

November 14, 2022

Dear Clients:

Re: Assessment of Bill 23 (*More Homes Built Faster Act*) – Planning Matters

On behalf of our many municipal clients, we are continuing to provide the most up to date information on the proposed changes to housing and planning related legislation as proposed by Bill 23 (*More Homes Built Faster Act*). As identified in our October 31, 2022 letter to you, our firm is providing an evaluation of the proposed changes along with potential impacts arising from these changes. The following comments will be included in our formal response to the Province which we anticipate presenting to the Standing Committee on Heritage, Infrastructure and Cultural Policy this week.

Overview Commentary

The Province has introduced Bill 23 with the following objective: “This plan is part of a long-term strategy to increase housing supply and provide attainable housing options for hardworking Ontarians and their families.” The Province’s plan is to address the housing crisis by targeting the creation of 1.5 million homes over the next 10 years. To implement this, Bill 23 introduces a number of changes which seek to increase the supply of housing. The following summary of proposed key housing and planning related changes, along with our firm’s commentary, is provided below. It is noted that this letter specifically focuses on the impacts of Bill 23 regarding long-range planning and growth management initiatives at the municipal level.

Streamlining Municipal Planning Responsibilities

Schedule 9 of the Bill proposes a number of amendments to the *Planning Act*. Subsection 1 (1) of the Act is proposed to be amended to provide for two different classes of upper-tier municipalities; those that have planning responsibilities and those that do not. Changes are proposed to remove the planning policy and approval responsibilities from the following upper-tier municipalities: Regions of Durham, Halton, Niagara, Peel, Waterloo, and York, as well as the County of Simcoe. In addition, the proposed changes could potentially be applied to additional upper-tier municipalities in the future via regulation.

The proposed amendments under Schedule 9 of the Bill introduce numerous questions related to the approach to ensuring effective leadership, management and integration of regional and local land use planning across the affected jurisdictions. In addition to providing a broad vision and planning direction with respect to the long-term management of urban, rural and natural systems, upper-tier municipal planning authorities also play a critical role regarding the coordination, phasing, and delivery of



water, wastewater and transportation infrastructure as well as other municipal services. The Provincial Policy Statement, 2020 (P.P.S.), sets out specific responsibilities for upper-tier municipalities, in consultation with lower-tier municipalities, related to planning coordination, housing, economic development, natural environment and municipal infrastructure. Furthermore, the P.P.S. directs upper-tier municipal planning authorities to provide policy direction to lower-tier municipalities on matters that cross municipal boundaries.

While the proposed amendment to the Bill aims to streamline the land use planning process across the affected municipalities, it risks increasing complexity and miscommunication while adding to the technical and administrative efforts of both lower-tier and upper-tier municipalities, as well as the Province.

Furthermore, it would remove critical planning resources and knowledge at the upper-tier level which are required when addressing matters that cross technical disciplines and municipal jurisdictions. This would potentially result in disjointed efforts and outcomes with respect to local planning approvals and regional municipal service delivery.

Review of the Potential Integration of A Place to Grow and the Provincial Policy Statement (P.P.S.)

The Ministry of Municipal Affairs and Housing is undertaking a housing-focused policy review of A Place to Grow: the Growth Plan for the Greater Golden Horseshoe (G.G.H.), 2019, as amended, hereinafter referred to as the Growth Plan, and the P.P.S. The Province is reviewing the potential integration of the P.P.S. and the Growth Plan into a new Province-wide planning policy framework that is intended to:

- Leverage housing-supportive policies of both policy documents, while removing or streamlining policies that result in duplication, delays or burden the development of housing;
- Ensure key growth management and planning tools are available to increase housing supply and support a range and mix of housing options;
- Continue to protect the environment, cultural heritage, and public health and safety; and
- Ensure that growth is supported with the appropriate amount and type of community infrastructure.

Since the release of the Growth Plan in 2006 under the *Places to Grow Act, 2005*, G.G.H. municipalities have been in a continuous cycle of developing and defending growth management processes and Official Plan updates. Over the past several years, all G.G.H. upper-tier, single-tier, and most lower-tier municipalities have initiated the process of updating their respective Official Plans to bring these documents into conformity with the Growth Plan. Within the G.G.H., this process is referred to as a Municipal Comprehensive Review (M.C.R.). Many of these municipalities have



completed their draft M.C.R. analyses and draft Official Plan updates for provincial approval, while several others are approaching completion.

The required technical analysis associated with the growth analysis and urban land needs assessment component of the M.C.R. process is set out in the Provincial Land Needs Assessment (L.N.A.) methodology, which is specific to G.G.H. municipalities.^[1] The M.C.R. process has required tremendous time and effort on behalf of municipalities, consulting agencies, stakeholder groups and involved residents. The results of these efforts represent a key planning milestone for all G.G.H. municipalities and provide a solid foundation to build on as it relates to future growth management implementation, monitoring and benchmarking.

Ontario municipalities located outside the G.G.H. are also now in the process of updating their respective Official Plans in accordance with the P.P.S. For municipalities in these jurisdictions, this process is referred to as a Comprehensive Review (C.R.). While there are potential benefits regarding the consolidation of the P.P.S. and the Growth Plan, as it relates to the M.C.R. and C.R. process, there are a number of issues that should be considered regarding this effort, particularly as they relate to long-term growth management and urban land needs, discussed below.

