



Heritage Branch, Ministry of Citizenship and Multiculturalism
400 University Avenue, 5th Floor
Toronto, ON
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Canada

RE: Environmental Registry of Ontario Posting 019-6196 - Proposed Changes to the Ontario Heritage Act and its regulations: Bill 23 (Schedule 6) - the Proposed More Homes Built Faster Act, 2022

From: Steve Ganesh, Commissioner (A) - Planning, Building and Growth Management Department, City of Brampton

Dear Paula Kulpa,

Thank you for the opportunity to provide comments to the Ministry of Citizenship and Multiculturalism on the changes to the *Ontario Heritage Act* and its regulations proposed through Bill 23. Cultural heritage is integral to the City of Brampton. True to its namesake as the Flower City, Brampton recognizes its rich legacy and responsibility to identify, protect, manage and celebrate the city's unique history.

The City is concerned with the proposed changes as a result of the challenges it will pose in heritage conservation moving forward, and the increased workload to meet the prescribed deadlines set forth. The City has categorized and provided comments on all relevant proposed changes, identifying opportunities to provide additional time and financial support to enable municipal staff to ensure the conservation of Brampton's valuable cultural heritage resources. The City estimates that it will cost somewhere between \$500,000 - \$750,000 to complete this work, placing additional burdens on the tax base that compound the impacts of other changes proposed through Bill 23. The City agrees with the intent to increase information sharing and is already in the process of making the Register publicly available and accessible to residents to support knowledge of Brampton's cultural heritage.

The City has provided detailed comments through **Appendix 1**. A few key comments are summarized below:

- ***Proposal: Requiring municipalities to remove a property from the heritage register due to failure to issue notice of intention to designate in a two-year timeframe***

City Comment:

- There are currently 385 Listed Properties that are valuable and should be designated. However, in amongst other requirements through these proposed changes and existing workloads, the capacity to effectively evaluate and designate all properties requires additional time and flexibility to avoid a "designate it or lose it" approach to irreplaceable cultural heritage.
- Requiring a removal of properties from the heritage register because of a withdrawal of notice, failure to pass a designating by-law or re-appeal through an OLT appeal, focuses

on administrative-based criteria rather than protecting the value that such properties hold for the community.

- Listing a property on the register provides Brampton the time to consider its heritage value and allow for other means of conserving and interpreting its heritage and history without going through the formal designation process.

City Recommendation:

- The City recommends maintaining the current regulatory framework for listed properties and not requiring municipal staff to pursue a notice of intention to designate within a two-year timeframe. If the Province decides to put forward a requirement for a NOID, the timeframe should not be limited to two-years.
- ***Proposal: Review the criteria for determining cultural heritage value or interest prescribed in O. Reg. 9/06 to increase the threshold for designation***

City Comment:

- The City is of the opinion that creating a more robust framework is typically a good thing, however, this may have unintended consequences for equity deserving communities, particularly if the heritage value only meets one criterion and not two. Ensuring inclusive cultural heritage planning is critically important across the Province, and especially in Brampton, to reflect and celebrate the City's diverse communities.

City Recommendation:

- The City recommends the Province reconsider these changes and engage with equity deserving communities to ensure locations across the city that hold value to the community are not lost.
- ***Proposal: The designation process would “freeze” once a prescribed event occurs. Municipalities would not be permitted to issue a notice of intention to designate a property unless the property is already on the register when the current 90 day requirement for applications is triggered.***

City Comment:

- The City is concerned that this places immense administrative burdens on staff. In order to meet this requirement, the City would have to have a complete list of all buildings of potential heritage interest already included on the heritage register prior to the revised Act coming into effect. There is insufficient time to conduct a thorough review of the heritage register and evaluate candidates for inclusion in order to effectively anticipate properties that may come up against development pressures but have significant heritage value to the community.

City Recommendation:

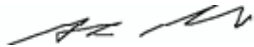
- The City recommends the Province support the municipalities financially or review this proposal to ensure that no heritage properties are lost as a result of this change.

City Questions:

- The City seeks clarification on what is defined as a “prescribed event”, as this may provide for a basis for additional comments.
- The City requests clarification regarding property owners who want their property included on the Register but may not want to go through the process of designation. The City is concerned that there is still heritage value, but it is at risk of being lost due to a lack of willingness from an owner to go through the designation process.

The City of Brampton would like to thank the Province for the opportunity to provide feedback and comments on the proposed changes.

