SOUTH MARCH LANDOWNERS
Ottawa, Ontario

May 2, 2024

To: Ministry of Municipal Affairs and Housing

From: South March Landowners (Claridge Homes, Mattamy Homes, Minto Communities, Regional Group, Uniform Developments)

Re: Feedback on Bill 185, the Cutting Red Tape to Build More Homes Act, 2024 as it pertains to the proposed 2024 Provincial Policy Statement **(ERO #019-8462)** and proposed changes to the Planning Act **(ERO #019-8369)**

To Minister Calandra,

We are a group of five Ottawa homebuilders who together account for a substantial portion of single-family and multi-unit homes built across the nation's capital, from the downtown core to the suburbs. Collectively, we own 175 hectares of land known as South March, located in the Kanata North community in the west end of the City of Ottawa.

We are writing in response to Bill 185, the Cutting Red Tape to Build More Homes Act, 2024. As we have discussed in our responses to both Bill 150 (ERO #019-7885) on December 11, 2023, and Bill 162 (ERO #019-8273) on March 21, 2024, the South March lands must be developed if the Province is to meet both its planning policies and its housing goals to build at least 1.5 million homes by 2031, as well as the City of Ottawa's pledge to build 151,000 new homes over the same timeframe.

To that end, we are very encouraged by many of the measures proposed in Bill 185, and the draft Provincial Planning Statement (2024 PPS), which define the Province's initiatives to ease administrative barriers to building more homes. Requiring municipalities to use Ministry of Finance population projections for land-supply considerations, allowing applications for settlement boundary expansions to come forward at any time – and reinstating applicants' rights to appeal those decisions – are just a few examples of the thoughtful solutions proposed in Bill 185 and the 2024 PPS that will create fairness and clarity to the municipal planning process.

We would like to share some concerns about potential unintended consequences of certain measures in Bill 185, as outlined below.

On municipal requirement for settlement area boundary changes

We applaud the Province's intention to allow private applications for a settlement area boundary expansion at any time and appreciate that the Province wants to provide a "simplified and flexible approach" for municipalities to do so.

We note, for example, that the proposed 2024 PPS Sec. 2.3.2.1, directs the municipalities to *consider* specific criteria when deciding whether to permit a settlement area boundary expansion, including the need to accommodate more land for an appropriate range and mix of uses, sufficient capacity in existing or planned infrastructure and public service facilities and a phased progression of urban development.

These criteria make sense – they are at the centre of prudent planning and financially responsible growth management. We do have two concerns regarding the municipal process surrounding applying for an urban boundary expansion:

1. While the Province clearly aims to simplify the process of applying for an urban boundary expansion, we are concerned that the current wording in the proposed 2024 PPS could allow a municipality to require complex assessments and studies beyond those needed to satisfy the criteria enumerated in 2024 PPS policy 2.3.2.1, particularly by adding studies that may be more appropriate at future stages of development. Since the 2024 PPS represents the minimum standard, a municipality might request more than what is defined in 2024 PPS policy 2.3.2.1. The addition of onerous requirements would be time consuming and costly, which would in turn delay the construction of much-needed new housing – in contrary to the intention of the Province.
2. As the Province proposes allowing urban expansion applications at any time, it is expected there will be considerable interest from landowners who wish to have their properties added to a settlement area. Those properties will not be equally desirable or appropriate for development in the near future. The expected volume of urban expansion applications – coupled with the lack of a triaging process to identify the most appropriate expansion lands – risks overwhelming planning staff resources will delay the permitting and therefore construction of new homes.

The Province should consider adding language to the proposed 2024 PPS to limit what municipalities are allowed to request as part of an application for a settlement area urban boundary expansion. Applicants should be expected to submit a detailed planning rationale that, among other requirements, clearly supports the need for additional land and demonstrates the proposed expansion uses the land in an efficient manner that is transit supportive. Applicants should also be expected to produce a servicing feasibility report that shows the availability of existing or planned infrastructure for the proposed expansion lands to ensure that servicing is financially viable for local taxpayers. But municipalities should not be allowed to require reports and assessments that are more appropriate during later stages of the development process, such as the secondary plan or plan of subdivision process.

In Attachment 1 we show how the proposed 2024 PPS policy 2.3.2.1 can be modified to incorporate parts of 2020 PPS policy 1.1.3.8 to achieve an appropriate urban expansion process.

Combined with a planning rationale report, the studies indicated represent logical submission requirements to give the municipality sufficient information to make a decision on an application when considering a request for a settlement area urban boundary expansion.

Further, to manage the expected rush of boundary expansion applications, the Province should consider directing municipalities to prioritize the consideration of lands already assessed by planning staff during the municipality's previous Municipal Comprehensive Review (MCR) process. Because municipalities are already familiar with these properties, municipalities and their councils should be able to make decisions about adding lands to the settlement area faster, which will permit the more detailed planning process to commence, in turn helping the Province arrive at its end goal – to build more homes in communities across Ontario. In Attachment 1, we propose policy language to accomplish this.

On limiting third-party appeals

The Province's intention to limit third-party appeals of municipal planning decisions exclusively to the Minister, the applicant, the approval authority, a public body or "specified persons" is understandable, as frivolous or unmerited appeals to the overburdened Ontario Land Tribunal (OLT) can often lead to lengthy delays and add building costs to housing projects some of which municipal councils have already approved.

