

Report to Standing Committee on Public Accounts (SCOPA)
Ministry of Municipal Affairs and Housing

**Response to the Value for Money Audit: Reducing Greenhouse Gas Emissions
from Energy Use in Buildings of the 2020 Annual Report of the Auditor General**

Nature of the Audit and Overall Conclusion	AG Recommendations and Ministry Response	Ministry Response for SCOPA
Nature of the Audit Under the <i>Environmental Bill of Rights, 1993</i>, the Office of the Auditor General (AG) reports on the progress of activities in Ontario to reduce greenhouse gas emissions. The objective of this audit was to assess whether the Ministry of Municipal Affairs and Housing (MMAH) and the Ministry of Energy, Northern Development and Mines had effective systems and processes in place to: • identify and implement programs that reduce, support, or encourage the reduction of energy use in buildings, and confirm they are comprehensive and delivered efficiently and economically, in accordance with applicable legislation, regulations, directives and policies; • reduce energy use in buildings as applicable, in accordance with Ontario’s legislation, regulations and policies; and • measure, evaluate and publicly report on the results and effectiveness of programs and activities to reduce energy use in buildings. Overall Conclusion (included in the AG Report) We found overall that the programs and oversight of the Municipal Affairs Ministry, Energy and Mines Ministry and Ontario Energy Board focus on energy efficiency and reducing energy use. Based on our work, we found that there is not a focus on reducing fossil fuel use or greenhouse gas emissions. This matters because, for instance, while reducing the use of natural gas contributes to a reduction in emissions, conversion to a fuel source with lower emissions would contribute even more to emissions reductions. This lack of focus means the Municipal Affairs Ministry has not strengthened the Ontario Building Code to specifically reduce emissions, the	Summary of Recommendations The AG had 7 recommendations for MMAH that include: • working with stakeholders to improve supports for building officials (e.g., guidance materials, training, continuous professional development); • establishing and implementing processes that evaluate and verify the efficacy of energy-efficiency requirements in the Building Code; and • seeking opportunities, in conjunction with harmonization efforts, to strengthen Building Code requirements that would reduce greenhouse gas emissions. Overall Response (included in the AG Report) The Ministry of Municipal Affairs and Housing welcomes the Auditor General’s observations and recommendations regarding the Building Regulation Program. The Ministry will need to consider the report and recommendations in the context of the government’s commitments on housing mix and supply, the government’s ongoing response to COVID-19 and the delivery of services that are critical to the health and well-being of the citizens of Ontario, as well as building-related initiatives that were mentioned in the report as follows. On August 27, 2020, on behalf of the government, the Minister of Municipal Affairs and Housing and the Solicitor General signed an agreement with the federal government and other provinces and territories for closer cross-country harmonization with the National Construction Codes. Establishing standardized rules for construction practices and materials across Canada is intended to reduce inter-provincial barriers to trade, create a broader market for manufactured goods across the country, and make it easier for design firms and builders to operate in different jurisdictions. Harmonization of construction codes will also	Overall Response The Ministry of Municipal Affairs and Housing has established a task group which is planning actions and taking steps to implement the audit recommendations to reduce greenhouse gas emissions from energy use in buildings. The ministry is addressing each of the recommendations with the exception of 4.1 and 4.2. The ministry does not have responsibility for implementing these recommendations as they relate to overseeing municipal enforcement of the Building Code. The ministry is also working to further enhance harmonization with National Construction Codes in the next edition of Ontario’s Building Code (anticipated to be released in December 2023). The development process will include engagement with stakeholders on Code changes, that could include energy efficiency requirements, to consider for the next edition of the Building Code. Between September 2020 and March 2021, the ministry convened a series of stakeholder engagement sessions on governance, funding and services related to establishing a proposed administrative authority (AA) for building regulatory services in Ontario. The ministry will review feedback from this process and potentially engage the building industry further on an ad hoc basis, as it seeks government decisions in 2021 about services that could be delegated to a proposed AA.