Sincerely,



Steve Ganesh, MCIP, RPP

Commissioner (A)

Planning, Building and Growth Management

City of Brampton

Appendix 1: Proposed Changes to the Ontario Heritage Act and its Regulations

General Proposed Changes	City Comments	Recommendations
Changes affecting the Standards and Guidelines for Conservation of Provincial Heritage Properties		
<p>MCM is looking to promote sustainable development that respects the land and buildings that are important to its history and local communities while streamlining approvals and working to support priority provincial projects by proposing changes to the processes and requirements for ministries and prescribed public bodies governed by the Standards and Guidelines for Conservation of Provincial Heritage Properties (S&Gs) issued under the authority of Part III.1 of the <i>Ontario Heritage Act</i>.</p>	<p>Not applicable to the City.</p>	<p>N/A</p>
<p>MCM is proposing to introduce an enabling legislative authority that provides that the process for identifying provincial heritage properties under the S&Gs may permit the Minister of Citizenship and Multiculturalism to review, confirm and revise, the determination of cultural heritage value or interest by a ministry or prescribed public body respecting a provincial heritage property. This process for Ministerial review would be set out through a revision to the S&Gs and may be applied to determinations made on or before the change comes into effect. If Bill 23 is passed, the ministry would develop and consult further on the proposed process under the S&Gs.</p>	<p>This affects only provincially owned properties and does not impact the City. However, there is concern that if the Province acquires properties in the City of Brampton, there is the potential for the loss or substantial negative impacts as a result of this proposal.</p>	<p>N/A</p>
<p>MCM is proposing to introduce an enabling legislative authority so the Lieutenant Governor in Council (LGIC) may, by order, provide that the Crown in right of Ontario or a ministry or prescribed public body is not required to comply with some or all of the S&Gs in respect of a particular property, if the LGIC is of</p>	<p>This affects only provincially owned properties.</p> <p>For the City of Brampton, there would only be implications if the Province acquires a heritage property within the City.</p>	<p>N/A</p>

<p>the opinion that such exemption could potentially advance one or more of the following provincial priorities: transit, housing, long-term care and other infrastructure or other prescribed provincial priorities.</p>		
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New requirements for municipal registers and the inclusion of non-designated properties on the municipal register

<p>MCM is proposing clear and transparent requirements to improve municipal practices around the inclusion of non-designated properties on a municipal register through several changes that would encourage increased information sharing and timely decision making. These proposals include the following legislative changes:</p> <ul style="list-style-type: none"> • Requiring municipalities to make an up-to-date version of the information on their municipal register available on a publicly-accessible municipal website. MCM is proposing that, if passed, proclamation of this amendment would be delayed by six months to allow municipalities time to make the necessary changes to their website. 	<p>The City agrees with the proposed changes, as the City of Brampton is already in the process of making these changes. The City will continue to work on updates to the Register, including improvements to public accessibility.</p>	<p>The City recommends the Province consider providing funding to support the creation of publicly accessible municipal registers and invest in funding for public outreach to promote education to the public on heritage properties and resources in their communities.</p>
<ul style="list-style-type: none"> • Allowing for property owners to use the existing process under the OHA for objecting to the inclusion of their non-designated property on the municipal register regardless of when it was added to the municipal register. 	<p>The City is concerned that this proposed change will substantially increase the number of objections received. In addition, the City would like clarification from the Province on the basis of the request for de-listing. Will it be based on the criteria in O. Reg. 9/06?</p> <p>If so, this would be consistent with the proposal to require an evaluation under the regulation for inclusion on the list.</p>	<p>The City recommends that the objection be based on O. Regulation 9/06 for consistency.</p>
<ul style="list-style-type: none"> • Increasing the standard for including a non-designated property on a municipal 	<p>Over the past several years evaluation under Regulation 9/06 has become a regular</p>	<p>The City recommends the Province proceed with this proposed change.</p>

