



Legislative & Planning Services
Office of the Commissioner
1151 Bronte Road
Oakville ON L6M 3L1

May 31, 2019

Laurie Miller, Director
Planning Act Review
Provincial Planning Policy Branch
777 Bay Street
13th floor
Toronto, ON M5G 2E5

Dear Laurie Miller,

Re: Bill 108, More Homes, More Choice Act, 2019: Proposed Amendments to the Planning Act (Schedule 12)

Thank you for the opportunity to provide input with respect to Bill 108. Halton Region welcomes the opportunity to participate in the Ministry of Municipal Affairs and Housing's request for comments regarding proposed changes to the Planning Act. This letter and the attached enclosures address changes proposed to the Planning Act in response to the posting on the Environmental Registry of Ontario (ERO 019-0016).

At its May 22, 2019 meeting, Regional Council discussed changes proposed under Bill 108. At that meeting, Council approved Report No. LPS70-19 (Re: Information and Preliminary Comments on A Place to Grow: Growth Plan for the Greater Golden Horseshoe and Planning Components of Provincial Bill 108), directing Regional staff to prepare a submission to the Province on the planning components of Provincial Bill 108 as well as on O.Reg.311/06 Transition Regulations – Growth Plans. The Region's submission enclosed as Attachment #1 includes detailed commentary as well as recommendations on the proposed changes to the Planning Act. Submissions on the *Endangered Species Act, 2007*, *Conservation Authorities Act*, and O.Reg.311/06 have been submitted separately to the Province as per the ERO postings, or for proposed changes not posted on the ERO, to the appropriate Ministry.

At the May 22, 2019 meeting, Regional Council passed a Resolution opposing Bill 108 in its current state, as the Region is of the opinion that the proposed legislative changes will have negative consequences on community building and proper planning, and calling upon the Government of Ontario to halt the legislative advancement of Bill 108 to enable fulsome consultation with municipalities.

Please find enclosed herewith:

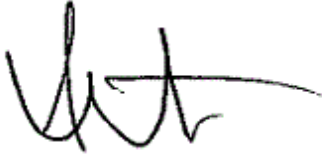
- Attachment #1: Submission Re: Proposed Changes to the Planning Act
- Attachment #2: Halton Staff Report LPS70-19 Re: Information and Preliminary Comments on A Place to Grow: Growth Plan for the Greater Golden Horseshoe and Planning Components of Provincial Bill 108
- Attachment #3: Council resolution on Bill 108, dated May 22, 2019

Regional Municipality of Halton

HEAD OFFICE: 1151 Bronte Rd, Oakville, ON L6M 3L1
905-825-6000 | Toll free: 1-866-442-5866

If you have any questions or concerns regarding our submission, the Region would be pleased to meet to review and discuss.

Sincerely,

A handwritten signature in black ink, appearing to read 'Art Zuidema', with a long horizontal stroke extending to the right.

Art Zuidema
Commissioner of Legislative & Planning Services
Halton Region
905-825-6000 x6010
art.zuidema@halton.ca

Submission Re: Proposed Changes to the Planning Act
(Schedule 12 of Bill 108)

Halton Region welcomes the opportunity to participate in the Ministry of Municipal Affairs and Housing's request for comments regarding proposed changes to the Planning Act through Bill 108. Halton's Regional Council received Staff Report LPS70-19 titled "Information and Preliminary Comments on A Place to Grow: Growth Plan for the Greater Golden Horseshoe and Planning Components of Provincial Bill 108" at its meeting of May 22, 2019, and directed staff to prepare a submission to the Ministry of Municipal Affairs and Housing based on the implications identified in the report. This submission is provided to the Ministry in response to the posting on the Environmental Registry of Ontario (ERO 019-0016).

General Observations

Bill 108 introduced many proposed changes that would impact several Acts. The full extent of the proposed changes is currently unclear, as the associated regulations have not yet been made available. As such, there needs to be an opportunity to provide input into the regulations and address the full impact of the proposed changes once they are known.

It is unclear whether or how these changes address the Province's goal of advancing a greater number of housing opportunities to market in a shorter timeframe. In particular, the changes around appeals made to the Local Planning Appeal Tribunal would mean effectively reinstating the former Ontario Municipal Board procedures, which have historically resulted in significantly protracting proceedings.

In addition to the comments provided below, the Region would like to express its support for the Province maintaining the provision for no appeals of the Minister's decisions (ss.17(36.5)).

This submission addresses proposed changes related to:

1. Planning Act Application Processing Timelines;
2. Basis for Appeal;
3. Appeals for Non-Decision;
4. New Evidence at an LPAT hearing;
5. LPAT Transition Regulation;
6. Accessory Dwelling Units;
7. Inclusionary Zoning; and
8. Development Permit Systems.

