsequently sent notification letters about the MZO to multiple Indigenous communities in the week after the MZO was made.

On August 17, 2021, 11 days after the MZO was made, the legal counsel for the Williams Treaties First Nations wrote to the Housing Minister and IAFNER Minister outlining their concerns about the impacts of the proposed project on Lake Simcoe, including possible phosphorus pollution and plumes of sediment in the lake. The Williams Treaties First Nations' position was that meaningful consultation could only occur once an assessment of the environmental impacts was undertaken, and no studies of the proposed development were received from the Town, the developer or MMAH.

The August 2021 letter further stated that the project had the potential to adversely impact First Nations treaty rights, and that the Province's Duty to Consult had not been met. The letter recalled that the time period to submit a judicial review (a legal challenge) for the MZO was 30 days (September 7), and stressed that to avoid this challenge, a consultation table would have to be established by August 27.

A follow-up letter was sent to both ministers on September 7, 2021, stating that the Williams Treaties First Nations had not received any response to its correspondence until September 3, which was too late for a meeting to occur inside the 30-day period. The Williams Treaties First Nations filed a notice of application for a judicial review on the same day.

With a judicial review pending, MMAH and IAFNER engaged with the Williams Treaties First Nations throughout the fall of 2021, including hosting multiple meetings and updating the court about developing a consultation agreement between the parties.

The final consultation agreement, specific to this MZO and the first of its kind, was signed by all parties in May 2022.

Following the signing of the consultation agreement, the judicial review has been held in abeyance. No hearing date has been set.

Continued, phased development was permitted under the consultation agreement and, as of April 2024, consultation surrounding this project was ongoing between the Housing Ministry, the Town and the Williams Treaties First Nations. The parties continue to hold regular meetings.

MMAH's quarterly MZO status update at June 2024 showed that work has been continuing with Metrolinx regarding the detailed design of the future GO station. The update identified that the servicing plan is being co-ordinated and is anticipated to be completed in 2024. The site plan application is undergoing technical review, including applicable technical studies. Construction could potentially commence later in 2024. See **Figure 22** for a rendering of the proposed project.

Figure 22: Rendering of the Proposed Project (O. Reg. 568/21)



4.8 Ministry Stopped Providing Recommendations to the Minister About MZOs

We found that the Ministry did not have a consistent process in place to provide professional opinions relating to MZO requests to the Minister's Office, even though its staff include professional planners and land-use planning experts. According to the Ministry, approximately two-thirds of its planning staff, as of 2024, are Registered Professional Planners. They gather documentation from municipalities, partner ministries, developers, legal counsel and others to inform and advise decision-makers in the Minister's Office on requests for MZOs.

We reviewed the information packages that the Ministry's land-use planning experts prepared and provided to the Minister for decision-making for all 114 MZOs made from 2019 to 2023. We found that for 17 (46%) of the 37 MZOs made in 2019 and 2020, the information packages included an analysis of options for zoning, with three of those also including a recommendation, supported by a rationale, on whether or not to grant the MZO request. We found almost no such information in the packages between 2021 and 2023.

We asked the Ministry's senior staff why it no longer provided its staff recommendations on land-use planning to the Minister's Office about zoning options and recommendations for granting or refusing requests for MZOs. The Ministry's senior staff indicated that, to keep up with the increasing number of MZO requests and pressure from the Minister's Office to draft MZO regulations in short time frames, they decided to focus on providing key factual information and professional advice on a timely basis. The Ministry's senior staff told us that they still see value in providing professional land-use opinions to the Minister's Office.

In addition, the Ministry told us that it held weekly meetings with the Minister's Office where it verbally communicated professional advice. These meetings were not documented and, as a result, we could not review what was discussed.

We noted that in 2023, the Ministry had requested additional staff relating to planning matters, including MZOs. This request was only partially approved. The Deputy Minister subsequently communicated to the Minister that the Ministry would have limited time and resources to conduct in-depth analyses. The Deputy Minister also noted that this would create the risk that decision-makers would not have sufficient information to make well-informed decisions. The Ministry estimates that as of 2024, it has 12 full-time equivalent planning staff devoted to MZOs.

Professional planners have a duty to make their professional recommendations regardless if those recommendations are accepted or not. Land-use planning advice could provide important context to inform the Minister's decision-making on requested MZOs. For example:

O. Reg. 171/20 in the City of Brampton

- » This MZO was for the development of residential and employment areas that were being deliberated but not yet solved at the Local Planning Appeal Tribunal (now called the Ontario Land Tribunal) prior to the making of the MZO.

- » Ministry staff recommended refusing the MZO request to avoid the perception that the Minister had in some way assumed authority over the tribunal, and to avoid setting a precedent. The Minister made the MZO on April 24, 2020.

O. Reg. 251/19 in the Town of Innisfil

- » This MZO zoned land for development of a long-term care facility. Ministry staff recommended against granting the MZO because the project was not consistent with the PPS, which was a requirement under the *Planning Act* at that time (see below).
- » Ministry staff cited the Town's planning report, which recommended refusal of the proposal on the grounds that the property was outside of settlement areas, and that the proponent did not demonstrate why the project could not be accomplished within a settlement area, or how the proposal met the agricultural policies of the Town's Official Plan.
- » Ministry staff also noted that granting this MZO could set a precedent for MZOs not having to conform with the PPS for other similar requests (for example, large-scale residential uses outside of a settlement area).

Bill 257, the *Supporting Broadband and Infrastructure Expansion Act, 2021* received Royal Assent on April 12, 2021, and amended the *Planning Act* such that the decision to make an MZO does not have to be consistent with the PPS and that any existing MZO never had to be consistent with the PPS.

Risk Mitigation Recommendations

The Ministry's senior staff advised us that it was not their usual practice to provide risk mitigation advice to the Minister's Office. Consistent with what the Ministry told us, we found that 33 of the 65 (51%) information packages for MZOs made between 2019 and 2021 had included risk mitigation advice. In addition, for almost all of the 49 MZOs made in 2022 and 2023, Ministry staff did not provide the Minister's Office with recommendations to mitigate risks relating to the MZO.

For example, for O. Reg. 771/21 in the City of Kawartha Lakes and O. Reg. 768/21 in the City of Kingston, Ministry staff presented the Minister's Office with potential risks, risk ratings (of low/medium/high), likely impacts and associated mitigation strategies related to these MZO requests.

While the Minister is not required to ensure risks related to a request for an MZO are sufficiently mitigated before granting or refusing it, providing the Minister's Office with risk mitigation is consistent with other government decision-making processes. For example, Treasury Board/Management Board of Cabinet's Business Case Guide for business cases submitted to the Board requires that all such business cases include an analysis of key risks and their mitigation strategies.

Advice to mitigate risks associated with an MZO request could provide important context to the Minister's Office to inform decision-making, irrespective of what the final decision may be. For

10 MZOs (40%) in our sample of 25, Ministry staff made recommendations to either allow more time for the assessment of the risks associated with the MZO request, or suggested specific risk mitigation actions. None of these recommendations were accepted by the Minister's Office.

Recommendation 13

We recommend that, for each MZO request, the Ministry of Municipal Affairs and Housing provides the Minister with:

- an analysis of potential viable zoning options relating to the project proposed for an MZO (for example, make order, refuse request, address through municipal planning process);
- an assessment of all key risks and associated mitigation strategies; and
- for cases when it is not possible for the Ministry to provide risk mitigation advice within the timelines available, provide a clear explanation of the potential impacts of making the MZO absent these assessments, indicating also the time and resources the Ministry would need to complete these assessments.

