

November 24, 2022

Ministry of Municipal Affairs and Housing
777 Bay Street, 17th floor
Toronto, Ontario M7A 2J3

Sent via email: PlanningConsultation@ontario.ca

Public Works

10 Peel Centre Dr.
Suite B
Brampton, ON
L6T 4B9
tel: 905-791-7800

peelregion.ca

Re: ERO 019-6163 - Proposed Planning Act and City of Toronto Act Changes (Schedules 9 and 1 of Bill 23 – the proposed *More Homes Built Faster Act, 2022*)

ERO 019-6171 - 2031 - Municipal Housing Targets

ERO 019-6173 - Proposed Amendment to O. Reg. 232/18: Inclusionary Zoning

Thank you for the opportunity to review and comment on the Environmental Registry of Ontario postings with respect to the proposed changes to the *Planning Act*, 2031 Municipal Housing Targets, and Regulation for Inclusionary Zoning, to support the legislative and regulatory proposals in *Bill 23, More Homes Built Faster Act*, and the Province's Housing Supply Action Plan. Please note that the following comments and recommendations are provided by Region of Peel staff and may be considered by Regional Council for endorsement. If additional or differing comments are provided through a Council resolution, they will be forwarded to the Ministry for consideration.

General Comments

The Region of Peel appreciates the Province's efforts to increase housing supply and improve affordability. These are important issues that require integrated solutions. We also appreciate the need to make changes to streamline planning approvals and the delivery of housing. However, some proposed amendments would create significant impacts and unintended consequences. For example, some changes could create obstacles to the efficient delivery of infrastructure and services to meet projected demands and potentially affect the ability of municipalities to provide the necessary services to support housing development, without adversely impacting efforts to respond to the climate emergency provincial priority.

Should Bill 39 come into effect, we welcome the opportunity to work with the Provincially-appointed facilitator for Peel to move forward on common objectives and participate in any further consultations to improve service delivery.

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Streamlining the Planning Process

Removing Planning Responsibilities from Certain Upper-Tier Municipalities

The proposed amendment identifies the Region of Peel as an “upper-tier municipality without planning responsibilities” under the *Planning Act*.

While the Region has already delegated much of its approval authority to local municipalities for routine planning applications to streamline the process, the Regional Official Plan provides a critical framework and mechanism to ensure the coordination of cross-boundary infrastructure delivery to service growth, some of which may be outlined through master plans (including water, wastewater, waste management, transportation infrastructure, natural infrastructure, social services, and protection for public health risks).

The full removal of planning responsibilities and official plans from upper-tier municipalities would hinder the ability to strategically plan services to ensure capacity and efficient growth management across Peel, resulting in miscommunication and potential for delays.

Examples of some items that will be negatively impacted by the removal of upper-tier municipal responsibilities and official plans include acquiring rights of way for new infrastructure tied to growth, addressing municipal risks through development agreements, and the ability to protect Regional assets and interests to avoid negative impacts on the public.

Upper-tier municipal responsibilities could instead be limited to coordinated planning for growth in cooperation with lower-tier municipalities and facilitating expedited upper-tier planning approvals to lower-tier municipalities to streamline the housing development process.

Recommendations

Regional staff recommend that the Province recognize that upper-tier municipalities play a critical role in planning and coordinating growth, infrastructure, and services for growth.

Regional staff also recommend that the legislation permit the Region to maintain the portions of the Regional Official Plan that are necessary for long-range planning and decision-making on critical infrastructure that crosses local municipal boundaries.

Ontario Land Tribunal Third Party Appeals

Regional staff agree that limiting some third-party appeals may accelerate the process of building new market housing and affordable housing. However, the removal of appeal rights from upper-tier municipalities, without planning

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responsibilities for all categories of planning decisions, is a significant risk for the provision of essential services including water and wastewater servicing, roads, and matters of public safety.

