

May 10, 2024

Planning Policy Branch
Ministry of Municipal Affairs & Housing
13th Floor, 777 Bay Street
Toronto, ON
M7A 2J3

Re: Feedback on Bill 185, Cutting Red Tape to Build More Homes Act, 2024

On behalf of the Ontario Professional Planners Institute (OPPI), we are pleased to provide feedback on Proposed *Planning Act*, *City of Toronto Act*, and *Municipal Act* changes (Schedules 4, 9, and 12 of Bill 185 – the proposed *Cutting Red Tape to Build More Homes Act*, 2024) as part of ERO 019-8369.

OPPI is the recognized voice of Ontario’s planning profession. With over 5,000 members, it serves as both the Professional Institute and regulator of Registered Professional Planners (RPP) in the Province. Our members work across the planning spectrum, for consulting firms, provincial and municipal approval bodies, private developers, community agencies and academic institutions.

OPPI’s feedback on ERO 019-8369 is divided into two sections, measures our members fully support and measures where our members have concerns.

1. Measures Supported by OPPI

- A) Reduce Parking Minimums:** OPPI supports removing minimum parking requirements for lands, buildings or structures within Protected Major Transit Station Areas and Major Transit Station Areas.
- B) Community Infrastructure and Housing Accelerator (CIHA):** OPPI supports the government’s decision to remove the CIHA tool from the *Planning Act* and develop a rules-based ‘go-forward’ framework for Minister’s Zoning Orders as previously recommended by OPPI.
- C) “Use It or Lose It” Tools:** OPPI commends the Ministry for considering the input that has been provided on the “Use it or Lose it” tools considering the inter-relationship between land use approvals and infrastructure allocation. It strikes the right balance by focusing

on re-allocating servicing capacity if an approved development has not proceeded after a specified timeline and servicing is needed elsewhere in the service area, while ensuring established land use permissions do not have an automatic sunset.

- D) Enhancing Framework for Additional Residential Units (ARUs):** As detailed in our submission to ERO 019-8366, OPPI supports ARUs as an expanded housing option to add gentle density in neighbourhoods. We do not have concerns with providing the Minister with regulation-making authority with respect to zoning requirements ARUs. However, should the Minister decide to proceed with regulations, the approach should provide appropriate flexibility appreciating the different environmental context an ARU can exist within.
- E) Facilitating Standard Housing Designs:** OPPI does not have concerns with a new regulation-making authority that would facilitate planning approvals for standardized housing designs subject to appropriate consultation with all impacted stakeholders.
- F) Expedited Approval Process for Community Service Facility Projects:** OPPI does not have concerns with a new regulation-making authority to enable a streamlined approvals pathway for prescribed classes of community service facility projects subject to adhered with relevant Provincial Policy Statement provisions around shared facilities.

2. Measures of Concern to OPPI

- A) Upper-Tier Planning Responsibilities:** OPPI has significant concerns with the removal of upper-tier planning responsibilities in specified municipalities. We appreciate that the government is seeking to remove perceived duplication of efforts in the planning process in development approvals in a two-tiered setting. However, regional planning serves an essential function that supports housing development by coordinating land use planning with the planning and investment in infrastructure, transit, and public service facilities. It also plays a crucial role in growth management.

The cumulative effect of removing upper-tier planning with removing the Growth Plan has significant negative long-term risks for the future of the Greater Golden Horseshoe (GGH) region. Each of the upper-tier municipalities in the GGH have undertaken work through their Municipal Comprehensive Reviews to ensure growth is equitable across their lower-tier municipalities. They have considered existing and planned infrastructure needs and to locate growth where it can best be served by existing and planned major infrastructure and existing and planned transportation systems including transit, where appropriate.

This essential coordination between growth management, transit and infrastructure is pivotal to supporting the government's policy objective of unlocking more housing in the Province.

It is also important to note that most other provinces have embraced regional planning and Ontario is the only jurisdiction moving in the opposite direction. Accordingly, OPPI recommends the government retain regional planning roles around long range, coordinated and integrated growth management while downloading development approvals to the lower tier municipalities.

- B) Third-Party Appeals:** OPPI has concerns with the current proposal to limit third-party appeals for official plans, official plan amendments, zoning by-laws, and zoning by-law amendments. This is a blunt instrument that could have unintended consequences and risk procedural fairness.

One example would be a situation where a third-party appeal may be an important part of the process are when a development is proposed beside a pipeline or along a protected infrastructure corridor. Retaining third-party appeals provides accountability in the planning process and ensures protections are in place to align with municipal and provincial policies through the appeals process.