However, we have concerns that the wide application of these very limited appeal rights could result in poor planning decisions at the municipal level and may result in a further restriction on approving housing. Councils sometimes make decisions that are not based on a sound planning rationale, decisions that ultimately do not comply with the requirements of the Planning Act and the PPS.

If there is no right for a third-party appeal of a council decision of an Official Plan Amendment (OPA), zoning bylaw or zoning bylaw amendment, it removes the checks and balances in the system to implement proper planning principles and to prevent municipalities from making short-term decisions that may be politically popular but have long-term planning consequences including impacting the availability and affordability of homes, today and in the future.

This is the very purpose of the OLT, a neutral body of experts that is charged with weighing disputed council decisions against existing planning legislation and policies.

Consider the following scenario. The City of Ottawa is currently undergoing a Comprehensive Zoning By-law review, a once-in-a-generation process to streamline more than a hundred zoning categories and to ensure the City's zoning matches the goals of the most recent Official Plan, which includes ambitious targets for intensification. Some residents are already unhappy with the changes that the OP proposes for their communities, and council members will be under pressure from their constituents to decrease intensification targets through the Comprehensive Zoning By-law. If this

were to happen, there would be no way for a third party to appeal the new by-law in order to revise the zoning by-law to ensure it is consistent with and implements the 2024 PPS or other provincial directions, and the municipality would be left with zoning that is not adequate or desirable to meet the City's, or the Province's, housing growth needs in the future.

We propose the Province consider language that limits the right of appeal to the owners of land affected by an Official Plan or zoning policy change. Attachment 2 proposes some legislative language to accomplish this.

We are encouraged by the introduction of Bill 185 and the improvements it proposes for many aspects of the municipal planning process and hope you are able to address the recommendations we have proposed.

We would welcome the opportunity to discuss these materials with you.

Sincerely,
Neil Malhotra
Claridge Homes

Kevin O'Shea
Mattamy Homes

Brent Strachan
Minto Communities

David Kardish
Regional Group

John MacDougall
Uniform Urban Developments

cc.:
Martha Greenberg, Deputy Minister, Ministry of Municipal Affairs and Housing
Michael Klimuntowski, Chief of Staff, Minister of Municipal Affairs and Housing
Sean Fraser, Assistant Deputy Minister, Planning and Growth Division, Ministry of Municipal Affairs and Housing
Josef Filipowicz, Policy Director, Minister of Municipal Affairs and Housing

Attachment 1

2024 PPS Text With Recommended Modifications and Amendments

Bold = Wording to be included

2.3.2
1. In identifying a new *settlement area* or allowing a *settlement area* boundary expansion, planning authorities shall consider **the feasibility of development through** the following:

a) the need to designate and plan for additional land to accommodate an appropriate range and mix of land uses:
b) if there is sufficient capacity in existing or planned *infrastructure* and *public service facilities*;

c) whether the applicable lands comprise *specialty crop areas*:
d) the evaluation of alternative locations which avoid *prime agricultural areas* and where avoidance is not possible, consider reasonable alternatives on lower priority agricultural lands in *prime agricultural areas*;
e) whether the new of expanded *settlement area* complies with the minimum *distance separation formulae*;
f) whether impacts on the *agricultural system* are avoided, or where avoidance is not possible, minimized and mitigated to the extent feasible as determined through an *agricultural impact assessment* or equivalent analysis, based on provincial guidance; and
g) the new or expanded *settlement area* provides for the phased progression of urban development.

Proposed additional policy

h) Priority should be given to lands that have been evaluated in a previous application or municipal comprehensive review and found suitable for development but were not included since there was already sufficient land to accommodate Policy 2.1.4.

Attachment 2
Proposed Planning Act Additions

Bold = Wording to be included

OFFICIAL PLAN APPEALS – Section 17

Amend both sections 17(24) and 17(36)

(24)(new 4) A person listed in subsection 24.1.7.

17(proposed new subsection 24.1.7) For the purpose of subsection (24)(4), where a plan or amendment is initiated by an approval authority or a municipality, any person who is the owner of a parcel of land within the boundaries of the area changed by the amendment before the by-law was passed, and/or who made oral submissions at a public meeting or written submissions to the council, may appeal to the Tribunal by filing with the clerk of the municipality a notice of appeal setting out the objection and the reasons in support of the objection, accompanied by the fee charged by the Tribunal, within 20 days after the day that the giving of notice as required by subsection (23) is completed.

17(36)(new 4) A person listed in subsection 36.1.11.

17(proposed new subsection 36.1.11) For the purpose of subsection (36)(4), where a plan or amendment is initiated by an approval authority or a municipality, any person who is the owner of a parcel of land within the boundaries of the area changed by the amendment, before the by-law was passed, and/or who made oral submissions at a public meeting or written submissions to the council, may appeal to the Tribunal by filing with the clerk of the municipality a notice of appeal setting out the objection and the reasons in support of the objection, accompanied by the fee charged by the Tribunal, within 20 days after the day that the giving of notice as required by subsection (35) is completed.

ZONING BY-LAW APPEALS - Section 34

(19)(new 4) A person listed in subsection 19.0.2

(proposed new 19.0.2) For the purpose of subsection (19)(4), where a by-law passed under this section is initiated by an approval authority or a municipality, any person who is the owner of a parcel of land within the boundaries of the area changed by the amendment, before the by-law was passed, and/or who made oral submissions at a public meeting or written submissions to the council, may appeal to the Tribunal by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection, accompanied

by the fee charged by the Tribunal, within 20 days after the day that the giving of notice as required by subsection (18) is completed.