For the auditee's response, see [**Recommendations and Auditee Responses**](#).

4.9 MZO Notices Did Not Effectively Inform Ontarians

The purposes of the *Planning Act* (see **Figure 1**) include providing for planning processes that are open and accessible, and encouraging co-operation and co-ordination among various interests. Public consultation provides an opportunity to gather local knowledge around how space is used within a community or what obstacles might exist to changing that use. Consultation also enables a more transparent decision-making process that can lead to greater accountability and public understanding of planning decisions that have long-term impacts on communities.

In contrast to this, the *Planning Act* does not require the Ministry to give notice to, or consult with, the public before an MZO is made. In addition, potential MZOs are exempt from the consultation requirements of the *Environmental Bill of Rights, 1993* (EBR).

Although the Ministry is not required to consult with the public, it is not prohibited from doing so. In our 2021 report on Land-Use Planning in the Greater Golden Horseshoe our Office recommended that the Ministry incorporate public participation into the MZO review process. That same year, in our report on the Operation of the *Environmental Bill of Rights, 1993* (EBR), we recommended that environmentally significant MZOs not be exempted from the consultation requirements of the EBR. Prior to 2024, the Ministry had not taken up either of these recommendations to consult with the public on potential MZOs.

We found that the Ministry's public notices relating to MZOs generally adhered to the timing requirements of the *Planning Act*. However, these notices did not effectively inform the public of important and timely information relating to MZOs that have already been made; see **Section 4.9.1**. In addition, as described in **Section 4.9.2**, although the Ministry began to conduct public consultation in April 2024 on potential MZOs, the notices it provided to the public still lacked sufficient information on the proposed changes and potential impacts.

4.9.1 Public Notices for Filed MZOs Complied with Legislated Deadlines, but Omitted Important Information About Zoning Changes

The *Planning Act* requires that the Ministry provide public notice of an MZO within 30 days of its making. The Ministry's practice has been to meet this obligation by posting a bulletin (an information notice) on the Environmental Registry after an MZO is already made.

We reviewed a sample of 25 such bulletins from 2019 to 2023 and found that, while bulletins were posted within 30 days for all but one MZO, the information in the bulletins was insufficient to understand key information and implications of the MZOs.

Our review found that the MZO bulletins listed the new zoning use, attached maps of the area subject to the MZO, and provided links to the MZO regulation on e-Laws (Ontario's online repository of acts and regulations). The bulletins did not include important information such as the purpose of the zoning change; previous land use and zoning; potential benefits and risks of the zoning change; and how associated risks would be avoided or mitigated. This type of information is normally communicated to the public in notices related to provincial and municipal land-use planning changes.

For example, a 2021 bulletin for a new residential development in the Town of New Tecumseth (O. Reg. 166/21) stated that the MZO would zone land for residential and commercial development, as well as parks and open spaces. However, the bulletin did not:

- » identify the expected number of housing units to be built (about 1,000);
- » state that the site was outside of the town's settlement area boundary and the potential implications of that;
- » state that the land was currently designated for agriculture and environmental protection, and contained wetlands and significant wildlife habitat; or
- » describe how potential agricultural and environmental impacts would be mitigated.

4.9.2 In 2024, the Ministry Began to Post Potential MZOs on the Environmental Registry for Public Comment, but They Still Lacked Key Information

In April 2024, the Ministry created a new Zoning Order Framework (Framework) and announced that it would provide "public notice of requests for zoning orders that have met the zoning order framework requirements through a minimum 30-day posting on the Environmental Registry, except where the request for zoning relief was deemed time sensitive." As we noted in **Section 2.6**, while the Framework provides guidelines rather than requirements, if the Ministry follows it consistently, it will provide Ontarians with an opportunity to be notified of and comment on new MZO requests under consideration for the first time since they were introduced in 1946.

To provide effective notice, proposals posted on the Environmental Registry should include sufficient information for the public to be able to understand the proposed changes. This usually includes a description of the proposal, its purpose and potential impacts in enough detail for the public to understand what is being proposed and to provide informed comments.

After announcing the new Framework, the Ministry posted 20 potential MZOs notices on the Environmental Registry in April and May 2024.

We reviewed a sample of 10 of these notices. Although all 10 notices asked for public input on the potential MZO, we found that eight of the notices (80%) lacked sufficient information for most people to be able to understand the scope and potential impacts of the zoning change. This could limit the ability of the public to provide informed feedback to the Ministry. In these eight cases, the notices did not include any of the following:

- » details or information about the current land use and zoning or potential impacts of the zoning change;
- » the rationale for bypassing the municipal planning process (even though the Framework expects all MZO applicants to provide this information to the Ministry); or
- » links or attachments of relevant background studies and information (for example, planning justification reports, natural heritage evaluations, water and wastewater servicing reports), even when they were available to the Ministry and publicly available (though potentially challenging to find) through municipal council meeting minutes.

We found that two of the 10 potential MZO notices that we reviewed included some additional details and background information. For example, the notice for a project requested by the Minister of Economic Development, Job Creation and Trade identified the existing land use and zoning, but did not provide information on the rationale for not proceeding through the municipal planning process, potential risks of the zoning change or links to background studies.

The MZO notice for a project requested by the Minister of Infrastructure for a transit-oriented community development in Toronto included sufficient information for the public to understand existing uses of the land, proposed changes and the scale of the project. It also provided links to background studies about the proposal, including planning rationale, urban design analysis and community consultation reports.

As noted above, it is a legal requirement under the *Planning Act* for public notification to be provided once an MZO is made, in such manner as the Minister considers proper. Under the Framework, the Ministry has committed to continuing to post bulletins that provide notification of issued MZOs on the Environmental Registry (after the completion of the 30-day consultation period).

The Ministry has not committed to following the process under the EBR, as we had recommended in our 2021 report on the Operation of the *Environmental Bill of Rights, 1993* (EBR). The EBR process would require the Minister to consider all comments provided before a decision is made, and to explain the effects of consultation on the decision within a decision notice. As per our 2021 report on the operation of the EBR, we maintain that MZOs should not be exempt from EBR consultation requirements. We continue to recommend that this exemption be revoked to give the public the right to be consulted and have their comments considered in the decision-making process.

Recommendation 14

We recommend that the Ministry of Municipal Affairs and Housing include in its individual notices on the Environmental Registry of Ontario, key information for the public to understand the impact and scope of MZOs, including:

- for MZO requests—current land use, proposed zoning change, why an MZO is requested, detailed location information and map, and potential project outcomes, potential environmental implications and risks, and how potential risks are planned to be mitigated; and
- for decision notices on MZOs made—previous land use, purpose of the zoning change, why an MZO was requested, detailed location information and map, potential project outcomes, any changes in the request since it was posted for consultation, any associated environmental risks identified and how those risks are being mitigated, and how consultation affected the outcome.

For the auditee's response, see **Recommendations and Auditee Responses**.

4.10 Monitoring of MZO Outcomes Is Ineffective

4.10.1 The Ministry's Review to Determine Whether Sufficient Progress Had Been Realized Subsequent to Re-zoning Was Not Complete

In September 2023, the Ministry began a review of a subset of MZOs made from 2019 to 2023 to determine whether sufficient progress had been realized subsequent to re-zoning. Of the 114 MZO made from 2019 to 2023, the Ministry's review focused on 61 MZOs and did not look at another 53 MZOs that were:

- » completed or no longer needed (14);
- » made at the request of a partner ministry for a provincial priority (30);
- » made to address a contractual obligation or litigation (2); or
- » made within the last year (7).