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Energy and Mines Ministry has not implemented initiatives in the Environment Plan to reduce building emissions, and the OEB has not developed a new natural gas conservation framework. This lack of prioritization and action hinders progress in reducing Ontario's emissions and poses a risk to Ontario's ability to meet its 2030 emission reduction target. Moreover, each of the Municipal Affairs Ministry, Energy and Mines Ministry and Ontario Energy Board lack sufficient systems and processes to effectively oversee, evaluate and improve the performance of programs to support and encourage the reduction of energy use in buildings.	establish a more consistent framework for energy efficiency requirements across Canada and support Ontario businesses within the building energy-efficiency sector to operate on an interprovincial basis. In addition, the Ministry is in the process of transforming and modernizing the delivery of building services in Ontario. Recent amendments to the Building Code Act, 1992 enable the future establishment of an administrative authority to deliver certain building regulatory services. Discussions with sector stakeholders are continuing in fall 2020 into 2021 and will help inform future decisions about the administrative authority's scope of delivery. It is expected that the earliest an administrative authority would be implemented is 2022. The range of services offered by an administrative authority could address some of the issues identified in the report, from the qualification and registration of building practitioners to supporting Code interpretation by building officials.	

Update on MMAH's action plans and timetable for addressing the Auditor's concerns

Row	AG's Recommendation	Ministry Response included in the AG Report	Action Plans (Steps to be Taken to Support Implementation)	Estimated Implementation Date (Month & Year)
1.	Recommendation 4 To support the effective administration of the Ontario Building Code's energy-efficiency requirements across the province, we recommend that the Ministry of Municipal Affairs and Housing: 4.1 collect, review and analyze information on inspections, compliance and enforcement from municipal building departments; 4.2 undertake a pilot assessment of energy efficiency compliance, using best practices developed by other jurisdictions (e.g., a statistically representative sample of building types and sizes, and a range of data collection methods); and 4.3 work with municipalities and other stakeholders to develop and implement processes to address identified inspection, compliance and enforcement issues. <u>AG's Response to the Ministry Response</u> While principal authorities (e.g., municipalities) have been delegated responsibility for inspecting and enforcing compliance with the Ontario Building Code within their specific areas of jurisdiction, the Ministry, as the administrator of the Building Code Act, 1992, is uniquely positioned to assess and ensure that the Act, and how it is administered across the province, is	The Ministry does not have responsibility for implementing this recommendation. In the Ministry's opinion, this recommendation relates to enforcement, rather than administration, of the Ontario Building Code's energy efficiency requirements and therefore does not fit within the statutory responsibility of the Ministry under the Building Code Act, 1992. The division of roles and responsibilities between the Ministry and principal authorities, such as municipalities, are directly assigned by the Legislature through the Building Code Act, 1992. The Ministry is responsible for the administration of the Building Code Act, 1992 and the Building Code, which includes developing amendments to the Act and the Building Code, engaging with other ministries and building sector stakeholders and participating in the National Code development process. The Ministry does not have responsibility for assessing or overseeing compliance with the Building Code described in the recommendation above. This responsibility for assessing and overseeing compliance is assigned by the Act to municipalities and other local principal authorities, who are responsible for enforcement of the Act and the Building Code, including Building Code requirements for energy-efficiency. Municipalities and their building departments are responsible for establishing their own operational policies and processes to fulfil their responsibilities under the current legislative framework for verifying and ensuring Building Code compliance. Their statutory responsibilities include reviewing building permit applications to determine if the plans comply with the Building Code and performing	<u>Recommendations 4.1 and 4.2</u> As per MMAH's response to recommendations 4.1 and 4.2, MMAH does not have responsibility for implementing these recommendations as they relate to enforcement rather than administration of Ontario's Building Code. <u>Recommendation 4.3</u> With respect to working with municipalities and other stakeholders to develop and implement processes to address identified inspection, compliance and enforcement issues: - In 2021, MMAH will work with all municipal associations that represent building officials (OBOA, LMCBO, ROMA, NOMA, AMO)¹ to identify "best operational practices" for enforcing the Code's energy efficiency requirements. This could be achieved by administering a survey, convening a focus group or leading discussion at appropriate pre-existing meeting forum e.g. OBOA/OHBA SB-12 Working Group (for houses, if still convening). - In 2022, MMAH will work with municipal associations to develop a "best practices" guide to address issues related to the administration of energy efficiency requirements and then disseminate to building officials using Code News bulletin or posting	March 2023 (TBD)