Some examples of the types of matters that would be compromised include water and wastewater servicing ability, road widenings, and protecting Regional facilities and public health and safety from potential conflicting uses. The proposed changes would create an unintended consequence of limiting the Region's ability to provide the Ontario Land Tribunal (OLT) with valuable information to inform their decision, related to matters of infrastructure and servicing and other specific items under Regional jurisdiction, that may not be adequately addressed in a proposed development.

Ultimately, the services that the Region provides are essential to support growth and adequately address items of public health and safety.

In addition, public input is an important part of good planning. Limiting resident, ratepayer, and other stakeholder appeals could have unintended consequences such as creating delays and pressures at the municipal level.

Recommendations

Regional staff recommend that "upper-tier municipalities without planning responsibilities" continue to have the right of appeal or be considered a "Public Body" or "Specified Persons" for appeal purposes in order to seek party status on relevant applications that could impact growth management planning and matters of Regional interest.

Regional staff also recommend that consideration be given to how limiting appeals may impact the political nature of land use planning decisions and that further resources could be provided to the OLT to prioritize and/or triage appeals rather than proceed with a full removal of appeal rights.

Site Plan Control

Streamlining site plan approvals process is a beneficial step but one that should include standards related to the sustainable design of buildings and sites.

Consideration needs to be given as to how proposed changes may impact the ability of local municipalities to use tools such as Green Development Standards, which are critical to meeting environment and climate change goals, responding to the climate emergency, and achieving environmental, social, and economic objectives that align with Provincial policy. The regulation of sustainable design in site plan approvals supports innovation and helps facilitate sustainable and complete communities that are healthy, resilient, and efficient.

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Proposed changes will impact the Region's ability to acquire land or easements needed for infrastructure to support growth, such as new roads or road widenings. In addition, proposed changes may impact files where there is a Regional interest, such as infrastructure planning. This could compromise efforts that have been made to improve pre-consultation processes to reduce delays, provide fulsome information, and identify where Regional services and engagement with Regional staff is required.

Exempting residential developments of up to 10 units from site plan control, limits opportunities for Regional staff to provide early comments from a public health and infrastructure perspective. The site plan process provides an opportunity for agencies to proactively identify major issues that impact a development application early on to avoid delays later in the process. For instance, some small-scale developments may require infrastructure to be upgraded as there may be insufficient servicing capacity and connections, and/or have key transportation and waste management considerations. These considerations may create delays in the building permit process if it is discovered that there is insufficient infrastructure or that an encroachment review is required.

In addition, the protection and promotion of public health is under the jurisdiction of the Region of Peel. Proposed changes will limit opportunities to assess and address public health impacts. This will hinder the ability to plan for healthy communities, to advance active building design and to create healthy, safe, well-connected, and well-serviced neighbourhoods.

Recommendation

Regional staff recommend that site plan control provisions related to the sustainable design of buildings be retained.

Environmental Planning and Conservation Authority Roles and Responsibilities

The strong framework of environmental and watershed planning in Ontario and the systems approach for climate, agriculture, natural heritage, and water resource planning have been a cornerstone of the Region's work to manage growth in collaboration with partners, including the Province. The Provincial policy-led planning system recognizes inter-relationships among environmental, economic and social factors, and the importance of a comprehensive and integrated approach to planning. Municipalities have relied on the Provincial framework of planning tools, policy, criteria, and guidance to develop and implement consistent standards for water management and natural heritage protection that are needed for growing communities to be healthy, safe, and sustainable.

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Proposed changes will impact the integrated, systems and science-based approach being implemented by municipalities and will limit the important role that Conservation Authorities (CAs) have in supporting the planning of communities.

The integration of environmental and growth planning informed by science is critical to achieving healthy, safe, sustainable communities that all development, including housing, depend on to be successful.

Municipalities need healthy, functioning natural systems and nature-based solutions to address the impacts of growth and adequately respond to the climate emergency. Proposed changes that limit CA roles, revise wetland evaluation criteria, and introduce a new offsetting policy for natural heritage are significant.

Recommendations

Regional staff recommend that the regulatory role of CAs, including their broad watershed expertise and advice, be supported with improvements to coordinate and streamline approvals.