Of the 61 that were reviewed, 22 (36%) did not demonstrate reasonable or sufficient progress on the project, according to the Ministry. It placed 14 of these MZOs on "enhanced monitoring." The Ministry describes enhanced monitoring as a process that involves regular follow-up with municipalities and other proponents, such as developers, to obtain information on project progress. The Ministry has not defined what constitutes sufficient progress, or the timeline that such progress needs to be achieved. As a result of this process, the Ministry recommended eight MZOs for revocation or amendment. Of those eight, six were revoked and one was amended in April 2024.

We reviewed a sample of 10 of the 53 MZOs that were excluded from the Ministry's review to see if there were other cases where progress might also be deemed insufficient. We found that five of these 10 appeared to have made limited progress. For example:

O. Reg. 127/23 in the Municipality of Port Hope (Municipality)

- » This MZO was considered a provincial priority as it had been made at the request of the Minister of Long-Term Care. The Municipality told us that it did not support or request this MZO. The request proposed that three buildings with historical and cultural heritage value (as designated by the municipality) be demolished to build a new and larger long-term care home.
- » Municipal staff tried to encourage the Ministry to consider an alternate site for the home. Ministry staff advised the Minister that demolition on this site would still need to be explicitly permitted by the Municipality after the potential MZO filing, as required by the *Ontario Heritage Act*.
- » The Ministry did not confirm if the Municipality would grant these permissions. The MZO was filed on June 9, 2023.

- » The Municipality's council denied the developer's heritage permit application to demolish the buildings on June 29, 2023, on the basis that the property has significant historical value.
- » We reviewed numerous letters from Port Hope residents who were opposed to the demolition and redevelopment on this site due to the building's historical significance as a hospital for soldiers in the First World War. As of June 2024, there has been no meaningful progress on this project, as development cannot move forward until the heritage designation issues have been resolved.

Recommendation 15

We recommend that for each MZO made since 2019, the Ministry of Municipal Affairs and Housing work with relevant municipalities and partner ministries for provincial priority MZOs regarding the projects enabled by the re-zoning to:

- define what it deems as sufficient progress, and the timeline that sufficient progress should be achieved;
- obtain an update on the project's implementation status and expected completion date;
- identify project implementation barriers (if any) and plans to address these barriers;
- assess this information to conclude whether progress has been made in accordance with expectations; and
- based on this assessment, provide options for the Minister regarding potential MZO revocation or amendment.

For the auditee's response, see [Recommendations and Auditee Responses](#).

4.10.2 The Ministry Does Not Have Performance Indicators for MZOs

We noted that MZOs vary greatly in their purpose and objectives. We found that in the fall of 2021, the Ministry began to contact municipalities to request quarterly updates on the status of MZOs in their jurisdiction. The Ministry does not establish and track the achievement of specific performance indicators for each MZO (and the associated project) or collective performance metrics for all MZOs (for example, the number of housing units built or permanent jobs created). Absent such information, it will be more difficult for the Ministry to assess the success or failure of MZOs, on either an individual or collective basis.

In addition, the Ministry does not track the total area of land zoned through MZOs. This is noteworthy because the government has published on the Ministry website in June 2021 that the Minister had "committed to add two acres of protected and enhanced green space for every acre of land developed through the use of an MZO." The Ministry could not demonstrate whether the Minister has kept this promise.

The Ministry also does not track the cumulative impact of MZOs and the projects they enable on all relevant matters of provincial interest (as defined in the *Planning Act*). For example, it does not track the protection or loss of natural features (such as wetlands, woodlands or streams) in areas subject to MZOs. It also does not track the amount of land lost through MZOs that was designated as prime agricultural land or specialty crop area, or the quality of agricultural soils or previous agricultural uses of these lands.

Recommendation 16

We recommend that the Ministry of Municipal Affairs and Housing:

- record for each MZO the specific goals (such as the project goals) it is expected to achieve, including a timeline for achieving those goals;
- establish a process to track and record whether MZO-enabled projects achieve expected outcomes within expected timelines; and
- report annually to the Minister on the progress of each project in achieving its goals, including within expected timelines.

For the auditee's response, see [Recommendations and Auditee Responses](#).

Recommendation 17

We recommend that the Ministry of Municipal Affairs and Housing:

- identify and set targets for performance indicators for MZOs relating to provincial priorities that are relevant to the government;
- annually track whether targets for these performance indicators are met; and
- report results on these performance indicators to the Minister annually.

For the auditee's response, see [Recommendations and Auditee Responses](#).

4.10.3 MZOs Lack Controls to Detect Land Sales and Assess Their Impact on the Project's Continuity

MPAC's analysis (described in [Section 4.6.3](#)) identified that at least a portion of land located in the area of 12 of the 58 MZOs (or 21%), which MPAC reviewed at our request, was sold after the MZO was made.

We found that until spring 2024, the Ministry did not have a process to identify instances where land subject to an MZO was subsequently listed for sale. Therefore, it could not determine whether a sale was likely to impact the project for which an MZO was made. For example:

O. Reg. 609/20 in the Township of Oro-Medonte (Township)

- » MPAC's assessment estimated that the re-zoning increased the site's value from \$637,000 (farmland zone) to \$2,704,000 (employment zone), an increase of 320%.
- » We noted that the landowner purchased the site prior to requesting the MZO for \$2.65 million. We found a real estate listing for the site dated February 2022 that priced the property at \$26.3 million. The listing explicitly mentioned the MZO as a selling feature.
- » The Township told us this listing was eventually removed and that a sale did not occur.
- » We also learned that, as of December 2023, these lands had not begun to be developed for their intended purpose as a medical facility. In April 2024, the Minister revoked this MZO, stating that satisfactory progress had not been made on the project.

In March 2024, during our audit, the Ministry began asking municipalities on a quarterly basis if they were aware of any changes in land ownership or project proponent relating to MZOs made in their municipality. Also, in April 2024, the Ministry included a step in its new Zoning Order Framework whereby landowners are now expected to notify the Minister 30 days in advance of the sale of any land that an MZO applies to. However, the Ministry does not have any system or controls in place to check whether landowners have failed to provide this notification to the Minister or the applicable municipality.

Recommendation 18

We recommend that the Ministry of Municipal Affairs and Housing:

- put in place a process to identify instances where land related to an MZO has been listed for sale or sold;
- in such instances, assess whether there is a potential impact to the project for which the MZO was made; and
- based on this assessment, provide the Minister with options on whether the MZO should be left as is, amended or revoked.

For the auditee's response, see [Recommendations and Auditee Responses](#).

4.11 New Zoning Order Framework

4.11.1 New Zoning Order Framework May Improve Information Used to Make MZOs

As described in **Section 2.6**, during the course of our audit, the Ministry introduced a Zoning Order Framework (Framework) in April 2024. The Ministry told us the new Framework is intended to provide a consistent set of expectations (not requirements) for proponents and stakeholders on what should be included within a request for an MZO, and to provide an overview of other items the Ministry may request to complete its assessment.

Based on a review of the Framework's design, we noted that the Framework could help to address some of the weaknesses we have identified in our report. Such information, if rigorously verified and assessed by the Ministry, could assist the Minister's Office to make better informed decisions on MZOs.

