

Hon. Paul Calandra  
Minister of Municipal Affairs and Housing  
777 Bay Street - 17th Floor  
Toronto, Ontario  
M7A 2J3

Dear Minister Calandra;

**Re: Proposed Provincial Planning Statement  
ERO Number 019-8462**

**Housing Policies  
Employment Policies  
Definition of Employment Area  
Minor Modification to Employment Area Definition**

Dear Minister,

We act for Landmark Club Group Inc. (formerly OTT Properties and Developments Inc.), and are writing to comment on the Proposed Provincial Planning Statement. In general, we wish to express support for the proposed new policy document. In particular, we are supportive of the proposed housing policies, the changes proposed with respect to the definition of employment area, and the policies for employment conversions. Finally, we are suggesting a minor revision to the definition of “employment area” to ensure that the policy change has immediate effect, and cannot be unduly delayed by municipal inaction.

The suggested new wording for the “employment area” definition is as follows (with the suggested addition shown highlighted):

***Employment area:** means those areas designated in an official plan for clusters of business and economic activities including manufacturing, research and development in connection with manufacturing, warehousing, goods movement, associated retail and office, and ancillary facilities. An employment area also includes areas of land described by subsection 1(1.1) of the Planning Act, but only where the dominant uses in that area are the primary employment uses listed above. Uses that are excluded from employment areas are institutional and commercial, including retail and office not associated with the primary employment uses listed above.*

We recommend that the above change be made to prevent areas that are entirely, or almost entirely composed of commercial uses, from being designated as Employment Areas despite the change in definition. The risk with the policy as currently worded is that what was intended as a “grandfathering” provision (section 1 (1.1) of the Planning Act), could be used as a loophole to defeat the intended effect of the new clarified definition of employment area.

### **The Proposed New Housing Policies in 2.2.1 b), c) and d) Provide Clear and Helpful Direction**

The proposed policy 2.2.1 regarding housing includes several positive elements:

- an appropriate range and mix of housing options
- requirement to meet projected needs of current and future residents of the regional market area

The effect of these policies will help to ensure that the housing being approved by municipalities will actually reflect what the market demands. If housing supply is to be built, and meaningfully increase to meet the needs of the population, it is essential that planning approvals are of the type of housing that people want to purchase or rent, and of housing that can be economically viable to build, based upon the market. These policies help to ensure such clear direction for municipal decision-makers.

Proposed policy 2.2.1.b) speaks similarly to the need for all housing options to meet the requirements of current and future residents. It also make particular reference to specific types of residential intensification that are encouraged. These are positive policies.

Proposed policy 2.2.1.c) speaks to the efficient use of land and infrastructure, which represents a positive direction to focus housing development and appropriate intensification.

Proposed policy 2.2.1.d) speaks to the importance of transit supportive development, which is also important to ensure efficient use of infrastructure and to optimize opportunities for people to live in communities with transit access to economic opportunities.

Taken together, these housing policies represent a clear set of policy directions. At the same time, they benefit from being a focused, short and direct set of policies - setting clear priorities without undue complexity. This is an ideal approach to successful policy drafting.

### **Proposed Employment Policies Restore Original Intention to Protection of Employment, While Injecting Flexibility to Allow Dynamic Economic Forces to Work**

#### **New Definition of Employment Areas Reflects Original Intention to Protect Only for Space Extensive Manufacturing and Warehousing Uses**

The most significant change in the proposed Provincial Planning Statement is the new definition of employment areas. The new definition is really a clarification, aligning the definition with what was always the intention behind employment area designations and protections.

The intention was always to ensure such lands were protected for, and limited to, space extensive manufacturing and warehousing uses. However, over the years, the wording permitting “associated” commercial uses became a wide loophole through which municipalities began to apply employment area designations to freestanding retail and office uses - even to entire shopping centres.

The abuse of this loophole had two significant negative planning effects.

Firstly, lands that should have been protected for warehousing and manufacturing began to be eroded into de facto shopping centres, filled with stores, restaurants and service uses like nail salons. This was harmful to genuine employment areas.

Secondly, so-called “employment areas” filled with commercial uses like offices and retail, were ideally positioned, in planning terms, to accommodate residential uses as well, in order to create dynamic complete communities. But the fact of the employment area designation made the introduction of such appropriate residential intensification into these actually commercial areas very difficult or impossible. Because conversions were required, the policy hurdles and barriers to clear for conversions were time consuming and difficult to clear. Finally, the Planning Act prohibition against appeals of refusals/non-decisions of conversion requests, introduced additional rigidity into the system - ultimately blocking the approval and construction of hundreds of thousands of units of housing that would otherwise be appropriate, affordable and well-located.

The change in definition of employment area is an important and appropriate clarification of the actual original intention to protect only for space-extensive warehousing and manufacturing.

### **Proposed New Employment Area Definition Could Be Improved to Avoid a Repeat of Past Loophole Abuses**

The proposed new employment area definition in the Provincial Planning Statement is a companion to a similar change (passed, but not yet proclaimed) in the Planning Act. However, that Planning Act new definition includes a “grandfathering” provision that has the potential to render the change in definitions to be meaningless.