Regional staff also recommend that core components of the planning framework and tools be retained to support municipalities and their ability to plan for sustainability, provide nature-based solutions, and manage risk.

Proposed Housing Targets

The proposed change to the housing target for Peel for 2031 is approximately 2.5 times the forecast prepared as part of the Peel 2051 Municipal Comprehensive Review.

It is unclear how these targets will work in conjunction with the Growth Plan population and employment forecasts. The heightened timing for the anticipated 2031 target impacts the Region's ability to provide infrastructure to support growth in a timely manner and increases the risk of incurring infrastructure liability for repairing, rehabilitating, or replacing infrastructure and not complying with regulatory requirements.

These increased targets will be challenging to achieve, will require more time to undertake necessary studies, and will impact infrastructure, financial planning, and the ability to support growth.

Recommendations

Regional staff recommend that the Province provide incremental funding to provide financial support for asset management costs associated with incremental municipal assets required due to the increased housing targets for the City of Mississauga, City of Brampton, and Town of Caledon.

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Regional staff also recommend that the Province have discussions with municipalities regarding the feasibility of achieving the new substantially increased growth targets and potential solutions.

Increasing Housing Supply

Rental Replacement

Purpose-built rental units within apartment buildings with six or more units make up a core part of Peel's rental housing market that provide a range and mix of housing options. Peel is unique from other regional municipalities in the Greater Toronto Area in that it has a higher proportion of renter households. Together with rent controls, these units maintain an affordable rental housing supply that supports those in core housing need, many of whom are renter households.

Demand for purpose-built rental supply far exceeds supply, resulting in higher rents and vacancy rates that are below 3% (which is considered to be the minimum vacancy rate for a rental housing system with price stability).

The prospective loss of rental replacement rules, combined with the absence of rent controls on units first occupied after November 15, 2018 and vacancy decontrol, will collectively lead to the loss of existing affordable rental units and disproportionately affect marginalized communities who are more likely to be renter households. Rental demolition and conversion rules safeguard housing affordability and diversity as communities are redeveloped or intensified.

Recommendations

To facilitate growth in housing supply, while protecting existing affordable market-rental supply, increasing affordability, and aligning with the principle that "growth pays for growth", the Province should consider:

- Providing Provincial funding to support exemption of rental replacement units from the range of charges and fees associated with the planning and development process;
- Exempting rental replacement units from planning requirements of the proposed redevelopment;
- Tying rental demolition and replacement rules to rental market conditions (e.g., rental replacement rules would not apply if the market has a purpose-built rental vacancy rate of more than 3 per cent for the preceding three years);
- Exempting any affordable housing projects from rental replacement requirements; and

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- Maintaining the existing Provincial Policy Statement approach to affordability as the lesser of either an income-based calculation for low- and middle-income households or a percentage below average market price.
- Working with Service Managers for affordable housing systems to establish a standardized methodology for calculating income-based affordability.

Addressing the Missing Middle

Regional staff generally support efforts to limit exclusionary zoning and permit “as of right” residential housing up to three units per lot but only in strategic growth areas (such as major transit station areas and urban growth centres). Overall, this change could create more housing options and support intensification.

Some “as of right” provisions could be supported in other areas pending further studies demonstrating the availability of infrastructure and services to support housing that includes units that are affordable to low- and moderate-income households.

Recommendation

When permitting “as of right” densities, Regional staff recommend that additional considerations such as impacts on the transportation network and public health be considered.

Identifying More Land for Housing

Regional staff support the proposed change to remove the requirement in the exemptions from subdivision and part lot control that lands be associated with a Provincially-funded project approved under the *Conservation Authorities Act*. Corresponding changes to require CAs to identify an inventory of land that may be suitable for housing and to simplify the process followed by CAs are also supported. Additional requirements for public notice and consultation if lands include significant natural heritage features are appropriate. Continued reviews to determine if land could be made available for housing would also be supported.

Recommendation

Regional Staff recommend that the legislation include additional requirements for public notice and consultation where lands could be made available for housing, such as where there are significant natural heritage features or proposed amendments to the Greenbelt Plan.