According to the Framework, MZO requests are expected to include:

- » a rationale for why the project requires an MZO rather than an amendment through the municipal planning process;
- » evidence of municipal support (if the request is not coming from another Minister);
- » a description of any licenses, permit approvals, permissions or other matters that would be required for the project if an MZO is made;
- » information related to how and when servicing for the site would be addressed; and
- » notification to the Minister 30 days in advance of the sale of any land an MZO applies to.

As of June 2024, when we completed our fieldwork, no MZOs had been made under the Framework. As a result, we could not assess the implementation of the Framework. Subsequent to the completion of our fieldwork, six MZOs were made between July 12, 2024, and August 30, 2024.

4.11.2 Other Significant Issues Not Addressed by New Zoning Order Framework

Our review of the new Framework found that it is not designed to address other significant issues identified in this report, such as the lack of:

- » a prioritization protocol or guidelines for the time frames for assessing MZO requests, as described in **Section 4.3**;

- » identification of MZO site issues, and MZO impact on previously planned developments, as described in **Section 4.4**;
- » assessment of potential financial impacts, as described in **Section 4.5**;
- » timely identification and mitigation of natural hazard and environmental risks, and agricultural impacts, as described in **Section 4.6**;
- » meaningful engagement and consultation with Indigenous communities, as described in **Section 4.7**;
- » Ministry staff subject matter experts' risk assessments and recommendations to the Minister, as described in **Section 4.8**;
- » complete and transparent public notifications relating to MZOs, as described in **Section 4.9**; and
- » effective oversight and monitoring of MZOs, as described in **Section 4.10**.

Recommendation 19

We recommend that the Ministry of Municipal Affairs and Housing (Ministry):

- review the audit observations in this report to identify opportunities to enhance the Ministry's Zoning Order Framework;
- seek input on opportunities to enhance the Ministry's Zoning Order Framework from stakeholders in a manner that aligns with the Minister's objectives for the use of the MZO tool; and
- based on this review and stakeholder input received, propose changes to the Minister to enhance the Zoning Order Framework.

For the auditee's response, see **Recommendations and Auditee Responses**.

Recommendations and Auditee Responses

Recommendation 1

We recommend that for each requested MZO, the Ministry of Municipal Affairs and Housing:

- assess and document whether there is a rationale for a project to be zoned by an MZO rather than going through the municipal planning process, including any timing considerations for the development;
- assess and document whether making the MZO would help to achieve the project's goals and the Minister's objectives for making MZOs relative to the municipal planning process;
- assess and document how the MZO could impact (positively or negatively, for example, risks and benefits) all applicable matters of provincial interest under the Planning Act; and
- include the results of these assessments, stakeholder outreach results and concerns identified, and the planning advice of the Ministry's land use planning experts in the information package for the Minister to ensure they are making an informed decision.

Ministry Response:

The Ministry agrees with the recommendation and notes that with the introduction of the Ministry's Zoning Order Framework in April 2024, it has begun to address the substance of these recommendations as requests for MZOs are assessed.

The purpose of the zoning order tool is to achieve land use planning objectives in a more expeditious way. While the Ministry agrees in substance with the recommendations in the report, the Ministry will do additional work to determine how the recommendations can be implemented in light of this purpose.

Since establishing the Ministry's Zoning Order Framework, the Ministry aims to consistently provide the Minister with stakeholder consultation results for each MZO considered. The Ministry aims to continue to provide information about how a requested zoning order would affect matters of provincial interest, along with other considerations, to the Minister.

The Ministry will be mindful of the important need to standardize processes to the extent possible, while balancing this with the goals of the use of the zoning order tool.

Recommendation 2

We recommend that for each MZO request, the Ministry of Municipal Affairs and Housing (Ministry):

- perform due diligence to assess, to the extent possible, and document whether the project's expected outcomes and benefits are feasible and plausible, such as by requesting and reviewing supporting studies, evidence or calculation methodologies; and
- include the results of this due diligence in the information package (where applicable) for the requested MZO prepared for the Minister's decision-making.

Ministry Response

The Ministry agrees with the recommendation and notes that with the introduction of the Ministry's Zoning Order Framework in April 2024, it has begun to address the substance of these recommendations as requests for MZOs are assessed.

The Ministry's Zoning Order Framework includes a number of submission expectations that will help to demonstrate the feasibility and timeliness of developments associated with requests for zoning orders.

Specifically, requests for zoning orders are expected to include a rationale for why the project requires an MZO rather than following the municipal planning process, a description of subsequent approvals that are required for the project, anticipated timelines related to applying for those downstream approvals, anticipated timing for project completion, information related to how and when water and wastewater servicing will be addressed, and a commitment that the landowner will notify the Ministry of any proposed sale of lands subject to a zoning order.

The Ministry agrees with the importance of assessing and documenting for decision-making the feasibility of expected outcomes and benefits of projects where applicable to the extent possible and will continue to explore potential approaches for building its capacity to assess these, including by seeking more information from requestors and municipalities within the context of the purpose of the zoning order tool.

Recommendation 3

We recommend that the Ministry of Municipal Affairs and Housing:

- inform all municipalities about what options and parameters are possible for MZOs and eMZOs, and what additional tools may be available to achieve municipal objectives;
- in cases where an MZO request is supported by a municipality, confirm whether this municipal support is contingent on the inclusion of any conditions;
- clearly identify whether, and upon what basis, municipal support exists within the preliminary information package prepared for the Minister of Municipal Affairs and Housing's (Minister) Office; and
- provide options, including risks and benefits of those options, for the Minister's consideration for how the conditions of municipal support can be addressed.

Ministry Response

The Ministry agrees with the recommendation and notes that with the introduction of the Ministry's Zoning Order Framework in April 2024, it has begun to address the substance of these recommendations as requests for MZOs are assessed.

Since implementing the Zoning Order Framework, the Ministry has endeavoured to apply a consistent practice of ensuring that the limitations on the use of the zoning order tool are communicated to and understood by municipal staff, and that any conditions of municipal support are identified for decision-makers.

The Ministry notes that municipalities are also responsible for taking these limitations into consideration when they decide to request a zoning order (or endorse a request) rather than following the municipal planning process.

Options on whether and how to address conditions requested by municipalities would be a consideration for the Minister in each circumstance. The Ministry will continue to review the Zoning Order Framework and consider changes as warranted.

Recommendation 4

We recommend that the Ministry of Municipal Affairs and Housing:

- assess and document the potential impact of any studies requested by the municipality, including the risk of not completing them;
- identify to the Minister the risks of not completing these studies before making the MZO; and
- provide the Minister with options that would allow for the completion of the studies after the MZO is made.

Ministry Response

The Ministry agrees with the recommendation and notes that with the introduction of the Ministry's Zoning Order Framework in April 2024, it has begun to address the substance of these recommendations as requests for MZOs are assessed.

The Ministry will work with the requestor, municipalities and partner ministries to determine which studies should be completed prior to zoning, and which can be completed through downstream approvals (e.g., plan of subdivision, site plan). The Ministry will assess and document these options and considerations for the Minister in a consistent manner.

If a municipality would recommend that a particular type of study be completed prior to zoning, they should take this into consideration when they decide to request a zoning order (or endorse a request) rather than following the municipal planning process.

Recommendation 5

We recommend that the Ministry of Municipal Affairs and Housing (Ministry) document the Ministry's priorities in processing MZO requests and instances where requests for MZOs are not prioritized in accordance with those priorities.