¹ OBOA: Ontario Building Officials Association, LMCBO: Large Municipalities Chief Building Officials, ROMA: Rural Ontario Municipal Association, NOMA: Northwestern Ontario Municipal Association, AMO: Association of Municipalities of Ontario

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	effective. This role necessitates that the Ministry: have a high-level understanding of the efficacy of inspection, compliance and enforcement activities across the province; identify systemic risks, issues and opportunities related to the effective administration of the Act; and take corrective actions to address identified issues, including through evidence-based legislative and regulatory amendments.	construction inspections to evaluate whether construction is carried out in accordance with the Building Code and building permit. Municipalities may implement different compliance verification policies and processes based on their access to resources, risk-management profile and the type and volume of new construction activity within their jurisdiction. The Ministry will continue to support the Ontario Building Officials Association, the Large Municipalities Chief Building Officials, as well as individual municipalities and practitioners, to identify compliance verification policies and practices currently being used for the Building Code's energy-efficiency requirements and disseminate "best practices" among the broader community of building officials.	to building official association website e.g. OBOA Build Right.	
2.	Recommendation 5 To help support consistent interpretation and implementation of the Building Code's energy-efficiency requirements across municipalities, we recommend that the Ministry of Municipal Affairs and Housing: 5.1 consult with building officials to identify support gaps; and 5.2 review and update the Ministry's support materials and advisory services to ensure that building officials receive the guidance materials and technical information they need.	The Ministry agrees with this recommendation. The Ministry commits to continuing to work with the Ontario Building Officials Association and the Large Municipalities Chief Building Officials to learn about supports needed by building officials to interpret and apply the Building Code's energy-efficiency requirements in a consistent manner. The Ministry will also consider feedback from its ongoing consultations with stakeholders on building regulatory services to be potentially delivered by a new administrative authority. The Ministry will also review and update its guidance materials and advisory services to support the work of Ontario's building officials.	In 2021, MMAH intends to work with all municipal associations that represent building officials (OBOA, LMCBO, ROMA, NOMA, AMO) to identify "support gaps" in interpreting the Code's energy efficiency requirements in a consistent manner. This could be achieved by reviewing feedback from AA consultations, administering a survey, convening a focus group or leading a discussion at appropriate technical working groups (e.g., monthly technical meetings that MMAH participates in). One of MMAH's next steps is to determine the scope of services that a proposed AA is to deliver, which could include advisory services. In 2021 and 2022, MMAH will work with building officials (via associations) to review existing support materials, for example, the OBOA Energy Efficiency Design Summary (EEDS) forms for houses (MMAH to participate in joint Ontario	December 2023