<p>register by requiring that the property meet prescribed criteria. MCM is proposing to have the criteria currently included in O.</p> <p><i>Reg. 9/06</i> (Criteria for determining cultural heritage value or interest) apply to non-designated properties included on the municipal register and is proposing that the property must meet one or more of the criteria to be included, which would be facilitated through a regulatory change. MCM is further proposing that this requirement would apply only to those non-designated properties added to the municipal register on or after the date the legislative and regulatory amendments come into force.</p>	<p>approach for evaluating buildings for inclusion on the City of Brampton Register. The City recognizes the work required to review the municipal register, as there are older listings that do not have 9/06 evaluations and these will need to be updated.</p> <p>The City does not perceive any issues with the Province including this requirement going forward.</p>	
<ul style="list-style-type: none"> • Removal from the register <ul style="list-style-type: none"> ◦ If council moves to designate a listed property but a designation bylaw is not passed or is repealed on appeal, the property would have to be removed from the municipal register. MCM is further proposing that this requirement would apply where the applicable circumstance outlined in the proposed amendment occurs on or after the legislative amendments, if passed, come into force. ◦ Non-designated properties currently 	<p>There are currently 385 Listed Properties on the City of Brampton Heritage Register. The City recognizes the majority of these are unquestionably worthy of designation but have not been because the current system under the OHA does not require designation unless there is a change proposed for the property, such as demolition, other alterations, or because the landowner requests it. The City is requesting clarification that a designation by-law would have to be unsuccessful based on the findings of the 9/06 evaluation and associated reasons for designation. It should not be based on the inability for the City to issue a NOID in time, but on the findings of the 9/06 evaluation.</p>	<p>The City requests that the Province increase the timeline from two years to allow municipalities time to undertake this work and complete the substantial effort required to address this change.</p> <p>The City requests that the Province consider a provision for retaining Listed properties on the Heritage Register, especially if it is made at the request of the landowner. Listing a property on the register provides Brampton the time to consider its heritage value and allow for other means of conserving and interpreting its heritage and history without requiring a formal designation process. The current process helps the City to explore options for</p>

<p>included on a municipal register would have to be removed if council does not issue a notice of intention to designate (NOID) within two years of the amendments coming into force.</p> <ul style="list-style-type: none"> ○ Non-designated properties included on the register after the proposed amendment comes into force would have to be removed if council does not issue a NOID within two years of the property being included. ○ If removed from the register under any of the above three circumstances, the property cannot be relisted for a period of five years. 	<p>The City identifies two areas of concern regarding this part of the proposal</p> <p>1) It does not address circumstances where property owners have requested that their properties be included in the Register as Listed but not Designated. Automatic removal, and the 5 year prohibition period, would remove these properties from the list automatically. We have three such examples from the last year in Brampton.</p> <p>2) It will place a substantial burden on municipalities both administratively and financially to review and move forward substantial numbers of Designations or de-listings over the prescribed two year period. The City estimates that it will cost somewhere between \$500K and \$750K to complete this work, which places additional burdens on the tax base.</p>	<p>commemoration outside of the OHA designation process.</p>
<p>An increase in the threshold for designation of individual properties and new limitations on designation for properties subject to proposed development</p>		
<p>MCM is proposing to provide further rigour in the designation process by increasing the threshold by requiring that a property meet two or more of the criteria prescribed in regulation. This change would be achieved through a regulatory amendment to <i>O. Reg. 9/06</i> Criteria for determining cultural heritage value or interest. MCM is further proposing that this requirement would apply only to properties where the notice of intention to designate (NOID) is published on or after the date the regulatory amendment comes into force.</p>	<p>The City recognizes this as a requirement to meet two of the criteria will provide “robusticity” to recommendations for Designation. However, the City is concerned that it will be harder to designate properties that lack architectural interest or that are not aesthetically attractive, but that have significant historical associations. In particular, this proposal could have significant harmful impacts for sites/locations of importance to equity deserving groups that meet one but not two or more criteria.</p>	<p>The City recommends the Province abandon these changes and engage with equity deserving communities to ensure locations across the City that hold value to the community are not lost.</p>