Subject	Halton's Recommendations
<p>Planning Act Application Processing Timeframes</p> <ul style="list-style-type: none"> Timeframes for making decisions related to Planning Act applications are reduced to 120 days for Official Plans and Amendments, 90 days for Zoning By-Laws and Amendments, and 120 days for Plans of Subdivision. Subsection 17(40.1) of the <i>Planning Act</i> which allows the 210-day (would be 120-day) period for the Region to render its decision on Official Plans and Amendments to be extended for up to 90 days is proposed to be removed. 	<ul style="list-style-type: none"> Reconsider the reduced timeframes for review of Planning Act applications and return to the timelines in effect under Bill 139. If the reduced timeframes for decision-making are to remain then they must include process related changes to the Planning Act that enable an approval authority's ability to establish baseline requirements for a complete application. These baseline requirements for a complete application must be met to the satisfaction of the approval authority before the clock on the 120-day decision timeline commences. If the reduced timeframes for decision-making are to remain, the Province should adopt an approach that would set timelines based on the level of complexity of the application setting shorter timelines for smaller applications and longer timelines for more complex ones. In the case where a resubmission of plans or studies are required by the approval authority during the review period, municipalities should be able to stop the clock and re-start when the approval authority receives the required information to make an informed decision. The 120-day timeframe should reflect the time that a planning matter is with an approval authority for review and a decision. Under the reduced timeframes, there should be a service standard (e.g. statutory timelines for Ministry comments) imposed on comments from the Province for Official Plans and Amendments – these will need to be received in a timely manner. The ability to extend the decision timelines on official plan amendments should be maintained. Given the complexity and comprehensive nature of these amendments, additional time may be needed to resolve non-conformity issues and receive local council endorsement of modifications prior to approval by an upper-tier municipality.
<p>Comments:</p> <ul style="list-style-type: none"> Reduced timelines for making decisions related to official plans would need to be predicated on the basis that a submission is fully complete when filed. The quality of a submission often determines the time spent working through revisions. It is important that the 	

Province assist in enabling municipalities to define submission standards. With reduced timelines and broadened grounds for appeal, the Region and its local municipalities are also likely to receive more appeals and thus, be involved in more hearings before the LPAT. Staff time at the LPAT takes away from their ability to advance other applications within the prescribed timeframe.

- There are a number of agencies that may need to be circulated for the review of any given application, including the Province. Adequate time is required for these agencies to review the application and respond in order for the municipality to meet prescribed timeframes.
- Without the opportunity to extend the decision timelines on official plan amendments (such as comprehensive secondary plans for major growth areas) by 90 days, municipalities would have less time to resolve non-conformity issues, propose modifications and receive local council endorsement of modifications.

Subject	Halton's Recommendations
<p>Basis for Appeal</p> <ul style="list-style-type: none"> • Bill 108 removes the basis for appeal whereby an appeal may only be made on the basis that part of the decision under appeal is inconsistent with a policy statement, fails to conform with or conflicts with a provincial plan or fails to conform with the upper-tier municipality's official plan. • Replaces the above basis for appeal with a general requirement that the appeal simply set out the reasons for the appeal. • Bill 139 introduced the process whereby if the LPAT finds that part of a decision is inconsistent with a policy statement, fails to conform with or conflicts with a provincial plan or, fails to conform with the upper-tier municipality's official plan, the Tribunal will provide the Council with an opportunity to make a new decision. Under the proposed changes this two-step process is no 	<ul style="list-style-type: none"> • The current Planning Act standards under which an appeal can be filed should be maintained. Decisions should be made based on Council endorsed official plans and on conformity/consistency with Provincial plans and policies. • The LPAT should only consider whether municipal decisions are legally or procedurally flawed. Greater weight must be given to the decisions of local municipalities in order to limit unpredictable outcomes and to honour Council-endorsed policies. • The two-step appeal process should be maintained to provide Council with an opportunity to make a second planning decision prior to the LPAT overturning Council's decision and substituting it with its own.

longer available and is replaced by a one-step de novo hearing process.	
<p>Comments:</p> <ul style="list-style-type: none"> • The proposed changes enable more opportunities for appeal by removing the requirement that an appeal be made on the basis of conformity and consistency with Provincial plans and policies and the Regional Official Plan. • With broadened grounds for appeal, the Region and its local municipalities are also likely to receive more appeals and thus, be involved in more hearings before the LPAT. This may translate into protracted timeframes for approvals. The reintroduction of 'de novo' hearings is not supported. 	

Subject	Halton's Recommendation
<p>Appeals for Non-Decision</p> <ul style="list-style-type: none"> • Bill 108 restricts those who can appeal the failure of an approval authority to make a decision on an official plan within 120 days to the municipality that adopted the plan, the Minister, and in the case of a request for an official plan amendment by a person or public body, the applicant. 	<ul style="list-style-type: none"> • None at this time.
<p>Comments:</p> <ul style="list-style-type: none"> • The Region supports the proposal to limit third party appeals for non-decision. 	

Subject	Halton's Recommendation
<p>New Evidence at an LPAT Hearing</p> <ul style="list-style-type: none"> • Under Bill 108, new evidence would be permitted to be brought forward at an LPAT hearing. 	<ul style="list-style-type: none"> • The Planning Act should require the Tribunal to consider whether new evidence could have affected Council's decisions. Amend Bill 108 from 'the

<ul style="list-style-type: none"> The proposed changes would provide that the Tribunal may consider whether the information and material could have affected the council's decision and if the Tribunal determines that it could have done so, it shall not be admitted into evidence until the Tribunal has notified the Council that it is being given an opportunity to reconsider its decision in light of the information and material and make a recommendation to the Tribunal. These provisions are identical to what was in place prior to Bill 139. 	<p>Tribunal may' to 'the Tribunal shall.' Council should be provided the opportunity to make an informed decision based on all available information.</p>
<p>Comments:</p> <ul style="list-style-type: none"> Historically, OMB motions to remit information back to Councils were rarely used and the delays associated with such motions acted as a disincentive to put them forward. When new evidence is brought forward that does not get sent back to Council for consideration, the decision by the LPAT undermines a municipality's Council-endorsed official plan and Council's decision making power. 	