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			Home Builders Association/OBOA EEDS Working Group meetings), checklists for large buildings (MMAH to procure) and potentially COMCheck trade-off software (MMAH to procure) to determine whether any improvements are needed. Work with building officials to also learn about new support materials they need. MMAH will also update other Code and Construction Guides such as the Guide for Housing and Guide for plumbing, that include support materials on energy and other aspects of the Code. In 2023, MMAH will finalize updates to support materials. Timing will be based on finalization of Code's energy efficiency requirements to harmonize with 2020 National Construction Codes. Also, in 2023, the proposed AA is anticipated to begin delivering services. Services assigned to the AA are subject to government decision.	
3.	Recommendation 6 So that the Ministry of Municipal Affairs and Housing is aware of the effectiveness of the Code's energy-efficiency requirements at achieving the energy reductions expected, we recommend that the Ministry establish and implement processes and requirements, such as air tightness testing and updated key performance indicators, that evaluate and verify the efficacy of the Ontario Building Code's energy-efficiency requirements.	The Ministry agrees with this recommendation. Ontario's Building Code includes a number of compliance options for its energy-efficiency requirements. Designers are required to demonstrate compliance with one of these options and municipal building departments are responsible for verifying compliance. This verification process does not include the energy-efficiency performance of the house or building after construction is complete. The Ministry will work with building industry stakeholders and other experts to examine ways to assess energy performance outcomes of new houses and buildings. Plans	In 2021 and 2022, MMAH will work with building industry stakeholders (e.g., OHBA, PEO, OAA, OBOA)² and other ministries via survey/focus group to identify appropriate processes and requirements to measure energy outcomes post-construction. MMAH may need to seek further support and expertise to continue this work. In 2023, Ontario will monitor changes to 2020 National Construction Codes and whether they will include air-tightness testing. If so, MMAH can consider adopting in the next edition of the	December 2023

² OHBA: Ontario Home Builders Association, PEO: Professional Engineers Ontario, OAA: Ontario Association of Architects, OBOA: Ontario Building Officials Association

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		to implement measures in the Building Code will take into account other government commitments/priorities, such as harmonization with the National Construction Codes and improving housing mix and supply.	Building Code. If air-tightness testing is not included in 2020 National Construction Codes, Ontario will continue to work with the National Research Council to address further evaluation measures. In the meantime, MMAH can find ways to support development of air-tightness testing capacity in Ontario (e.g., supporting recruitment and training of Certified Energy Auditors that perform this work).	
4.	Recommendation 7 So that there is a continued improvement in the energy efficiency of buildings, and reductions in the greenhouse gas emissions they produce, we recommend that the Ministry of Municipal Affairs and Housing: 7.1 consult with experts to strengthen the requirements in the Ontario Building Code—including as part of any harmonization process; and 7.2 ensure that harmonization continues to strengthen rather than weaken the Ontario Building Code's energy-efficiency requirements.	The Ministry agrees with this recommendation. The National Research Council is currently in the process of finalizing its energy-efficiency proposals for houses and buildings that are planned to be included in the next edition of the National Building Code (anticipated for release in December 2021). The Ministry is waiting for this proposal to be finalized before it can be assessed and considered for adoption in Ontario's Building Code during its next code cycle. Prior to adopting more stringent requirements for energy efficiency into Ontario's Building Code, the Ministry will consider its leadership position on building energy-efficiency across North America, other government commitments/priorities and the impact of the global COVID-19 pandemic on municipalities and other building industry stakeholders. The Ministry will seek the advice of its building industry stakeholders as part of this process.	In 2022, MMAH would either hold public consultation or targeted consultation process in 2022 on new energy efficiency requirements for possible inclusion in the Building Code. Consultation would focus on national changes and strengthening requirements. In 2023, MMAH anticipates releasing the next edition of the Building Code, which, depending on feedback received through consultation, would likely harmonize with 2020 National Construction Codes, including energy efficiency. Ontario will not back-slide on current set of requirements.	December 2023
5.	Recommendation 8 So that energy and greenhouse gas reduction opportunities are realized on a timely basis, we recommend that the Ministry of Municipal Affairs and Housing, through consultation with stakeholders, assess opportunities to address emissions reductions through effective energy-efficiency requirements for renovations, including	The Ministry agrees with this recommendation. As a first step towards adopting potential energy-efficiency requirements for renovations in Ontario's Building Code, the Ministry will support the development of provisions for the National Building Code with information, advice and lessons learned from its own Code development process. Future adoption in Ontario's Building Code will consider previously mentioned factors, such as other prevailing government	From 2021 to 2025, MMAH will work with the National Research Council to support the development of renovation proposals, including: • presenting Ontario's proposals submitted for consultation in 2017, • sharing background research studies (if not done yet), stakeholder feedback, key challenges/obstacles encountered, and	By December 2027 (TBD)

