



# Operation of the *Environmental Bill of Rights, 1993*

## 2023 Value-for-Money Audit

### Why we did this audit

- The Office of the Auditor General of Ontario is responsible for reporting annually on the operation of the *Environmental Bill of Rights, 1993* (EBR Act). This includes reporting on how the people of Ontario exercise their environmental rights and how well the government fulfills its obligations.

### Why it matters

- The EBR Act is intended to protect the environment by ensuring that Ontarians are informed about, and have an opportunity to participate in, the government's decisions that could significantly affect the environment, including those that impact air, water, land, plant and animal life, climate, biodiversity and ecosystem functions. The public's participation in the design and implementation of these initiatives can lead to better environmental outcomes.
- When the EBR Act operates effectively, it supports meaningful public participation in, and transparency and accountability for, the government's environmentally significant decisions.

### What we found

#### **The Government, Led by the Ministry of Municipal Affairs and Housing, Did Not Meaningfully Consult the Public When It Made Significant Decisions Intended to Increase Housing Supply**

- While the Ministry of Municipal Affairs and Housing (Municipal Affairs Ministry), the Ministry of the Environment, Conservation and Parks (Environment Ministry), and the Ministry of Natural Resources and Forestry posted proposal notices for Bill 23 (the *More Homes Built Faster Act, 2022*) for public consultation, the bill was passed before the end of the consultation period. This means these ministries could not have considered all of the comments received before final decisions were made.
- The Municipal Affairs Ministry gave the public incomplete and inaccurate information about proposed changes to the Greenbelt.
- The timing of the comment periods for both the housing and Greenbelt proposals hindered municipal participation in the consultations. The housing-related proposal notices were posted one day after municipal elections, and many new municipal councils were not even sworn in, let alone able to submit comments, before some decisions were made.

#### RECOMMENDATION 1

#### **The Ministry of Energy Did Not Consult Ontarians about Two Environmentally Significant Policies**

- The Ministry of Energy did not consult Ontarians about two important policies affecting the environment:
  - a new energy plan, called Powering Ontario's Growth—Ontario's Plan for a Clean Energy Future; and
  - amendments to its Conservation and Demand Management Framework for electricity conservation programs.

#### RECOMMENDATION 2

#### **The Public Was Not Given Clear or Complete Information about Some Proposals**

- Ontarians were not always given clear or complete information about environmentally significant proposals posted on the Environmental Registry. For example:
  - the Ministry of Mines told the public that it did not expect any environmental impacts from changes it was making to the *Mining Act*, but did not explain why; and
  - the Ministry of Natural Resources and Forestry did not explain the environmental implications of proposed changes to the *Conservation Authorities Act* and regulations.

#### RECOMMENDATION 3

**The Environment Ministry Is Not Fully Carrying Out All of Its Unique Responsibilities under the EBR Act**

- The Environment Ministry has done little to provide educational programs about the EBR Act to the public since being given that responsibility in 2019.
- The Ministry again failed to give the public prompt notice of applications for leave to appeal initiated under the EBR Act to challenge government decisions about environmental approvals.
- The Ministry maintained the Environmental Registry so that it generally worked well, but we identified some weaknesses.

**RECOMMENDATION 7**

**Action Is Needed to Keep the EBR Act's Coverage Up to Date**

- The Environment Ministry has not made progress in implementing our past recommendations to make additional ministries and laws subject to the EBR Act.
- The Environment and Municipal Affairs Ministries have not taken any steps to implement our Office's past recommendation to require public consultation on environmentally significant Minister's Zoning Orders issued under the *Planning Act*.
- The Ministry of Citizenship and Multiculturalism, which is now responsible for most of the *Ontario Heritage Act*—a prescribed law under the EBR Act— is not itself subject to the EBR Act.

**RECOMMENDATION 8**

**Conclusions**

- While we have seen some improvements over the past five years in how ministries carry out their EBR Act responsibilities, we continue to find significant issues. Most importantly, every year we have found a lack of consultation—or a lack of meaningful consultation—on important government decisions affecting the environment.
- This year, we again found that some ministries chose an approach to consultation on environmentally significant proposals that did not meet the requirements of the EBR Act.
- Poor compliance with the EBR Act, and lack of respect for the Act's purposes, reduces the government's accountability for its environmental decisions and risks undermining public confidence in those decisions.

Read the report at [www.auditor.on.ca](http://www.auditor.on.ca)