Subject	Halton's Recommendation
<p>LPAT Transition Regulation</p> <ul style="list-style-type: none"> Bill 108 permits the Minister to pass transition regulations that would allow appeals made under the Bill 139 regime to be adjudicated under the new Bill 108 regime. 	<ul style="list-style-type: none"> To help solve the backlog of planning hearings currently with the LPAT and to recognize the significant municipal resources already invested in the current planning regime, the transition regulations should allow Bill 139 appeals currently awaiting hearings to be completed under the Bill 139 regime.
<p>Comments:</p> <ul style="list-style-type: none"> Significant municipal resources have been invested in preparing these appeals and appeals under the Bill 139 regime are expected to be significantly shorter than proceedings under the pre-Bill 139 and Bill 108 regimes. 	

Subject	Halton's Recommendation
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<p>Accessory Dwelling Units</p> <ul style="list-style-type: none"> • Bill 108 would authorize additional residential units for detached, semi-detached and row houses in both the primary dwelling and ancillary building structure. • The legislation does not distinguish between urban areas and rural areas, which may lead to potential impacts especially in rural areas where increased residential density may have adverse impacts on private servicing and could fragment the agricultural land base. 	<ul style="list-style-type: none"> • The proposed Planning Act changes for additional residential units on a property should differentiate between the settlement areas with municipal services and rural areas. • Bill 108 should be amended to permit the approval authority to establish conditions for additional residential dwelling units in the rural area to ensure that any new unit does not result in negative impacts to servicing and the natural environmental. • The legislation should include conditions providing that additional residential development in rural areas must not result in servicing and environmental issues. • Bill 108 should be amended to ensure that any new accessory unit does not impact the agricultural land base and is restricted from being severed from the lot in the future.
<p>Comments:</p> <ul style="list-style-type: none"> • Additional units provide gentle increases in density that may have impacts on municipal services such as schools and other community services, and capacity and health and safety impacts for dwellings on private services in rural areas. • This may have implications for some municipalities with respect to collection of development charges as Bill 108 proposes to exempt these residential units from development charges. • It is important that accessory dwelling units in the rural area truly are and remain 'accessory' in order to avoid servicing and environmental issues as well as to avoid the unit(s) being seen as residences surplus to a farm operation which could result in future severance of the property. • 	

Subject	Halton's Recommendation
<p>Inclusionary Zoning</p> <ul style="list-style-type: none"> • Geographically scopes the use of inclusionary zoning only to areas that are within identified Major Transit Station Areas and/or growth areas that are 	<ul style="list-style-type: none"> • Allow municipalities to provide inclusionary zoning on a municipality-wide basis and/or in areas outside of MTSAs or development permit system areas.

within an established development permit system area.	
<p>Comments:</p> <ul style="list-style-type: none"> The proposed changes may provide a disincentive to develop housing in MTSAs or areas with DPS. The land just outside of these areas will become desirable because they will not have inclusionary zoning requirements. 	

Subject	Halton's Recommendation
<p>Development Permit System</p> <ul style="list-style-type: none"> Currently, the development permit system is a tool that can be implemented in a specific geography at the discretion of the local municipality. Under Bill 108 the Minister would be able to require a local municipality to adopt or establish a development permit system that applies to a specified area or to an area surrounding and including a specified location. 	<ul style="list-style-type: none"> This change would benefit from clear criteria and additional tools and supports to enable an effective use of the tool by municipalities.
<p>Comments:</p> <ul style="list-style-type: none"> This change introduces the potential for a high level of Provincial intervention in local planning without clarity around the conditions and processes through which the Minister may impose a DPS. 	

Conclusion

Changes proposed in Bill 108 will have implications for Halton Region and its Local Municipalities. These proposed changes are extensive and would significantly reform the Bill 139 planning regime, which was largely supported by municipalities as it was viewed as placing greater emphasis on local decision-making. It is not clear whether or how the Bill 108 changes address the Province's goal of advancing a greater number of housing opportunities to market in a shorter timeframe.

The time window for this consultation is too compressed and does not allow municipalities sufficient time to analyze and consult on the proposed changes to Ontario's planning framework. Halton Region requests to be engaged in any future consultations on Bill 108 and that the Province provide a response to the comments provided through this submission before advancing any proposed changes to the planning framework.

Halton Region staff thank the Ministry for the opportunity to provide comments on proposed changes to the Planning Act.



The Regional Municipality of Halton

Report To:	Regional Chair and Members of Regional Council
From:	Art Zuidema, Commissioner, Legislative and Planning Services
Date:	May 22, 2019
Report No. - Re:	LPS70-19 - Information and Preliminary Comments on A Place to Grow: Growth Plan for the Greater Golden Horseshoe and Planning Components of Provincial Bill 108

RECOMMENDATION

1. THAT Report No. LPS70-19 re: “LPS70-19 - Information and Preliminary Comments on A Place to Grow: Growth Plan for the Greater Golden Horseshoe and Planning Components of Provincial Bill 108” be endorsed.
2. THAT staff be directed to prepare a submission to the Province in response to the planning components of Provincial Bill 108 (ERO 019-0016 and ERO 019-0021) and the changes to the transition regulation O. Reg. 311/06 (ERO 019-0018) consistent with the direction outlined in Report LPS70-19.
3. THAT the Regional Clerk forward a copy of Report No. LPS70-19 and the final submission, to the Ministry of Municipal Affairs and Housing, the Halton Area MPPs, the Halton Area Conservation Authorities, the City of Burlington, the Town of Halton Hills, the Town of Milton, and the Town of Oakville for their information.