Long-Term Population and Employment Forecasts

Schedule 3 of the Growth Plan establishes minimum long-term population and employment forecasts for upper-tier and single-tier municipalities in the G.G.H. to the year 2051. The Ministry of Finance (M.O.F.) also establishes long-term population forecasts for all Ontario Census Divisions (C.D.s), which typically represent upper-tier municipalities, separated municipalities, and single-tier municipalities. The M.O.F. forecasts are not recognized as official forecasts for planning purposes in Ontario; however, they are updated annually and can be used to inform population forecasts in Official Plans. Under a consolidated Growth Plan and P.P.S., consideration would need to be given to the role and source of growth forecasts established by the Province for all Ontario municipalities.

Provincial Land Needs Assessment Methodology Guidelines

As previously noted, the L.N.A. methodology for G.G.H. municipalities was updated by the Province in 2020. In accordance with the Growth Plan, the L.N.A. methodology provides a step-by-step approach to conducting growth forecasts and urban land need assessments for upper-tier and single-tier municipalities for both Community Areas (i.e., living areas) and Employment Areas. All other Ontario municipalities rely on the 1995 Provincial Projection Methodology Guidelines (P.P.M.G.) for guidance regarding the technical approach to growth forecasts and urban land need assessments. It is noted

^[1] A Place to Grow: Growth Plan for the Greater Golden Horseshoe, Land Needs Assessment Methodology for the Greater Golden Horseshoe. August 2020.



that the 1995 P.P.M.G. suggests that a simplified methodology can be used for smaller or low-growth municipalities. It is further noted that the P.P.M.G. is meant to be used as “best practices” and the guidelines are not mandatory. Under a consolidated Growth Plan and P.P.S., consideration is required regarding the application of a standardized L.N.A. methodology for all Ontario municipalities.

Addressing Urban Land Needs for Urban Settlement Areas

An important term used in the P.P.S. in the context of both urban land needs and housing affordability is the *Regional Market Area (R.M.A.)*. The R.M.A. is defined in the P.P.S. and Growth Plan (with modifications) as follows:

“an area that has a high degree of social and economic interaction. The upper- or single-tier municipality, or planning area, will normally serve as the regional market area. However, where a regional market area extends significantly beyond these boundaries, then the regional market area may be based on the larger market area. Where regional market areas are very large and sparsely populated, a smaller area, if defined in an official plan, may be utilized.”

With respect to urban residential land needs assessments, the broad objective of this policy is to ensure the efficient and wise use of all designated urban lands, both occupied and vacant, within the R.M.A. before expanding Urban Settlement Area boundaries. Across southern Ontario municipalities, a key challenge with the application of this policy is the mismatch of urban residential land needs at the urban settlement area level within the defined R.M.A. geography.

If the R.M.A. definition is interpreted too rigidly, it can constrain urban residential development within Urban Settlement Areas, and more broadly across entire municipalities, where identified urban land surpluses have been determined elsewhere within the R.M.A. Neither the P.P.S. nor the Growth Plan provide adequate direction for addressing residential urban land supply and demand mismatches within the R.M.A. Subsection 2.2.1.6 of the Growth Plan provides policy direction regarding *Excess Lands*, which applies exclusively to Outer Ring G.G.H. municipalities. Under a consolidated Growth Plan and P.P.S., a review of the R.M.A. and Excess Lands policies would be required to determine an appropriate and standardized approach to addressing localized urban residential land needs for Urban Settlement Areas and local municipalities.

Residential Intensification Targets and Minimum Density Requirements

Subsection 2.2.7.2 of the Growth Plan provides direction with respect to minimum greenfield density targets for G.G.H. upper-tier and single-tier municipalities. These densities range between 40 and 50 people and jobs per gross hectare (ha). Minimum density requirements are also prescribed in the Growth Plan for Strategic Growth Areas,



such as Urban Growth Centres and Major Transit Station Areas (M.T.S.A.s). The P.P.S. does not prescribe minimum density targets for Ontario municipalities but does require municipalities to establish density targets for areas adjacent, or in proximity, to M.T.S.A.s and corridors.

Subsection 2.2.2.1 of the Growth Plan requires upper-tier and single-tier G.G.H. municipalities to establish minimum intensification targets within delineated built-up areas (B.U.A.s). These were established under the Growth Plan, 2006. The delineated B.U.A.s within G.G.H. municipalities have remained unchanged since the Growth Plan was established in 2006. The P.P.S. also requires municipalities to establish residential intensification targets but does not prescribe minimum density targets for Ontario municipalities. Furthermore, the P.P.S. does not require municipalities to delineate built area boundaries in Official Plans; however, some Ontario municipalities outside the G.G.H. have delineated built area boundaries for planning purposes. It is noted that the delineation of built area boundaries may be subject to change or update for municipalities outside the G.G.H., while B.U.A.s within the G.G.H. will remain fixed as of 2006. Under a consolidated Growth Plan and P.P.S., a standardized approach to minimum density requirements and residential intensification targets would be required for all Ontario municipalities.

