



PKHBA

Peterborough & The Kawarthas
Home Builders Association

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November 24, 2022

Paula Kulpa
Heritage Branch, Ministry of Citizenship and Multiculturalism
400 University Avenue, 5th Floor
Toronto, ON M7A 2R9
paula.kulpa@ontario.ca

ERO Number: 019-6196

RE: Proposed Changes to the *Ontario Heritage Act* and its regulations: Bill 23 (Schedule 6) - the Proposed *More Homes Built Faster Act, 2022*

The Peterborough & the Kawarthas Home Builders Association (PKHBA) is the voice of the residential construction industry in the City and County of Peterborough and City of Kawartha Lake. PKHBA represents over 95 member companies including builders, developers, professional renovators, trade contractors and many others within the residential construction sector. In 2021 residential construction had an economic impact of over \$1 billion dollars in the City and County of Peterborough and City of Kawartha Lake.

Previous Industry Positions on the *Ontario Heritage Act*

PKHBA along with OHBA have provided the governments with significant recommendations to modernize the *Ontario Heritage Act* including:

- January 2020 – OHBA comments on proposed OHA regulations - *More Homes, More Choice Act, 2019* (Bill 108):
- November 2020 - ERO 019-1348 - Proposed OHA regulations - *More Homes, More Choice Act, 2019* (Bill 108):

Our associations were broadly supportive of recent changes to *Ontario Heritage Act* regulations and note that the province clearly recognizes that constraints on housing supply through the *Ontario Heritage Act* must be considered. Municipal Councils must balance their decisions and consider adequately recognizing property owners' interests. Heritage legislation should not be weaponized as a tool to



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promote NIMBYism. Furthermore, decisions should be more predictable in the determination of heritage value.

Changes affecting the Standards and Guidelines for Conservation of Provincial Heritage Properties

PKHBA supports the objective to promote sustainable development that respects the land and buildings that are important to our history and local communities while streamlining approvals and working to support priority provincial projects including housing.

The Minister of Citizenship and Multiculturalism (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 MCM 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.

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 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.

New requirements for municipal registers and the inclusion of non-designated properties on the municipal register

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:

- PKHBA is supportive of 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. We believe this is a reasonable time period to achieve this.



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- PKHBA is supportive of 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.
- PKHBA is supportive of increasing the standard for including a non-designated property on a municipal register by requiring that the property meet 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 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.
- Removal from the register
 - 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 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.
 - 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.

PKHBA is generally supportive of an increase in the threshold for designation of individual properties and new limitations on designation for properties subject to proposed development. This would prevent abuse for political purposes or for the purpose of stopping housing.

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 *O. Reg. 9/06* 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.



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The *More Homes, More Choice Act, 2019* amended the *Ontario Heritage Act* to establish a new 90-day timeline for issuing a NOID when the property is subject to prescribed *Planning Act* events. In a January 2020 letter, the OHBA recommended and supported a 90-day NOID to commence from the date of a complete application. This new timeline provides improved certainty about potential designations at an early stage, avoiding designation decisions being made late in the land use planning process.

PKHBA is generally supportive of the proposal to provide increased certainty 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.

Changes to Heritage Conservation Districts

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.

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 middle" housing. If passed, MCM would consult on the development and details of the amendment and repeal processes at a later time.



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Housekeeping and Commencement

Schedule 6 of the proposed *More Homes Built Faster Act, 2022* 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.

PKHBA is supportive of a quick implementation period and for bringing the legislative and regulatory amendments into force on January 1, 2023.

Conclusion

The provincial government has a duty to protect the public interest. Now is the time for bold action on housing across Ontario. The Greater Golden Horseshoe is Canada’s primary economic engine and is the fastest growing region in North America. It is critical that there is a holistic provincial planning framework to provide a broad, long-term, and comprehensive plan that promotes prosperity, employment growth and an appropriate supply of housing. Through the changes in the Growth Plan (2019 and 2020), the Housing Supply Action Plans 1.0 and 2.0 and now Bill 23 and the Housing Supply Action Plan 3.0, the current Provincial Government has moved to restore balance in housing choice and permit the ability to provide housing that meets the aspirations of Ontario families, while balancing the need to continue to urbanize and achieve transit-oriented communities. After a decade and a half of policies that produced the current housing supply crisis, it will take time and a determined continued effort to turn things around.

It is important that the province work in collaboration with municipalities and stakeholders to ensure that the *Ontario Heritage Act* is appropriately managing properties of cultural heritage value or interest while serving broader provincial priorities.

Sincerely,

Rebecca Schillemat, Executive Officer
Peterborough and the Kawarthas Home Builders Association