REPORT

Executive Summary

- The Province has released a series of changes associated with its “More Homes, More Choice: Ontario’s Housing Supply Action Plan”, including the release of:
 - A Place to Grow: Growth Plan for the Greater Golden Horseshoe;
 - Proposed modifications to the Minister’s transition regulation under the *Places to Grow Act, 2005*. O. Reg. 311/06; and
 - Bill 108 – More Homes, More Choice Act.
- This report provides Regional Council information on the recently released changes and recommends that staff be directed to prepare a submission on the key changes released for consultation, consistent with the direction outlined in this report.

Background

On May 2, 2019, the Ministry of Municipal Affairs and Housing released a document titled “More Homes, More Choice: Ontario’s Housing Supply Action Plan”. As part of the Action Plan, the Province also released ‘A Place to Grow: Growth Plan for the Greater Golden Horseshoe’ and tabled Bill 108 – More Homes, More Choice Act.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe

On January 15, 2019, the Ministry of Municipal Affairs and Housing released a number of proposed changes related to the Growth Plan for the Greater Golden Horseshoe for public consultation. These changes included Proposed Amendment 1 to the Growth Plan, 2017, a proposed framework for Provincially Significant Employment Zones, and proposed changes to related regulations. Regional Council endorsed Report No. LPS23-19, that provided information and commentary on the proposed changes and served as the basis for the Region’s submission to the Ministry.

Housing Supply Action Plan Consultation

In November 2018, the Ministry of Municipal Affairs and Housing posted an on-line public consultation survey under the working title “Increasing Housing Supply in Ontario” with a closing date of January 25, 2019. The consultation was focused on five themes related to housing supply in Ontario: Speed, Mix, Cost, Rent, and Innovation. Regional Council endorsed Report No. LPS18-19, that provided information and commentary on the proposed changes and served as the basis for the Region’s submission to the Ministry.

Bill 108 – More Homes, More Choice Act

Provincial consultations on the Growth Plan and the Housing Supply Action Plan have resulted in Bill 108 – More Homes, More Choice Act. Bill 108 proposes to amend a number of Provincial statutes through different Schedules of the Bill, including:

- Schedule 1 Cannabis Control Act, 2017
- Schedule 2 Conservation Authorities Act
- Schedule 3 Development Charges Act, 1997
- Schedule 4 Education Act
- Schedule 5 Endangered Species Act, 2007
- Schedule 6 Environmental Assessment Act
- Schedule 7 Environmental Protection Act
- Schedule 8 Labour Relations Act, 1995
- Schedule 9 Local Planning Appeal Tribunal Act, 2017
- Schedule 10 Occupational Health and Safety Act
- Schedule 11 Ontario Heritage Act
- Schedule 12 Planning Act
- Schedule 13 Workplace Safety and Insurance Act, 1997

There are specific changes associated with Bill 108 and/or the implementation of the Housing Supply Action Plan that have been posted by the Province to the Environmental Registry. Below are a list of postings, their reference # and timing for consultation:

1. Planning Act, Schedule 12 of Bill 108 (ERO 019-0016)
 - consultation open until June 1, 2019;
2. Development Charges Act, Schedule 3 of Bill 108 (ERO 019-0017)
 - consultation open until June 1, 2019;
3. Ontario Heritage Act, Schedule 11 of Bill 108 (ERO 019-0021)
 - consultation open until June 1, 2019;
4. Environmental Assessment Act, Schedule 6 of Bill 108 (ERO 013-5102)
 - consultation open until May 25, 2019;
5. Excess Soil Management Regulatory Proposal through changes to the Environmental Protection Act (ERO 013-2774)
 - consultation window closed June 2018;
6. Endangered Species Act (ERO 013-5033)
 - consultation window closes on May 18, 2019;
7. Conservation Authorities Act (ERO 013-5018 and ERO 013-4992)
 - consultation closes on May 21, 2019;
8. Growth Plan transition regulation through O. Reg. 311/06 (ERO 019-0018)
 - consultation open until June 1, 2019

Only the above changes have been posted for consultation. The balance of the proposed changes related to Bill 108 have not been posted on the Environmental Registry.

This report addresses matters related to the New Growth Plan and transition regulation, the Planning Act, the Conservation Authorities Act, the Endangered Species Act, and the Ontario Heritage Act. Comments related to changes that have implications for Growth Related Financing (Development Charges Act and part of the Planning Act) are provided in Report No. FN-31-19. Comments related to changes that have implications for Environmental Assessment Act and the Environmental Protection Act are provided in Report No. PW-31-19.

Discussion

A Place to Grow: Growth Plan for the Greater Golden Horseshoe

On May 2, 2019, the Ministry of Municipal Affairs and Housing released a document titled “More Homes, More Choice: Ontario’s Housing Supply Action Plan”. As part of this Action Plan, the Province also released ‘A Place to Grow: Growth Plan for the Greater Golden Horseshoe’, an update to the Growth Plan largely based on Proposed Amendment 1.

The New Growth Plan was approved through an Order in Council under the Places to Grow Act to come into effect on May 16, 2019. A Place to Grow largely implements Proposed Amendment 1 as released in January 2019. A summary of the changes are provided below.

1. ***Provincially Significant Employment Zones*** - The New Growth Plan introduces the concept of "provincially significant employment zones" (PSEZ) that are to be protected and cannot be converted to permit non-employment uses outside of a Municipal Comprehensive Review (MCR). Halton Region provided comments seeking clarity on the intent of the PSEZs and provided some suggestions for changes for lands that should/should not be identified as PSEZs in line with suggestions from Halton's local municipalities. Only some minor changes have been made to the PSEZs in Halton, including:
 - Enlarged area to capture the Premier Gateway Employment Area north of Steeles Avenue;
 - Enlarged area west of Tremaine Road, south of Britannia in Milton; and
 - Adjustments to the PSEZ boundary around the Agerton node in Milton.