Ministry Response

The Ministry agrees with the recommendation and notes that with the introduction of the Ministry's Zoning Order Framework in April 2024, including the establishment of intake thresholds, the Ministry has started documenting zoning order priorities.

The decision to make a zoning order is at the Minister's discretion, as is the decision on how to prioritize requests for zoning orders.

The Minister exercises this discretion in accordance with a range of factors, including the overall mandate and goals of the government (including building more homes and supporting provincial

priority economic development projects), the mandate letters provided to the Minister and other government ministers, and any circumstances that a municipality or proponent may identify associated with timing and cost of the proposed development.

It is the Ministry's practice to provide information that can help inform the Minister's prioritization of requests (e.g., emergency, public health and safety concerns; provincial interests).

The Ministry will consider how to further improve documentation and communication to requestors about how zoning order requests are prioritized.

Recommendation 6

We recommend that the Ministry of Municipal Affairs and Housing (Ministry):

- maintain a record of each request for an MZO, including the date it was received, and the timeline of key milestones up until the Minister of Municipal Affairs and Housing's (Minister's) decision relating to it;
- establish target time frame to notify requestors about the status of their request for an MZO, where a decision on the MZO has yet to be reached by the Minister; and
- monitor and publicly report on an annual basis whether service standards and requestor notification standards are met.

Ministry Response

The Ministry agrees with the recommendation and the importance of consistently documenting key milestones throughout the process of receiving and assessing requests for zoning orders, including the key points at which sufficient information has been provided to the Ministry. The Ministry will review its documentation practices and efforts to standardize information collection and measurement.

The Ministry recognizes that service standards are an important consideration for decision-making by the provincial and municipal governments. There are no legislative requirements for zoning order requests related to complete applications, fees or timelines. Each zoning order request is site-specific and ultimately is made or refused at the discretion of the Minister. The Ministry will assess how best to set benchmarks or service standards and make changes as appropriate.

Recommendation 7

We recommend, in instances where the Ministry of Municipal Affairs and Housing (Ministry) has to expedite its review of MZO requests, that:

- the Ministry clearly document and communicate to the Minister the assessments or due diligence steps it was unable to undertake or complete; and
- where practical, provide an estimated time frame to the Minister for undertaking and completing such steps.

Ministry Response

The Ministry agrees with the recommendation. Since the Spring of 2024, the Ministry has endeavoured to strengthen the consistency of its documentation and communication practices including estimated timelines (where practical) as zoning order requests are considered and made.

Recommendation 8

We recommend that for each MZO request, the Ministry of Municipal Affairs and Housing (Ministry):

- confirm the availability of existing infrastructure, or obtain the estimated timelines and costs for planned infrastructure, needed to service the site from the municipal and (where applicable) regional planners;
- request that municipal and (where applicable) regional planners assess and identify any site issues, or impacts on existing development plans; and
- communicate the results in the information packages provided to the Minister.

Ministry Response

The Ministry agrees with the recommendation and notes that with the introduction of the Ministry's Zoning Order Framework in April 2024, it has begun to address the substance of these recommendations as requests for MZOs are assessed.

The Ministry agrees that these are key considerations and will continue to liaise with municipal staff and include their technical feedback in information packages provided to the Minister.

The Ministry's Zoning Order Framework sets out the expectation that requests should include information related to how and when servicing will be addressed, anticipated timelines related to applying for downstream approvals and anticipated timing for project completion. In addition, the framework includes providing public notice of zoning order requests through a minimum 30-day posting on Ontario's Environmental Registry, which provides an opportunity for more information related to each request to be shared.

Recommendation 9

We recommend that, for each MZO request, the Ministry of Municipal Affairs and Housing:

- ask municipal staff, where possible, to estimate the financial costs the municipality, region (where applicable) and taxpayers may incur by implementing the MZO; and
- include these estimated financial costs (where provided) in the information shared with the Minister so the Minister is aware of the financial implications to the municipality and region when making their decision.

Ministry Response

The Ministry agrees with the recommendation and will work with municipalities to consistently obtain estimates of any financial costs and benefits associated with each zoning order request. Where provided by the municipality, the Ministry will communicate these estimates in the information packages prepared for the Minister's consideration.

Recommendation 10

We recommend that the Ministry of Municipal Affairs and Housing provide clear guidance on what services relating to an MZO municipalities can charge fees for, and to whom, including any limits on such fees.

Ministry Response

The Ministry agrees with the recommendation as municipalities have clear statutory authority to make a bylaw establishing fees for the processing of planning and other applications. In all cases, the fee amount is limited to cost recovery. As part of the Ministry's regular interactions with municipalities, the Ministry will explore opportunities to share this information.

Recommendation 11

We recommend that, for each MZO, the Ministry of Municipal Affairs and Housing identify and address environmental risks and agricultural impacts by:

- engaging with relevant stakeholders (including conservation authorities, partner ministries and municipal planning staff), to the extent possible, to obtain information on the potential risks and which technical studies should be completed;
- request any outstanding information or technical studies from MZO proponents needed to inform decision-making;

- in collaboration with relevant stakeholders, verify the mapping, including developable areas for an MZO, to mitigate identified risks; and
- provide the Minister with a clear description in the information package of any risks identified by stakeholders, and in cases where a relevant study or assessment has not yet been completed, provide the Minister with options to address the potential risks.

Ministry Response

The Ministry agrees with the recommendation and its recently introduced Zoning Order Framework has strengthened the process for considering zoning order requests, including providing opportunities for greater partner ministry and stakeholder engagement to the extent possible.

Since the introduction of the Zoning Order Framework in April 2024, the Ministry has put process improvements in place intended to more consistently assess and clearly document and communicate options, benefits, risks and potential risk mitigation associated with making a requested zoning order. As a result, the Ministry will continue to implement those process improvements in future, taking into account these recommendations in the context of the government's priorities and objectives in making zoning orders.

Recommendation 12

We recommend that the Ministry of Municipal Affairs and Housing (Ministry) consistently follow the most current guidance developed by the Ministry of Indigenous Affairs and First Nations Economic Reconciliation, that is intended to help the Ministry meet its obligations to Indigenous communities relating to MZOs.

Ministry Response

The Ministry agrees with the recommendation and remains committed to meeting its duty to consult obligations to Indigenous communities.

The Ministry continues to work closely with the Ministry of Indigenous Affairs and First Nations Economic Reconciliation (IAFNER) when consulting with Indigenous communities on requests

for zoning orders. Since implementing the Ministry's Zoning Order Framework in April 2024, the Ministry has endeavoured to follow and will continue to follow consultation guidance developed by IAFNER, including IAFNER's December 13, 2023 Duty to Consult: Guidance to Ministries.

Recommendation 13

We recommend that, for each MZO request, the Ministry of Municipal Affairs and Housing provides the Minister with:

- an analysis of potential viable zoning options relating to the project proposed for an MZO (for example, make order, refuse request, address through municipal planning process);
- an assessment of all key risks and associated mitigation strategies; and
- for cases when it is not possible for the Ministry to provide risk mitigation advice within the timelines available, provide a clear explanation of the potential impacts of making the MZO absent these assessments, indicating also the time and resources the Ministry would need to complete these assessments.

Ministry Response

The Ministry agrees with the recommendation and under the Zoning Order Framework, the Ministry endeavours to work with municipalities and partner ministries to gather and provide more robust factual information, and to more consistently assess and identify key risks and possible mitigation options for the Minister's consideration.

