

November 16, 2020

The Honourable Steve Clark
Minister of Municipal Affairs and Housing
Office of the Minister
777 Bay Street, 17th Floor
Toronto, Ontario M7A 2J3

Via Email

Dear Minister Clark,

RE: Issuance of Minister's Zoning Orders

We, the 96 undersigned organizations, are strongly opposed to the use of Ministerial Zoning Orders (MZOs) to over-ride policy protections for Provincially Significant Wetlands (PSWs) in Ontario. We ask that you revoke two recently issued MZOs that will lead to the destruction of PSWs in the cities of Vaughan and Pickering, and that you refrain from using MZOs for this purpose in the future.

Wetlands are among the most productive and diverse habitats on Earth. They provide incalculable benefits for communities, including flood mitigation, water filtration, carbon sequestration, wildlife habitat, wild foods and medicines, recreational opportunities and more. They are also of immense economic value. For example, wetlands can reduce the financial costs of floods by up to 38 percent; in the Great Lakes region the benefits provided by wetlands are worth 13 to 35 times more than the cost of protecting or restoring them; and in southern Ontario alone wetlands provide over \$14 billion dollars in benefits every year.

Provincial planning law and policy rightly prohibit development on wetlands that are deemed to be provincially significant. In fact, PSWs in southern Ontario enjoy the highest level of protection of any natural feature. Strict protection of PSWs is also a key component of the Ontario Government's *Wetland Conservation Strategy for Ontario, 2017 – 2030*, which aims to achieve a net gain in wetland area and function by 2030. This approach was endorsed by the MNRF's multi-party Wetlands Conservation Strategy Advisory Panel in their 2018 report. This group included representatives from the development, agricultural, waterpower and municipal sectors.

The use of MZOs to sidestep these protections and commitments is unacceptable. We are aware of two recent instances where such circumvention has occurred, setting a deeply troubling precedent. The first was an MZO to demolish three PSWs on agriculturally zoned land in Vaughan adjacent to a planned Walmart distribution facility. The second was an MZO to authorize the destruction of a large coastal PSW in Pickering to make room for a warehousing facility. As is typically the way with MZOs,

there was no public notice and no opportunity for public comment in either case. Further, these zoning orders are not subject to appeal.

In issuing these MZO's, we believe that the Ontario government failed in its Treaty obligations and constitutional duty to consult with affected First Nations. The duty to consult arises from s.35 of the *Constitution Act, 1982*, and is triggered whenever the Crown has either constructive or real knowledge of the potential existence of an Aboriginal right or title and contemplates conduct that may adversely affect it. Further, issuing MZO's without proper consultation is inconsistent with the spirit and intent of the revised *Provincial Policy Statement 2020*, whereby planning authorities must "engage with Indigenous communities and coordinate on land use planning matters." Your ministry must recognize Indigenous rights and fulfill its duty to consult.

Ontarians can and should play a meaningful role in planning processes that affect their communities. Public participation is vital to ensuring that decisions are in the public interest. Yet MZO's eliminate this possibility, allowing deals to be cut with developers behind closed doors, without public scrutiny or input. Such lack of accountability is highly objectionable, paving the way, in this case, for the loss of wetlands that are critical to building community resilience in an era of climate change.

We urge you to cease using MZO's to sidestep policies that protect Ontario's natural areas and farmland and to reaffirm your government's commitment to respecting and upholding protections for all PSWs in Ontario.

Yours sincerely,

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Cc. The Honourable John Yakabuski, Minister of Natural Resources and Forestry
The Honourable Rod Phillips, Minister of Finance