There has also been additional policy context provided in the New Growth Plan on PSEZs including:

- The Minister of Municipal Affairs and Housing may identify provincially significant employment zones and may provide specific direction for planning in those areas to be implemented through appropriate official plan policies and designations and economic development strategies; and
 - The Province may review and update PSEZs in response to a municipal request. The Province has provided additional clarity about this process through a Minister's letter which was sent to municipalities on May 15, 2019. The letter indicates that any municipal requests for reconsideration to the PSEZs should be accompanied by supporting planning information and a council endorsed letter to assist the Minister in assessing changes to the PSEZ mapping.
2. ***Employment Planning:*** The New Growth Plan allows municipalities to convert employment land to a designation that permits non-employment uses, provided the conversion would satisfy specified criteria, including a requirement that a "significant number of jobs" be maintained on the lands and that the conversion not include any part of an employment area identified as a PSEZ. These conversions are only permitted in the period until the municipality's next MCR. This approach remained largely unchanged from the initial draft of Amendment 1.
 3. ***Settlement Area Boundary Expansions:*** Under the New Growth Plan, municipalities can expand their settlement area boundaries in advance of an MCR, provided that the amount of land being added to the settlement area is not more than 40 hectares. This provision does not apply to Hamlets or Rural Settlement Areas.

Additionally, municipalities can now adjust settlement area boundaries outside of an MCR, subject to criteria including that there be no net-increase in land within settlement areas. This approach remained largely unchanged from the initial draft of Amendment 1.

4. **Intensification Target:** The minimum intensification target policy has been revised by the New Growth Plan. The 2017 Growth Plan prescribed an intensification target of 50% for Halton Region to 2031 and a 60% target beyond 2031. Amendment 1 originally proposed a higher 60% intensification target for Hamilton, Peel, Waterloo and York, while maintaining Halton at 50%. With the New Growth Plan there is now one intensification target of 50% for most GTA municipalities, including Halton Region.
5. **DGA Density Target:** The minimum density target for designated greenfield areas policy has been revised. While the 2017 Growth Plan required municipalities to achieve a minimum density target of 80 residents and jobs combined per hectare in designated greenfield areas, the New Growth Plan sets the minimum density target of 50 people and jobs combined per hectare density target for most GTA municipalities, including Halton Region.
6. **Major Transit Station Areas:** Major transit station areas are areas surrounding existing or planned major transit stations. The following changes have been made to policies involving major transit station areas:
 - The radius of major transit station areas has been increased from 500m to 500-800m.
 - Municipalities can now request that the Minister lower the density target for a specific major transit station area outside of an MCR.
 - Upper and single-tier municipalities can identify the boundaries of and set density targets for major transit station areas, provided they are in accordance with the Planning Act. This can only be done in advance of a municipality's next MCR.

This approach remained largely unchanged from the initial draft of Amendment 1.

7. **Natural Heritage System and Agricultural System Mapping:** The New Growth Plan confirms that the requirement to refine and implement Provincial mapping for the Natural Heritage System and the Agricultural System can happen through the MCR. This approach remained largely unchanged from the initial draft of Amendment 1.
8. **Proposed Changes to O. Reg. 311/06:** As part of the consultation on Proposed Amendment 1, the Ministry sought feedback on changes related to transition as dealt with through O. Reg. 311/06. Both the Region and the Town of Halton Hills identified Regional Official Plan Amendment (ROPA) 47 – to replace employment lands currently frozen through corridor protection – as a matter that should be transitioned so that the policies in the revised Growth Plan would apply to that

matter which is before the Local Planning Appeal Tribunal. ROPA 47 is specifically identified as follows:

- *“Provide that the following official plan amendment is subject to the Growth Plan for the Greater Golden Horseshoe 2019 with the exception of policy 2.2.8.6:*
 - *Region of Halton Regional Official Plan Amendment 47.”*

Further analysis of this statement is required, but it may provide an opportunity to resolve the ROPA 47 matter. It states that the Growth Plan, 2019 applies to ROPA 47, with the exception of policy 2.2.8.6. It appears to suggest that the new settlement area boundary expansion outside an MCR policy applies (2.2.8.5), but the size limitation of 40 hectares as identified in (2.2.8.6) does not.

In summary, the New Growth Plan is now in effect. Only the transition provisions through O. Reg. 311/06 are posted for consultation by the Province on the Environmental Registry for a 30-day period (ERO 019-0018). It is recommended that staff prepare a submission to outline the Region’s support for identifying ROPA 47 in the transition regulation. While it may not be necessary, to ensure clarity of how to address in process policy matters, it is also recommended that the submission request the inclusion of the following:

- Town of Halton Hills LOPA 30 to ensure that the amendment implementing ROPA 47 is transitioned in a similar manner;
- Town of Milton OPA 31 to ensure that the New Growth Plan applies only as it relates to the approach to allow the upper-tier to refine Provincial mapping before being implemented in a lower-tier Official Plan; and
- The City of Burlington Official Plan to ensure that the New Growth Plan applies only as it relates to the approach to allow the upper-tier to refine Provincial mapping before being implemented in a lower-tier Official Plan.

Bill 108 – More Homes, More Choice Act

Bill 108 was introduced to the Legislature and received first reading on May 2, 2019. Bill 108 proposes to amend a number of Provincial statutes, the information below highlights changes to the Planning Act, the Ontario Heritage Act, the Conservation Authorities Act, and the Endangered Species Act. Implications for Halton, including some suggested comments, are provided below.