Each zoning order request reflects a development concept endorsed by a partner ministry or municipality and requires a site-specific approach. It may not be feasible in all circumstances for the Ministry to assess zoning options beyond those identified in the request.

However, as part of its ongoing commitment to improving efficiency and information supporting decision-making, the Ministry will continue to review the Zoning Order Framework and recommend changes to the Minister as warranted. The Ministry will take into account the government's priorities and objectives in making zoning orders and ensuring the continued utility of the zoning order tool.

Recommendation 14

We recommend that the Ministry of Municipal Affairs and Housing include in its individual notices on the Environmental Registry of Ontario, key information for the public to understand the impact and scope of MZOs, including:

- for MZO requests—current land use, proposed zoning change, why an MZO is requested, detailed location information and map, and potential project outcomes, potential environmental implications and risks, and how potential risks are planned to be mitigated; and

- for decision notices on MZOs made—previous land use, purpose of the zoning change, why an MZO was requested, detailed location information and map, potential project outcomes, any changes in the request since it was posted for consultation, any associated environmental risks identified and how those risks are being mitigated, and how consultation affected the outcome.

Ministry Response

The Ministry agrees with the recommendation and under the Zoning Order Framework, the Ministry has provided public notice of all requests for zoning orders under consideration. Notice has been provided through a minimum 30-day posting on Ontario's Environmental Registry.

Going forward, the Ministry will take into consideration how it could improve its approach to consultation postings and decision notices by incorporating additional information where available and appropriate. However, it should be noted that some risks may be unknown prior to consultation, and that some information cannot be publicly disclosed as it may include confidential or legal advice to government. To the extent possible, the Ministry will indicate where mitigation of potential risks may be addressed through subsequent approvals (e.g., plan of subdivision, site plan control, other permitting) rather than through the zoning order itself.

Recommendation 15

We recommend that for each MZO made since 2019, the Ministry of Municipal Affairs and Housing work with relevant municipalities and partner ministries for provincial priority MZOs regarding the projects enabled by the re-zoning to:

- define what it deems as sufficient progress, and the timeline that sufficient progress should be achieved;
- obtain an update on the project's implementation status and expected completion date;
- identify project implementation barriers (if any) and plans to address these barriers;
- assess this information to conclude whether progress has been made in accordance with expectations; and
- based on this assessment, provide options for the Minister regarding potential MZO revocation or amendment.

Ministry Response

The Ministry agrees with the recommendation. The Ministry will review its existing monitoring efforts and enhance them where appropriate. Since 2022, the Ministry has monitored the implementation of all zoning orders issued since 2018 through quarterly outreach to municipal staff about the progress made on the respective projects. This also includes working with partner ministries to monitor the implementation of zoning orders made for provincial priorities.

This monitoring formed the basis of recommendations to the Minister to revoke seven zoning orders, amend one zoning order and identify others as being subject to enhanced monitoring, based on consideration of progress made on status of servicing and other necessary development applications.

The Ministry continues to conduct ongoing monitoring and report to the Minister on implementation progress for each zoning order on a regular basis (every three months). This reporting will continue to identify projects subject to zoning orders that are making limited progress toward implementation and provide options for the Minister regarding potential revocation, amendment or enhanced monitoring.

The Ministry will continue to work with and obtain updates from partner ministries that monitor progress on the implementation of provincial priority MZO projects and advise the Minister based on feedback received.

Recommendation 16

We recommend that the Ministry of Municipal Affairs and Housing:

- record for each MZO the specific goals (such as the project goals) it is expected to achieve, including a timeline for achieving those goals;
- establish a process to track and record whether MZO-enabled projects achieve expected outcomes within expected timelines; and
- report annually to the Minister on the progress of each project in achieving its goals, including within expected timelines.

Ministry Response

The Ministry agrees with the recommendation and notes that with the introduction of the Ministry's Zoning Order Framework in April 2024, it has begun to address the substance of these recommendations.

Through the Zoning Order Framework, the Ministry has established clear expectations for the types of information that should be included in requests for zoning orders. The Ministry receives robust and consistent information with each request, including anticipated project milestones and timelines.

The Ministry will review opportunities to use the information on milestones and timelines that it now receives with each request to better assess implementation progress in a more consistent and standardized way. Aside from timelines for project milestones, the other goals of a particular zoning order request may be subjective, non-quantifiable or not directly attributable to the zoning order.

The Ministry will continue efforts to collect other significant project information in as standardized a manner as possible, and to integrate it into its regular reporting to the Minister on zoning order implementation progress.

Recommendation 17

We recommend that the Ministry of Municipal Affairs and Housing:

- identify and set targets for performance indicators for MZOs relating to provincial priorities that are relevant to the government;
- annually track whether targets for these performance indicators are met; and
- report results on these performance indicators to the Minister annually.

Ministry Response

The Ministry agrees with the recommendation. The Ministry will assess the feasibility of performance indicators taking into consideration the Minister's objectives for using the zoning order tool.

Recommendation 18

We recommend that the Ministry of Municipal Affairs and Housing:

- put in place a process to identify instances where land related to an MZO has been listed for sale or sold;
- in such instances, assess whether there is a potential impact to the project for which the MZO was made; and
- based on this assessment, provide the Minister with options on whether the MZO should be left as is, amended, or revoked.

Ministry Response

The Ministry agrees with the recommendation. Since the Zoning Order Framework was released in April 2024, the Ministry seeks a commitment from the proponent/requestor that if the zoning order is made, they will notify the Ministry in advance of land sales, and regularly asks municipalities to report on any known land sales.

While land transactions are often a normal part of the land development process (e.g., plans of subdivision to sell individual lots), where a zoning order appears to have been requested for speculative purposes, the Ministry has and will continue to investigate and provide advice to the Minister on options including, but not limited to, potential revocation of the zoning order.

Recommendation 19

We recommend that the Ministry of Municipal Affairs and Housing (Ministry):

- review the audit observations in this report to identify opportunities to enhance the Ministry's Zoning Order Framework;
- seek input on opportunities to enhance the Ministry's Zoning Order Framework from stakeholders in a manner that aligns with the Minister's objectives for the use of the MZO tool; and
- based on this review and stakeholder input received, propose changes to the Minister to enhance the Zoning Order Framework.

Ministry Response

The Ministry agrees with the recommendation. The Ministry will continue to review the Zoning Order Framework and recommend changes to the Minister, to address opportunities to improve the way zoning order requests are assessed, processed and documented for the consideration of the Minister.

Audit Criteria

In planning our work, we identified the audit criteria we would use to address our audit objectives (outlined in **Section 3.0**). These criteria were established based on a review of applicable legislation, policies and procedures, internal and external studies, and best practices. Senior management at the Ministry reviewed and agreed with the suitability of our objectives and associated criteria:

- » The Ministry identifies and advises the Minister and members of the Minister's Office whether a proposed MZO aligns with the *Planning Act* and other applicable legislation, and key government policies and initiatives.
- » The Ministry assesses the key potential risks (including servicing, land valuation, environmental, public safety and other risks identified by stakeholders and Indigenous communities) of proposed MZOs and provides its assessment to decision-makers along with staff subject matter expert recommendations of how to mitigate identified risks and whether or not to proceed with the MZO.
- » The Ministry provides complete information related to MZOs to decision-makers on a timely basis relative to the typical municipal zoning change process.
- » The Ministry documents objectives for MZOs, monitors implementation so that expected benefits are realized and key risks are mitigated, and takes corrective action where they are not.
- » The Ministry complies with public notice requirements for MZOs under the *Planning Act*.