	<p>The City requests the Province confirm that the threshold for designation is two of the total of nine criteria identified in O. Regulations 9/06 as opposed to two of the three sets of criteria?</p>	
<p>The <i>More Homes, More Choice Act, 2019</i> amended the <i>Ontario Heritage Act</i> to establish a new 90-day timeline for issuing a NOID when the property is subject to prescribed <i>Planning Act</i> events. This new timeline was intended to provide improved certainty to development proponents and to encourage discussions about potential designations at an early stage, avoiding designation decisions being made late in the land use planning process. MCM is proposing to provide increased certainty and predictability to development proponents by requiring that council would only be able to issue a NOID where a property is included on the municipal heritage register as a non-designated property at the time the 90-day restriction is triggered. Therefore, if a prescribed event occurs with respect to a property, a NOID may only be issued if the property was already included in the municipal register as a non-designated property on the date of the prescribed event. The 90-day timeline for a municipality to issue a NOID following a prescribed event would then apply. This restriction would only apply where the prescribed event occurs on or after the date the legislative amendment comes into force.</p>	<p>The City understands the need for increased certainty relative to the planning approvals process and has been working to streamline the heritage review process to address this prior to the proposed changes through Bill 23. The City also understands that this is included to help bring greater alignment between the Heritage Act and the development approval process timelines under Bill 109. However, this will be challenging for the City. For example, if a property must be on the list prior to the prescribed event, then the City will need to ensure that every property possiblyworthy of Listing/ Designation is on the Register immediately. This would require evaluation of all the properties currently Listed on the Register as well as any additional properties that are worthy of consideration but that have not yet been added.</p> <p>The City is currently engaged in a complete review and update to the Heritage Register and this includes consideration of properties that are not already included but that should be added. That work will not be completed until the end of May, well after the new provisions come into effect. However, there is a large financial and administrative burden placed on heritage staff to pre-emptively examine all potential properties</p>	<p>The City proposes the Province provides a significant transition period to support municipalities in reviewing and updating their Heritage Register, as this requires the City to be pro-active in maintaining their heritage register in order to anticipate future properties coming up for development or it becomes lost. The City recommends the Province support the municipalities financially or review this proposal to ensure that no heritage properties are lost as a result of this change.</p>

	<p>to ensure there is no freeze once a prescribed event occurs.</p> <p>The City also requests clarity on the definition of a “prescribed event” to determine feasibility of the proposed changes.</p>	
Changes to Heritage Conservation Districts		
<p>MCM is proposing to increase rigour in the process of identifying and protecting heritage conservation districts (HCD) by requiring municipalities to apply prescribed criteria to determine a HCD’s cultural heritage value or interest. This would include a requirement for HCD plans to explain how the HCD meets the prescribed criteria. MCM is proposing to have the criteria currently included in O. Reg. 9/06 (Criteria for determining cultural heritage value or interest) apply to HCDs and is proposing that the HCD must meet two or more of the criteria in order to be designated, which would be achieved through a regulatory amendment. MCM is further proposing that this requirement would apply only to HCDs where the notice of the designation bylaw is published on or after the date the legislative and regulatory amendments come into force.</p>	<p>The establishment of criteria for evaluating HCDs is a positive approach as it will provide greater transparency and make it easier for the public to understand the reasons for HCD designation. However, they will need to be specific to HCDs as opposed to trying to apply current regulation 9/06 to a collection of resources that sometimes number in the hundreds. The City recognizes there are minimal impacts to the City.</p>	<p>The City suggests that the Province consider a stand-alone set of criteria tailored to HCDs and consult with municipalities on the development of this criteria.</p>
<p>MCM is also proposing to introduce a regulatory authority to prescribe processes for municipalities to amend or repeal existing HCD designation and HCD plan bylaws. The proposal would help create opportunities to align existing HCDs with current government priorities and make HCDs a more flexible and iterative tool that can better facilitate development, including opportunities to support smaller scale development and the “missing</p>	<p>Currently, there are no clear processes for amending a HCD Plan. Greater clarity will help with the management of HCDs over time.</p>	<p>The City suggests It would be beneficial if the Province provided guidance on both the amendment process as well as the approaches/guidance on best practices regarding small scale development within districts. This will help to protect important heritage, while delivering more housing options.</p>

<p>middle” housing. If passed, MCM would consult on the development and details of the amendment and repeal processes at a later time.</p>		
<p>Housekeeping and Commencement</p>		
<p>Schedule 6 of the proposed <i>More Homes Built Faster Act, 2022</i> also includes proposed minor housekeeping amendments. Included among them are repealing the alternative definition of “alter” in subsection 1(2) of the OHA, which was intentionally never proclaimed, and a change within the amended, but not proclaimed, section 42 of the OHA that would facilitate bringing into force the remaining sections of Schedule 11 from Bill 108 that were not proclaimed in 2021. MCM is further proposing a transition provision in regulation clarifying that these amendments to section 42, which would speak specifically to the demolition or removal of an attribute within an HCD, would apply where an application for a heritage permit was received by the council of a municipality on or after the date these legislative amendments from Bill 108 come into force.</p>	<p>The City does not have any specific comments related to this change.</p>	<p>N/A</p>