Changes to the Planning Act (Schedule 12 of Bill 108)

In general, the proposed changes result in reduced decision timelines, the return of de novo hearings, and a generalized basis for appeal consistent with that of the Ontario Municipal Board. Specific changes are highlighted below.

1. **Reduction of Planning Act Application Processing Timelines:** Under Bill 108, timeframes for making decisions related to Planning Act applications are proposed to change, as follows:
 - Official Plans and Amendments - from 210 to 120 days;
 - Zoning By-Laws and Amendments - from 150 to 90 days; and
 - Plan of Subdivisions - 180 to 120 days.

Additionally, subsection 17(40.1) of the *Planning Act* which allows the 210-day (would be 120-day) period for the Region to render its decision on Official Plans and Amendments to be extended for up to 90 days is proposed to be removed.

Some implications and initial comments related to these changes include:

- Reduced timelines for making decisions related to official plans would need to be predicated on the basis that a submission is fully complete when filed. The quality of a submission often determines the time spent working through revisions. It is important that the Province assist in enabling municipalities to define submission standards.
- Without the opportunity to extend the decision timelines on official plan amendments (such as comprehensive secondary plans for major growth areas) by 90 days, municipalities would have less time to propose modifications and receive local council endorsement.
- There should be a service standard imposed on comments from the Province for Official Plans and Amendments – these will need to be received in a timely manner.
- With reduced timelines and broadened grounds for appeal, the Region and its local municipalities are also likely to receive more appeals and thus, be involved in more hearings before the LPAT. Staff time at the LPAT takes away from their ability to advance other applications within the prescribed timeframe.

2. **Changes to the Basis for an Appeal:** Currently, under the *Planning Act* an appeal may only be made on the basis that part of the decision under appeal is inconsistent with a policy statement, fails to conform with or conflicts with a provincial plan or fails to conform with the upper-tier municipality's official plan. Bill 108 proposes to remove the above basis for appeals and replace it with a general requirement that the appeal simply set out the reasons for the appeal.

Bill 139 introduced the LPAT process whereby if the Tribunal finds that part of a decision is inconsistent with a policy statement, fails to conform with or conflict with a provincial plan or, fails to conform with the upper-tier municipality's official plan, the Tribunal will provide the Council with an opportunity to make a new decision. Under the proposed changes this two-step process is no longer available and is replaced by a one-step de novo hearing process.

Some implications and initial comments related to these changes include:

- The proposed changes enable more opportunities for appeal and does not explicitly relate to tests with respect to conformity and consistency with Provincial plans and policies and the Regional Official Plan. This change gives less deference to Council endorsed official plans. These proposed changes essentially result in a return to the pre-Bill 139 OMB de novo hearing process.
- With broadened grounds for appeal, the Region and its local municipalities are also likely to receive more appeals and thus, be involved in more hearings before the LPAT. This may translate into protracted timeframes for approvals.

3. **Changes to who can appeal a Non-decision:** Bill 108 proposes to restrict those who can appeal the failure of an approval authority to make a decision on an official plan within 120 days to the municipality that adopted the plan, the minister, and in the case of an adopted amendment in response to an application, the applicant. Previously, any person or public body could appeal, subject to a deadline established by notice issued by the approval authority. With the restriction of appellants, the provision enabling the approval authority to issue a notice limiting the appeal period is proposed to be repealed. There is no immediate concern identified with this change.
4. **New Evidence to be Brought Forward at an LPAT Hearing:** Under Bill 108, new evidence can be brought forward at an LPAT hearing. The information and material cannot be brought into evidence if it could have affected the council's decision until the Tribunal has notified the Council that it is being given an opportunity to reconsider its decision in light of the information and material. These provisions are identical to what was in place prior to Bill 139. Some implications of these changes include:
 - Historically through the OMB, motions to remit information back to Councils were rarely used and the delays associated with such motions acted as a disincentive to put them forward.
 - When new evidence is brought forward that does not get sent back to Council for consideration the decision by the LPAT undermines a municipality's Council endorsed official plan and Council's decision making power. Council should be provided the opportunity to make an informed decision based on all available information.

Regional Council will recall from LPS15-19 that Halton Region, along with the Town of Oakville, the Town of Halton Hills and the Town of Milton, intervened in the LPAT Stated Case. The questions put to the Court focused on whether parties to an LPAT hearing have the right to cross-examine witnesses called by the Tribunal and whether the LPAT could require or permit parties to file affidavit evidence containing opinion evidence that was not before municipal Council at the

time that Council made its decision. Consistent with the municipal position, the Court found that parties do not have a right of cross-examination at or before an LPAT hearing, making it clear that the effect of the LPAT Act is to limit the scope of planning hearings. The Court also found, not consistent with the municipal position, that a party does have the right to provide new expert opinion evidence to the Tribunal. While the Court's decision supports what municipalities feel is the correct interpretation of the current legislative regime with respect to issues of cross-examination, Bill 108 would nullify this progress, effectively reinstating the former Ontario Municipal Board procedures. Further, Bill 108 permits the Minister to pass transition regulations that would allow appeals made under the Bill 139 regime to be adjudicated under the new Bill 108 regime. Staff's preliminary recommendation is that the transition regulations allow Bill 139 appeals currently awaiting hearings to be completed under the Bill 139 regime, as significant municipal resources have been invested in preparing these appeals and appeals under the Bill 139 regime are expected to be significantly shorter than proceedings under the pre-Bill 139 and Bill 108 regimes, helping to solve the backlog of planning hearings currently with the LPAT.