Rural Housing

An identified area of the Growth Plan and P.P.S. review is to provide policy direction to enable more residential development in Rural Areas. Rural Settlement Areas include existing hamlets or similar existing small settlement areas that are established in Official Plans. These communities are typically serviced by individual, private, on-site water and/or private wastewater systems. Rural Settlement Areas provide clusters of business operations that are essential to future economic growth. Infilling and minor rounding out of existing residential and non-residential development within Rural Settlement Areas is important to ensure that these areas remain vibrant, sustainable and complete communities. Under a consolidated Growth Plan and P.P.S., enabling more residential development in Rural Settlement Areas, and Rural Areas more broadly, would need to be considered within the context of the existing provincial and local policy frameworks, the land use hierarchy identified in Official Plans, the provision of servicing, as well as the protection of natural heritage and agricultural lands.

Employment Area Conversion

An identified area of the Growth Plan and P.P.S. review is to provide policy direction to streamline and simplify the conversion of Employment Areas to new residential and mixed-use development, where appropriate. Employment Areas form a vital component of a municipality's land use structure and represent an integral part of the local economic development potential and competitiveness of municipalities. If not carefully evaluated, the conversion of Employment Areas to non-employment uses can potentially lead to negative impacts on the local economy in several ways. First,



Employment Area conversions can reduce employment opportunities, particularly in export-based sectors, creating local imbalances between population and employment. Second, Employment Area conversions can potentially erode employment land supply and lead to further conversion pressure as a result of encroachment of non-employment uses within, or adjacent to, Employment Areas. Finally, Employment Area conversions can potentially fragment existing Employment Areas, undermining their functionality and competitive position. Under a consolidated Growth Plan and P.P.S., policy direction regarding the conversion of Employment Areas should emphasize principles and criteria that examine both the quantity and quality of Employment Areas within the context of the local and regional market attributes, as well as the planned urban function of the subject conversion sites.

2031 Municipal Housing Targets

The Province has identified that an additional 1.5 million new housing units are required to be built over the next decade to meet Ontario's current and forecast housing needs. Furthermore, the Province has assigned municipal housing targets, identifying the number of new housing units needed by 2031, impacting 29 of Ontario's largest and many of the fastest growing single/lower tier municipalities. Key observations on the Province's plan are as follows:

- The municipal housing targets for 2031 collectively account for 1,229,000 units, representing about 82% of Ontario's overall 1.5 million new homes target.
- Of the 29 municipalities with housing targets identified, 25 are within the G.G.H. and four are located in other areas of southwestern and southeastern Ontario.
- Within the G.G.H. municipalities, the municipal housing targets are generally higher than approved housing forecasts. In non-G.G.H. municipalities, there is generally less discrepancy between the approved housing forecasts and the Province's targets. Having said that, the Municipal Housing Pledges are not intended to replace current municipal Official Plans.
- The municipal housing targets are based on current and future housing needs. A share of the overall housing need is attributed to a structural deficit in existing housing inventories, while a portion of the housing need is linked to anticipated population growth over the next decade.
- The housing targets are adapted from the housing needs assessment provided in the "Ontario's Need for 1.5 Million More Homes" report, prepared by Smart Prosperity Institute, dated August 2022.
- The impacted municipalities are being asked to prepare Municipal Housing Pledges to meet these housing targets. These pledges must include details on how the municipality will enable/support housing development through a range of planning, development approvals and infrastructure related initiatives.
- These housing pledges are not intended to replace current municipal Official Plans and are not expected to impact adopted municipal population or employment projections.



- While the municipal housing targets do not specify housing form, density, or geographic location (e.g., greenfield, intensification), it is anticipated that any needs beyond adopted housing forecasts will largely comprise rental and affordable housing units primarily located within B.U.A.s, and to a lesser extent, designated greenfield areas (D.G.A.s).
- To develop effective local policies and programs to support the achievement of the housing targets, it is recommended that municipalities assess their existing and future housing needs through a local lens, building on the high-level assessment provided by the Province.
- Local housing needs should be considered within a broader growth management framework, reflecting population, labour and employment/economic growth potential, and addressed through a planning, economic, fiscal and housing affordability lens.

Potential Changes to Inclusionary Zoning

Inclusionary zoning is a tool that can be used by municipalities to ensure the provision of affordable housing. Ontario Regulation (O. Reg.) 232/18 implements inclusionary zoning in Ontario. The proposed amendments to O. Reg 232/18 would:

- Establish 5% as the upper limit on the number of affordable housing units; the 5% limit would be based on either the number of units or percentage share of gross floor area of the total residential units; and
- Establish a maximum period of twenty-five (25) years over which the affordable housing units would be required to remain affordable.

While the proposed changes provide certainty with respect to affordable housing to be provided under inclusionary zoning, they greatly limit a municipality's ability to tailor the provision for affordable housing to the local market and for development feasibility considerations identified through the required Inclusionary Zoning Assessment Report.

We will continue to monitor the legislative changes and advise as the Bill proceeds.

Yours very truly,

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