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	as part of any Building Code harmonization process, and put the effective requirements into place.	commitments/priorities and the impact of the global COVID-19 pandemic.	participating in development work on Standing Committees and Task Groups. MMAH can also play a role in providing information on renovation requirements in other jurisdictions (Caneta report) and collating existing support guidelines/resources (Canadian Home Builders' Association renovation guidelines). In 2027, MMAH anticipates releasing another edition of the Building Code which, depending on the feedback received through consultation, would likely to consider implementing renovation requirements in 2027 (18 months after publication of 2025 National Construction Codes), provided they have been included by that time.	
6.	Recommendation 9 So that building practitioners have the knowledge needed to ensure compliance with the Ontario Building Code's energy-efficiency requirements, we recommend that the Ministry of Municipal Affairs and Housing work with stakeholders to: 9.1 develop a mandatory training and continuous professional development program; 9.2 update exams in a timely manner to reflect energy-efficiency changes to the Code; and 9.3 ensure that exams are designed to demonstrate a sufficient understanding of the Code's energy-efficiency requirements.	The Ministry supports the Auditor General's recommendation and is currently in the process of transforming and modernizing the way in which building regulatory services are delivered. To this effect, the government amended the Building Code Act, 1992 in July 2020, which included enabling provisions that will allow the government to establish an administrative authority in the future to deliver certain building regulatory services. The Ministry publicly consulted on a number of transformation-related items in fall 2019, including training, examination development and delivery and continuing professional development. Discussions with sector stakeholders are continuing fall 2020 into 2021 and will help inform future decisions about the administrative authority's scope of delivery. It is expected that the earliest an administrative authority would be implemented is 2022.	One of MMAH's next steps is to determine the scope of services that a proposed AA is to deliver, which may include providing training – subject to government decision. MMAH would determine an alternative approach to implementing this recommendation if it is decided that the AA's scope does not include training services. In 2022 and 2023, the ministry would update energy efficiency exams. In 2023, a proposed AA is expected to begin delivering services. Services assigned are subject to government decision.	December 2023

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		The Ministry is committed to addressing the Auditor General's recommendations as the transformation of building regulatory services and their delivery continues.		
7.	Recommendation 10 So that builders, contractors and other skilled trades have the knowledge needed to ensure compliance with the Ontario Building Code's energy-efficiency requirements, we recommend that the Ministry of Municipal Affairs and Housing work with the relevant ministries (e.g., the Ministry of Labour, Training and Skills Development and the Ministry of Government and Consumer Services) to ensure that training and continuous professional development is required and provided for all building professionals.	The Ministry supports this recommendation. While the Ministry does not have responsibility under the Building Code Act, 1992 to regulate the training and continuing professional development of building practitioners, other than those specifically described in the Act and the Building Code (e.g., building officials, certain building designers), the Ministry is committed to working with its partner ministries to ensure the buildings sector (including builders, contractors and other skilled trades) has the support it needs to understand and apply Code requirements as part of the ongoing transformation of building regulatory services and their delivery.	One of MMAH's next steps is to determine the scope of services that a proposed AA is to deliver, which may include providing training and continuous professional development – subject to government decision. MMAH would determine an alternative approach to implementing this recommendation if it is decided that the AA's scope does not include training and continuous professional development services. In 2021, MMAH has completed stakeholder engagement sessions and will proceed to share feedback with relevant ministries and regulatory partners. In 2022 and 2023, the ministry will update energy efficiency exams. In 2023, a proposed AA is expected to begin delivering services. Services assigned are subject to government decision. Building professionals not regulated by the Building Code would have access to resources developed for public consumption by the AA, that enhances their knowledge of the Code's energy efficiency requirements.	December 2023

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