Audit Approach

We conducted our audit between September 2023 and June 2024. We obtained written representation from the Ministry of Municipal Affairs and Housing's (Ministry's) management that, effective November 27, 2024, they had provided us with all the information they were aware of that could significantly affect the findings or the conclusion of this report.

As part of our audit work, we:

- » spoke with Ministry staff at their Central (Toronto), East (Kingston) and West (London) offices to inquire about their processes for supporting the Minister in the review and oversight of MZOs;
- » reviewed all MZO request information packages, prepared by Ministry staff for the Minister's review, for the 114 MZOs made from 2019 to 2023;
- » conducted an in-depth review of 25 of the 114 MZOs based on our risk assessment, which considered purpose, location, stakeholder concerns, Ministry-identified risks and amendments or revocation;
- » spoke with external stakeholders, including four regional planning offices and 18 municipal planning offices;
- » spoke with subject-matter experts, including land-use planners, a municipal lawyer and the Municipal Property Assessment Corporation;
- » spoke with representatives of Indigenous communities, including nine First Nations and one Indigenous organization, and environmental organizations, including four conservation authorities and Environmental Defence;
- » researched relevant Ontario legislation and regulations, and similar practices in other Canadian jurisdictions; and
- » reviewed relevant emails collected from the Ministry. We also reviewed emails collected relating to staff from the Minister's Office (excluding the Minister).

Audit Opinion

To the Honourable Speaker of the Legislative Assembly:

We conducted our work for this audit and reported on the results of our examination in accordance with Canadian Standards on Assurance Engagements 3001—*Direct Engagements* issued by the Auditing and Assurance Standards Board of the Chartered Professional Accountants of Canada. This included obtaining a reasonable level of assurance.

The Office of the Auditor General of Ontario applies Canadian Standards on Quality Management and, as a result, maintains a comprehensive system of quality management that includes documented policies and procedures with respect to compliance with rules of professional conduct, professional standards, and applicable legal and regulatory requirements.

We have complied with the independence and other ethical requirements of the Code of Professional Conduct of the Chartered Professional Accountants of Ontario, which are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality, and professional behaviour.

We believe the audit evidence we have obtained is sufficient and appropriate to provide a basis for our conclusions.

December 3, 2024



Shelley Spence, FCPA, FCA, LPA

Auditor General

Toronto, Ontario

Acronyms

Acronym	Definition
CLOCA	Central Lake Ontario Conservation Authority
EBR	Environmental Bill of Rights
EIS	Environmental Impact Study
eMZO	Enhanced Minister's Zoning Order
IAFNER	Ministry of Indigenous Affairs and First Nations Economic Reconciliation
LSRCA	Lake Simcoe Region Conservation Authority
MCFN	Mississaugas of the Credit First Nation
MECP	Ministry of the Environment, Conservation and Parks
MNR	Ministry of Natural Resources
MPAC	Municipal Property Assessment Corporation
MZO	Minister's Zoning Order
OMAFA	Ministry of Agriculture, Food and Agribusiness
ORCA	Otonabee Region Conservation Authority
PPS	Provincial Planning Statement
PSW	Provincially Significant Wetland
SNGR	Six Nations of the Grand River
TRCA	Toronto and Region Conservation Authority

Appendix 1: Key Elements of Ontario's Land-Use Planning Framework

Prepared by the Office of the Auditor General of Ontario

Planning Tool	Description
Provincial	
<i>Planning Act</i>	Provides the authority and planning tools to the Province and municipalities to regulate land use.
Provincial Planning Statement	Provides policy direction on provincial priorities (for example, growth, environmental protection, public safety) that applies to the entire province.
Provincial Plans	Provide additional land-use policies and targets related to environmental, growth management and economic issues in specific geographic areas in the province. Current provincial plans include the Greenbelt Plan; the Niagara Escarpment Plan; the Oak Ridges Moraine Conservation Plan; the Lake Simcoe Protection Plan; and the Growth Plan for Northern Ontario.
Municipal	
Official Plans	Implement the <i>Planning Act</i> , policies in the PPS and provincial plans, and identify a municipality's goals, objectives and policies for managing and directing physical change and its effects on the social, economic, built and natural environment of a municipality.
Secondary Plans	Contain more detailed policies for a particular area of a municipality, for example, a downtown area.
Zoning bylaws	Dictate how lands may be used (including the types, scale, locations and uses of buildings and other structures that may be constructed). Zoning bylaws set out detailed requirements such as setback distance from the street, minimum lot areas, maximum building height and the number of parking spaces that need to be provided.
Inclusionary zoning	Allows municipalities to require that certain new or redeveloped residential developments include a prescribed number of affordable housing units.
Site plan control	Dictates specific features on a development site related to compatibility with surrounding area and site design matters, such as access, parking areas, lighting, elevations, grades and landscaping.
Building permits	Formal permission issued by a municipality's Chief Building Official to begin construction or demolition.
Partner Ministries and Conservation Authorities	
Approvals and permits	Additional permits or approvals may also be required, including conservation authority permits, endangered species permits, highway corridor management permits, <i>Ontario Heritage Act</i> approvals and/or archaeological assessments.

Appendix 2: Matters of Provincial Interest Within the *Planning Act*

Source: *Planning Act*, Part 1, Section 2

The *Planning Act*, Section 2

The Minister, the council of a municipality, a local board, a planning board and the Tribunal, in carrying out their responsibilities under this Act, shall have regard to, among other matters, matters of provincial interest such as:

- the protection of ecological systems, including natural areas, features and functions;
- the protection of the agricultural resources of the Province;
- the conservation and management of natural resources and the mineral resource base;
- the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest;
- the supply, efficient use and conservation of energy and water;
- the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems;
- the minimization of waste;
- the orderly development of safe and healthy communities;
- the accessibility for persons with disabilities to all facilities, services and matters to which this Act applies;
- the adequate provision and distribution of educational, health, social, cultural and recreational facilities;
- the adequate provision of a full range of housing, including affordable housing;
- the adequate provision of employment opportunities;
- the protection of the financial and economic well-being of the Province and its municipalities;
- the co-ordination of planning activities of public bodies;
- the resolution of planning conflicts involving public and private interests;
- the protection of public health and safety;
- the appropriate location of growth and development;
- the promotion of development that is designed to be sustainable, to support public transit and to be oriented to pedestrians;
- the promotion of built form that:
 - is well-designed,
 - encourages a sense of place, and
 - provides for public spaces that are of high quality, safe, accessible, attractive and vibrant;
- the mitigation of greenhouse gas emissions and adaptation to a changing climate.