Outright banning third-party appeals all together is not the solution to this challenge. The government should manage third-party appeals by limiting meritless appeals. This can be achieved by providing additional guidance on what would be deemed a meritless, frivolous, or vexatious appeal (i.e. matters of provincial interest or determined to be contrary to the Planning Act or Provincial Planning Statements further supported by additional details around appeal requirement such as a planning rationale).

- C) Fee Refund Provisions & Municipal Pre-Application Process:** OPPI does not have substantial concern with removing the fee refund provision as it has not been helpful for all parties involved. There have been many situations where applicants and the municipalities can get to an agreement, but the clock runs out resulting in a pre-mature refusal. However, changes to the process that prohibit a municipal requirement for pre-application consultation meetings and allow complete application requirements to be challenged at the Ontario Land Tribunal (OLT) are concerning as a package. Pre-application meetings create a forum for discussion between the municipality and

applicant on aspects such as complete applications. Limiting these discussions and allowing OLT challenges on what constitutes a complete application would add unnecessary volume of appeals to the OLT at a time when we understand there are mounting pressures and resource constraints.

It is important to acknowledge that at times applicants may wish to avoid a study that is essential to support decision making, while at other times a study may be on a municipal checklist of required studies but may be less relevant to a specific proposal. A better approach to address this particular challenge is a baseline list of studies outlined by the Province that municipalities can require and the requirement for those studies would be ineligible for appeal to the OLT.

In addition, it is important to acknowledge that there have been positive impacts from the current regime. Some municipalities have implemented new procedures and policies to meet timelines beyond just front-loading the process to the pre-application stage.

There has been commentary on the need for a ‘relief valve’ to address situations where applicants and municipalities are negotiating, they should have the ability to mutually agree to not be beholden to the deadline. Legislative timelines make sense if they are reasonable and both parties have flexibility and certainty about the process in which they are mutually engaged.

D) Settlement Area Boundary Expansions: OPPI has concerns with providing applicants an unconditional right-to-appeal a refusal or failure to make a decision on a privately requested official plan or zoning by-law amendment that would change the boundary of a settlement area. The unrestricted nature of appeals could result in significant burden on an already stretched OLT. There could be situations where hundreds of parties are involved in an appeal of a particular boundary expansion without any regard for whether it is serviced or can be serviced in the next decade. Instead of allowing unfettered appeal rights to all private entities, the government could consider a range of options to restrict these appeals, including:

- *Option 1:* Only allowing appeals in situations where the request is for a contiguous parcel to the current settlement boundary and path to servicing is demonstrable in the near term.



- *Option 2:* Referring appeals to a non-partisan third-party entity that can adjudicate decision making (i.e., Chief Planner of Ontario and supporting office) as opposed to adding additional volume to the OLT.
- *Option 3:* Prohibiting appeals for privately requested official plan or zoning by-law amendment that would change the boundary of a settlement area.

Additionally, it should be noted that the combined effect of allowing appeals for settlement boundary area expansions with the removal of other policy and process layers such as upper-tier planning authority, municipal comprehensive reviews and weaker PPS criteria for expansion removes opportunities for more evidence-based decision making. This could result in significant loss of prime agricultural land required to produce our food along with the economic contributions of the farming sector, as well as significant impacts on natural heritage and water systems, and costly expansion of infrastructure rather than maximizing existing infrastructure and complete communities

E) Exempt Universities from the Planning Act: OPPI has concerns with a full exemption for publicly assisted universities from the *Planning Act*. This approach may expedite the provision of on-campus student housing, but servicing coordination needs to be addressed and the blanket nature of the exemption is concerning. There would be a material difference between providing universities with the ability to decide land use within a relatively closed campus and lands that are more integrated within the broader urban fabric where they are surrounded by adjacent private and public uses with which they need to integrate.

Planning for students living “off-campus” or on lands that are now under university ownership should also be addressed. The Province should require municipalities to develop student housing plans in partnership with post-secondary institutions within their communities and look to best practices such as the City of Waterloo’s approach to off-campus student housing. The Province should consider a provincial model for municipalities to implement with input from stakeholders such as professional planners.

OPPI would be pleased to discuss our comments with you to provide clarity on potential resolutions of these comments.

Thank you for the opportunity to provide feedback on the proposed *Planning Act, City of Toronto Act*, and *Municipal Act* changes as part of Bill 185, *Cutting Red Tape to Build More Homes Act, 2024*.

If you have any questions or would like to setup a meeting to further discussion our submission, please contact OPPI's Executive Director Susan Wiggins at (647) 326-2328 or by email at s.wiggins@ontarioplanners.ca.

Sincerely,



Claire Basinski, MCIP, RPP, CP3
Chair



Susan Wiggins, CAE, Hon IDC
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