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Higher Density Around Transit (MTSAs)

Requiring municipalities to implement “as of right” zoning for transit supportive densities in specified areas around transit stations and extending requirements to zoning by-laws may pose a challenge to planning for infrastructure if the expected densities in these areas are unclear.

Securing more housing options, including affordable housing, may be constrained by insufficient community infrastructure to accommodate increased density.

Recommendation

Regional staff recommend that the legislation include stronger affordability requirements and safeguards so that low- and moderate-income households have housing options that are affordable to them. Increased density without requiring or securing more deeply affordable units will not necessarily improve housing affordability.

Facilitating Aggregate Applications

Moratoriums currently in place provide municipalities with the discretion to allow amendments to new official plans and zoning by-laws to proceed. This discretion is available equally to all land use requests including for mineral aggregate extraction uses.

Recommendation

Regional staff recommend that the proposed change to exempt aggregate proposals from the two-year freeze on applications to amend new official plans, secondary plans and zoning by-laws be removed.

Standardizing Inclusionary Zoning

Proposed changes to the inclusionary zoning regulation would undermine the effectiveness of inclusionary zoning. Changes of concern include:

- Capping the number or percentage of units that can be set aside as affordable;
- Limiting the period for which affordable housing units would be required to remain affordable; and
- Tying the definition of “affordable ownership” to average purchase price and not factoring in purchasing power based on household income.

As a result, units designated as “affordable” under this new definition would be out of reach to low- and moderate-income households and would result in a loss of development charges without contributing towards improving

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housing affordability. Moreover, set aside rates and duration of affordability are unnecessarily limited without regard for local market feasibility. In Peel, market feasibility work demonstrates that higher set aside rates, longer affordability durations, and deeper affordability are viable.

Market analysis of several major transit station areas in Peel by N. Barry Lyon Consultants demonstrated that there are several strong market areas that could support set-aside rates exceeding 5 per cent without discouraging development. This assessment excluded the proposed development charge and other financial exemptions proposed through Bill 23.

In addition, the Province's proposed maximum of 25 years across all tenure types is not in line with local market studies that support longer affordability terms.

Recommendations

Regional staff recommend that the Province establish 5 per cent as the default maximum set-aside rate where a municipality has not undertaken a transparent, localized, market analysis that has been subjected to a satisfactory peer-review. In all other instances, a municipality should be permitted to establish set-aside rates consistent with the findings of the market analysis.

Regional staff also recommend that there be no maximum on affordability duration.

Conclusion

While more housing options and supply can contribute to improving housing affordability outcomes in complete communities, it is important to put in place a framework to ensure that new and existing housing supply is used for homes (e.g., address vacant units and speculation) to maximize affordability. Efforts must also be made to ensure that new supply is truly affordable to low- and moderate-income families.

All orders of government must work together to increase the supply and longevity of affordable housing and strengthen the capacity of municipalities, industry, and community partners to respond to rapidly growing need while recognizing the continued role of upper-tier municipalities in adequately addressing infrastructure requirements and other planning considerations needed to sustain increased housing targets.

We trust that the Region's comments will be helpful as the Ministry considers amendments to Bill 23 and related proposed regulations regarding streamlining planning processes and increasing the housing supply.

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As related to the intent to Bill 39, a Provincially-appointed facilitator will assess regional government in Peel and determine the best mix of roles and responsibilities between upper and lower-tier municipalities and ensure municipalities are equipped to deliver on the government's commitment to build 1.5 million homes over the next 10 years in order to address the housing supply crisis. The Region is committed to work through this process with the facilitator to find ways to continue to improve coordination and service delivery to support the Province's goal and efforts.

The Region looks forward to continuing to work with the Province, local municipalities, and other stakeholders to meet Ontario's housing needs. I would be pleased to provide any clarifications or additional comments on these matters.

Sincerely,



Tara Buonpensiero, MCIP, RPP
Acting Chief Planner and
Director of Planning & Development Services
Tara.buonpensiero@peelregion.ca
905-791-7800, ext. 4455