Appendix 3: Permits and Approvals That May Be Required After an MZO Is Filed

Prepared by the Office of the Auditor General of Ontario

Permits and Approvals	Description	Exceptions for Lands Subject to an MZO
Conservation Authority permit	<p>Under the <i>Conservation Authorities Act</i>, conservation authorities can regulate development and activities that could interfere with a wetland or watercourse, or affect the control of flooding or other natural hazards. For any development activity within a conservation authority's "regulated area" (prescribed areas with natural hazard risks, including river or stream valleys, shorelines, wetlands and watercourses), the project proponent must obtain a permit, which involves:</p> <ul style="list-style-type: none"> • initial voluntary consultation with the conservation authority; • submitting an application and fee; and • submitting relevant plans and drawings, legal surveys, and technical studies. <p>A permit may be issued (with or without restrictions, conditions to mitigate natural hazard risks or restore or financially compensate for ecological impacts) or refused.</p> <p>If a permit is refused or the proponent objects to the conditions, they have the right to a hearing before the conservation authorities' board and they may request a review by the Minister of Natural Resources or appeal to the Ontario Land Tribunal following the hearing.</p>	<p>In 2020, Bill 229 amended the <i>Conservation Authorities Act</i> such that, for land outside of the Greenbelt Area, conservation authorities cannot refuse to issue permits for development projects authorized by an MZO, and can only impose conditions to mitigate on-site impacts.</p> <p>The permit must include an agreement between the proponent, the conservation authority and other specified parties, which sets out actions the proponent must take to compensate for ecological impacts, if any.</p> <p>The Minister of Natural Resources can dictate through regulation the timing for a conservation authority to issue a permit. A proponent has the same mechanisms available to contest conditions imposed.</p>

Permits and Approvals	Description	Exceptions for Lands Subject to an MZO
Partner ministry permits and approvals	<p>Additional permits, approvals or assessments may be required by other legislation regulated by partner ministries before construction or land-use changes. For example:</p> <ul style="list-style-type: none"> • The Ministry of the Environment, Conservation and Parks may require endangered species permits, environmental compliance approvals or permits to take water. • The Ministry of Transportation may require a highway corridor management permit. • The Ministry of Citizenship and Multiculturalism may require archaeological assessments and <i>Ontario Heritage Act</i> approvals. 	These permits and approvals are the same for MZOs.
Site plan control	<p>Under the <i>Planning Act</i> and the <i>City of Toronto Act, 2006</i>, site plan control is a planning tool used by municipalities to control certain site-specific elements for a development. Proponents are required to submit plans and drawings displaying matters such as:</p> <ul style="list-style-type: none"> • the location of buildings; • landscaping; • waste and recycling containers; and • traffic, pedestrian access and interior walkways (if publicly accessible). <p>Municipal councils can apply conditions to site plan approvals, and may require the owner to enter into agreements to maintain certain facilities (such as off-street parking or loading facilities).</p>	If an eMZO is used, the Housing Minister has discretionary authority to remove a municipality's authority in site plan approvals and may require the landowner to enter into an agreement with the municipality concerning site plan matters. Where an agreement has been required, the Minister may impose direction for the agreement, including what should be included and how certain matters should be addressed.

Permits and Approvals	Description	Exceptions for Lands Subject to an MZO
Inclusionary zoning	<p>Under the <i>Planning Act</i>, a municipality may require the inclusion of affordable housing units in residential developments or redevelopments of 10 or more units within areas with particular designations. Municipal Official Plans and zoning bylaws must include policies on:</p> <ul style="list-style-type: none"> • locations and scale of development for which inclusionary zoning applies; • number of residential units in a development that will be affordable; • affordability time period; and • definition of affordable prices or rents. 	<p>If an eMZO is used, the Minister has authority to require affordable housing units in any area or override existing municipal Official Plan requirements by increasing or decreasing the number of units available, or altering other terms of availability.</p>
Building permits	<p>The <i>Building Code Act</i> requires a building permit from the municipality's chief building official prior to any construction, material alteration, demolition or changes in building use, or for work on on-site sewage systems. Building permit applications are reviewed for compliance with:</p> <ul style="list-style-type: none"> • the Ontario Building Code (which sets standards for building design and construction related to health, safety, fire protection, accessibility, resource conservation, etc.); • the local zoning bylaw; and • other applicable laws. <p>Depending on the type of building permit sought, chief building officials typically require the following types of documents: site plan; mechanical and plumbing drawings; architectural plans; elevations; and other construction and structural details.</p>	<p>These permits are the same if an MZO is issued.</p>

Appendix 4: Recent Legislative Changes That Have Increased the Scope and Authority of MZOs, 2020–2024

Prepared by the Office of the Auditor General of Ontario

Date	Bill	Act Amended	Summary of Changes
July 21, 2020	Bill 197, <i>Covid-19 Economic Recovery Act, 2020</i>	<i>Planning Act</i>	<p>Authorized the Minister to make enhanced MZOs.</p> <p>An enhanced MZO can remove municipal use of site plan control, require agreements between municipalities and proponents concerning site plan matters, and require inclusionary zoning (affordable housing requirements).</p> <p>This authority cannot be used for land in the Greenbelt Area.</p> <p>Notice and opportunity to comment are not required prior to amending or revoking an eMZO.</p>
		<i>Conservation Authorities Act</i>	<p>Prohibited a conservation authority from refusing to grant permission for a development project when the Minister has issued an MZO, but authorized an authority to attach conditions to the permission to mitigate adverse effects.</p> <p>Outlined the process for review and appeal of conditions.</p>
April 12, 2021	Bill 257, <i>Supporting Broadband and Infrastructure Expansion Act, 2021</i>	<i>Planning Act</i>	<p>The Minister's decision to issue an MZO does not have to be consistent with the PPS.</p> <p>The provision operates retroactively to also affect MZOs already made: that is, the requirement for the Minister's decision to be consistent with the PPS is deemed never to have applied to any MZO.</p> <p>These provisions do not apply to land in the Greenbelt Area.</p>
April 14, 2022	Bill 109, <i>More Homes for Everyone Act, 2022</i>	<i>Planning Act</i>	<p>Authorized the Minister to make a new type of zoning order at the request of a municipality (referred to as a Community Infrastructure and Housing Accelerator [CIHA] order). A CIHA request required public consultation and a council resolution.</p> <p>Municipalities needed to consult with the public, First Nations communities and relevant stakeholders prior to a council resolution. Municipalities could require the proponent complete specific studies, and could include conditions in a CIHA request for the Minister to impose.</p> <p>Repealed by Bill 185 – see below.</p>

Date	Bill	Act Amended	Summary of Changes
November 28, 2022	Bill 23, <i>More Homes Built Faster Act, 2022</i>	<i>Planning Act</i>	Limited appeals of minor variances, subdivisions and consents except by specified persons (excluded/terminated most third-party appeals of these instruments).
		<i>Conservation Authorities Act</i>	Limited the matters that conservation authorities are responsible for regulating and addressing through conditions on development permits (including for MZOs).
June 8, 2023	Bill 97, <i>Proposed Helping Homebuyers, Protecting Tenants Act, 2023</i>	<i>Planning Act</i>	Authorized the Minister to exempt subsequent permits or approvals from having to align with the PPS, provincial plans or municipal official plans in areas with an MZO.
December 6, 2023	Bill 150, <i>Planning Statute Law Amendment Act, 2023</i>	<i>Planning Act</i>	Limited causes of action and potential remedies for actions or decisions by the government related to MZOs. This was subsequently amended on June 6, 2024, to exempt the application of these immunity provisions for designated transit-oriented community land. Applied retroactively to actions or decisions taken prior to its enactment.
June 6, 2024	Bill 185, <i>Cutting Red Tape to Build More Homes Act, 2024</i>	<i>Planning Act</i>	Limited third-party appeals of official plan and zoning bylaw matters, except by landowners, if the matter applies to their land, and specified persons (for example, aggregate operators) and public bodies (for example, public hospitals). Prohibited municipalities from making pre-consultation mandatory. Repealed the Minister's authority to make CIHA orders; substituted with a transition provision regarding the status of orders already made.



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