5. **Changes to Permit Additional Opportunities for Accessory Dwelling Units:** Bill 108 would authorize additional residential units for detached, semi-detached and row houses in both the primary dwelling and ancillary building structure. Some implications and initial comments related to these changes include:
 - Additional units provide gentle increases in density that may have impacts on municipal services such as schools and other community services and capacity and health and safety impacts for dwelling on private services in rural areas.
 - This may have implications for some municipalities with respect to collection of development charges as Bill 108 proposed to exempt development charges for these residential units.
6. **Changes to Inclusionary Zoning Approach:** Inclusionary zoning is a tool that a municipality may use to require affordable housing units to be included in residential developments of 10 units or more. Currently, municipalities may permit inclusionary zoning across the entire municipality provided there is a policy in place in the Official Plan. Bill 108 proposes to geographically scope the use of inclusionary zoning only to areas that are within identified Major Transit Station Areas and/or growth areas that are within an established development permit system area. There is no immediate concern identified with this change.
7. **Changes to the Development Permit System Approach:** Currently, the development permit system is a tool that can be implemented in a specific geography at the discretion of the local municipality. Under Bill 108 the Minister would be able to require a local municipality to adopt or establish a development permit system that applies to a specified area or to an area surrounding and including a specified location. Some implications and initial comments related to these changes include:

- This change introduces the potential for a high level of Provincial intervention in local planning without clarity around the conditions and processes through which the Minister may impose a DPS.
- This change would benefit from clear criteria and additional tools and supports to enable an effective use of the tool by municipalities.

Changes to the Ontario Heritage Act (Schedule 11 of Bill 108)

Bill 108 proposes to amend the Ontario Heritage Act that would provide property owners and the public significant new rights to appeal municipal heritage decisions and would force local municipal councils to meet strict deadlines when considering new heritage by-laws. In terms of specific changes, the Bill would:

- prohibit municipalities from giving a notice of proposed heritage designation after certain undefined “prescribed events” (likely planning and building permit approvals)
- for applications to alter or demolish designated heritage properties, Bill 108 would effect a transfer of power away from municipalities and towards property owners and the LPAT
- make the repeal of heritage designation by-laws appealable to LPAT rather than referral to the CRB for a recommendation to council. This effectively gives the LPAT control over municipal heritage decisions rather than municipalities.
- require that municipalities give the owners notice of listing properties and would allow owners to object to the listing
- enable the provincial government to bring forward new heritage regulations after it amends the current Act, including statements of heritage principles that must be considered by municipalities.

It is unclear how these changes will contribute to the Region’s goal for Cultural Heritage Resources as articulated in the Regional Official Plan, “to protect the material, cultural and built heritage of Halton for present and future generations.”

Changes related to Conservation Authorities Act (Schedule 2 of Bill 108)

Bill 108 proposes to amend the *Conservation Authorities Act (CA Act)* to allow conservation authorities to focus and deliver on their core mandate, and improve governance. Bill 108 elaborates on changes originally posted by the Province for consultation through the Environmental Registry of Ontario (ERO Posting #013-5018) in May 2019 as covered through Report No. LPS63-19. The Bill 108 changes provide additional clarity on how Conservation Authorities and municipalities can define programs and services through agreements. These changes appear to enable the approach that is currently being contemplated by the Halton municipalities and Conservation Authorities under the current Memorandum of Understanding (2018) for the delivery of Planning Services.

Changes related to Endangered Species Act (Schedule 5 of Bill 108)

Bill 108 proposes to amend the Endangered Species Act (ESA) to

- provide clarity on processes for changes to the classification of species;
- enable agreements to manage impacts to habitat;
- establish a Species at Risk Conservation Fund; and
- provide the Minister with additional powers to order a person to stop activities that have a significant adverse effect on a species at risk.

Bill 108 elaborates on changes originally posted by the Province for consultation through the Environmental Registry of Ontario (ERO Posting #013-4143) in May 2019. Based on review of Bill 108 changes to the Endangered Species Act, key comments are provided below:

1. **COSSARO Form and Function:** Under Bill 108, a number of revisions to the ESA are proposed with respect to the form and function of the Committee on the Status of Species at Risk in Ontario (COSSARO). COSSARO reporting will change to no longer allow the submission of a report to the Minister to classify or reclassify species at any time as there will now be a requirement for an annual report to be submitted in January of each year. The Minister will now have 12 months (instead of the current 3 months) to file an amendment to the regulation. Some of Halton's initial comments related to these changes are:
 - Delaying the listing process could result in unintended consequences such as delaying the eligibility for research grants or habitat restoration for some species; and
 - The new reporting window may leave no room for emergency listings given that an annual report will be required in January of each year.
2. **Classification of Species:** Bill 108 scopes the criteria for assessing and classifying species as endangered, threatened or special concern species by including considerations of the species' geographic range in Ontario and the condition of the species in which it exists both inside and outside of Ontario. Halton's initial comments related to these changes include:
 - Species condition can vary across its natural range and Ontario may be at the edge of some species at risk ranges. That said, the ultimate status of a species in Ontario should be based on species status and population trends from within Ontario, rather than outside Ontario; and
 - Removing the requirement for a habitat regulation proposal should be re-evaluated. From a municipal infrastructure planning perspective, not having direction from the Province in a timely manner may prevent municipalities from being able to establish the appropriate mitigation measures during a Municipal Class Environmental Assessment study. Proposed changes may also impact how mitigation measures are considered and determined during the course of planning processes.