The new Planning Act definition (not-yet-proclaimed) is as follows:

*area of employment” means an area of land designated in an official plan for clusters of business and economic uses, those being uses that meet the following criteria:*

- 1. The uses consist of business and economic uses, other than uses referred to in paragraph 2, including any of the following:*
  - i. Manufacturing uses.*
  - ii. Uses related to research and development in connection with manufacturing anything.*
  - iii. Warehousing uses, including uses related to the movement of goods.*
  - iv. Retail uses and office uses that are associated with uses mentioned in subparagraphs i to iii.*
  - v. Facilities that are ancillary to the uses mentioned in subparagraphs i to iv.*
  - vi. Any other prescribed business and economic uses.*
- 2. The uses are not any of the following uses:*
  - i. Institutional uses.*
  - ii. Commercial uses, including retail and office uses not referred to in subparagraph 1 iv; (“zone d’emploi”)*

The grandfathering provision is found in section 1 (1.1).

*Area of employment*

*(1.1) An area of land designated in an official plan for clusters of business and economic uses is an area of employment for the purposes of this Act even if the area of land includes one or more parcels of land that are subject to official plan policies authorizing the continuation of a use that is excluded from being a business and economic use under paragraph 2 of the definition of “area of employment” in subsection (1), provided that the use was lawfully established on the parcel of land before the day subsection 1 (1) of Schedule 6 to the Helping Homebuyers, Protecting Tenants Act, 2023 came into force. 2023, c. 10, Sched. 6, s. 1 (2).*

The purpose behind this grandfathering exemption is a good one - to allow existing viable commercial uses to continue to operate.

However, it also opens up the potential for abuse. A municipality could, through Official Plan grandfathering policies, render areas composed entirely or overwhelmingly of non-employment uses, to continue to be designated as employment areas, with all the associated restrictions against change and introduction of residential uses.

The more appropriate approach for a municipality with such an area would be to designate it as a commercial use or a mixed use area. But the risk exists that the grandfathering provision from section 1 (1.1) creates the opportunity for the repetition (or continuation) of the loophole problems that arose from the previous broad interpretation of what could be permitted as “associated” non-employment uses. That abuse would be to continue to designate an area entirely or overwhelmingly composed of non-employment uses to be designated as employment area, and then be subject to restrictions making land use changes very difficult.

This potential abuse could be checked by a change that grandfathering could not be used in areas that were already de facto converted - that is that it could not be used to continue designate areas that are entirely or overwhelmingly non-employment uses already, as employment areas into the future.

The following suggested addition (highlighted) to the proposed Provincial Planning Statement Employment Area definition would prevent this abuse:

***Employment area:*** means those areas designated in an official plan for clusters of business and economic activities including manufacturing, research and development in connection with manufacturing, warehousing, goods movement, associated retail and office, and ancillary facilities. An employment area also includes areas of land described by subsection 1(1.1) of the Planning Act, **but only where the dominant uses in that area are the primary employment uses listed above.** Uses that are excluded from employment areas are institutional and commercial, including retail and office not associated with the primary employment uses listed above.

The above change would ensure that the grandfathering provision could not be used to return commercial or office areas to an employment area designation. It would ensure that the Government's intention is establishing the new clarified definition of employment area has a chance to actually be implemented, and have the appropriate effect.

### **Removal of Requirement that Employment Conversions Take Place Only During Municipal Comprehensive Reviews a Positive Change**

Under the currently in force Growth Plan for the Greater Golden Horseshoe, it is only possible to apply for an employment conversion in the context of a municipal comprehensive review. Such reviews are mandated to take place every five years - but in practice, the interval is much longer (as long as fifteen years). As a result, this policy restriction on employment conversions introduced excessive rigidity into the planning system.

The effect of this restriction was to make it difficult for landowners to respond to an increasingly dynamic market place. Lands that were no longer appropriate for contemporary employment use needs were effectively frozen, and kept underutilized or vacant. Meanwhile, mathematical calculations of land supply meant that more appropriate lands for meeting contemporary employment use needs were not approved (as they were deemed unnecessary based on land supply calculations - regardless of the lack of market appeal of much of the existing employment land supply). And the restriction of such decisions to municipal comprehensive reviews meant that planning was running years behind the market.

Finally, these restrictions meant that much potential land for new housing was not made available for that purpose. The result was to suppress the supply of housing to well below market demand. In this way, the restriction on conversions has been contribution to the severity of Ontario's housing supply crisis.

The proposed removal of the restriction limiting conversion applications to only municipal comprehensive reviews is a welcome and significant policy improvement in the proposed Provincial Planning Statement. It will reduce rigidity and return responsiveness and flexibility to the planning system. It will increase the supply of housing, while also ensuring that the supply of employment land is better attuned to meet actual market requirements.

### **Proposed Provincial Planning Statement 2024 Represents a Positive Step Forward for Land Use Planning in Ontario**

Overall, the proposed new Provincial Planning Statement represents a positive step forward. It will result in a better planning system, more housing, and increased economic growth and job creation.

Subject to the minor, but significant change we have suggested, we look forward to the document coming into force and effect.

Yours sincerely,

Hon. Peter Van Loan P.C., K.C.

CC.

[Michael.klimuntowski@ontario.ca](mailto:Michael.klimuntowski@ontario.ca) (Chief of Staff)  
[josef.filipowicz@ontario.ca](mailto:josef.filipowicz@ontario.ca) (Director of Policy)  
[PlanningConsultation@ontario.ca](mailto:PlanningConsultation@ontario.ca)