3. **Species Protection:** Bill 108 introduces a tool whereby the Minister may temporarily suspend, for up to 3 years, the protections of a species listed on the Species at Risk in Ontario List as endangered or threatened for the first time. Further, subject to criteria, the Minister now may limit the application of the protection of species listed on the Species at Risk in Ontario List as endangered or threatened. These limits may provide that some of the protections do not apply to a species, do not apply in specified circumstances or can limit the geographic areas where the protections apply. Halton's initial comments on these changes include the following:
- Proposed changes could undermine existing protections for species at risk by modifying mechanisms for automatic protections of listed species;
 - The Province should focus more attention on addressing implementation challenges to improve the administration and consistent application of the existing Act and better integrate it with the land use and infrastructure planning processes in Ontario; and
 - The requirement to develop a habitat regulation should be maintained as the absence of a mandatory timeline could result in newly-listed species at risk not receiving adequate, timely protection, which may put them further in peril of extinction or extirpation.
4. **Species Conservation Charge and Species at Risk Conservation Fund:** Bill 108 introduces the Species at Risk Conservation Fund for the purpose of providing funding of activities that are likely to protect or recover conservation fund species or support their protection or recovery. Conservation fund species will be designated by the Minister. A landscape agreement, permit or regulation may be required and the activities eligible for funding under the Species at Risk Conservation Fund include activities that: reduce threats to conservation fund species, expand, improve or secure the habitat of the conservation fund species, and contribute to scientific information related to the species or its habitat. Halton's initial comments related to these changes include the following:
- The Province should clarify that the Species Conservation Charge would be a last resort option – only available after it has been satisfactorily demonstrated that all other options to avoid, mitigate, fulfill normal on-the-ground requirements are explored; and
 - It would be beneficial if those receiving the funds were required to monitor and guarantee success of on the ground activities for a reasonable period of time.

There is a separate report (LPS64-19) prepared for Council outlining Halton's response on the proposed changes as posted on the Environmental Registry on April 18, 2019.

Conclusion

Changes related to Bill 108 will have implications for Halton and its communities. In all of the changes as described in the materials from the Province, it is not clear whether or how these changes address the Province's goal of advancing a greater number of housing opportunities to market in a shorter timeframe. In particular, the changes around appeals and the return to the old OMB rules have historically had the effect of significantly protracting development approval processes.

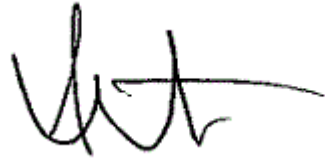
FINANCIAL/PROGRAM IMPLICATIONS

There are no financial implications associated with the recommendations of this report.

Respectfully submitted,



Curt Benson
Director, Planning Services and Chief
Planning Official



Art Zuidema
Commissioner, Legislative and Planning
Services

Approved by



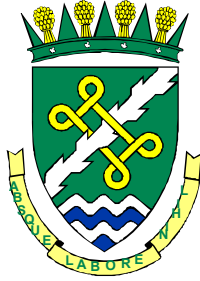
Jane MacCaskill
Chief Administrative Officer

If you have any questions on the content of this report,
please contact:

Curt Benson

Tel. # 7181

Attachments: None



The Regional Municipality of Halton

THE FOLLOWING RESOLUTION WAS APPROVED BY REGIONAL COUNCIL AT ITS MEETING HELD WEDNESDAY, MAY 22, 2019

WHEREAS the legislation that abolished the OMB and replaced it with LPAT received unanimous – all party support; and

WHEREAS all parties recognized that local governments should have the authority to uphold their provincially approved Official Plans; to uphold their community driven planning; and

WHEREAS Bill 108 will once again allow an unelected, unaccountable body to make decisions on how our communities evolve and grow; and

WHEREAS on August 21, 2018 Minister Clark once again signed the MOU with the Association of Municipalities of Ontario, which recognizes that “Public policy issues are complex and thus require coordinated responses...” and that “The Municipal Act, 2001 provides that the Province of Ontario endorses the principle of regular consultation between Ontario and municipalities in relation to matters of mutual interest”; and

WHEREAS the MOU sets out that “Ontario is committed to cooperating with its municipal governments in considering new legislation or regulations that will have a municipal impact”; and

WHEREAS Bill 108 will impact 15 different Acts - Cannabis Control Act, 2017, Conservation Authorities Act, Development Charges Act, Education Act, Endangered Species Act, 2007, Environmental Assessment Act, Environmental Protection Act, Labour Relations Act, 1995, Local Planning Appeal Tribunal Act, 2017, Municipal Act, 2001, Occupational Health and Safety Act, Ontario Heritage Act, Ontario Water Resources Act, Planning Act, Workplace Safety and Insurance Act, 1997.

NOW THEREFORE BE IT RESOLVED THAT The Regional Municipality of Halton oppose Bill 108 which in its current state will have negative consequences on community building and proper planning; and

THAT The Regional Municipality of Halton call upon the Government of Ontario to halt the legislative advancement of Bill 108 to enable fulsome consultation with Municipalities to ensure that its objectives for sound decision making for housing growth that meets local needs will be reasonably achieved; and

THAT a copy of this Motion be sent to the Honourable Doug Ford, Premier of Ontario, The Honourable Christine Elliott, Deputy Premier, the Honourable Steve Clark, Minister of Municipal Affairs, the Honourable Andrea Horwath, Leader of the New Democratic Party, John Fraser, Interim Leader of the Liberal Party, Mike Schreiner, Leader of the Green Party, and all MPPs in the Province of Ontario; and

THAT a copy of this Motion be sent to the Association of Municipalities of Ontario (AMO) and all Ontario municipalities for their consideration.

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