

Goodmans^{LLP} Update

Ontario Proposes Amendments to the Growth Plan

On January 15, 2019, the provincial government proposed amendments to the Growth Plan for the Greater Golden Horseshoe, 2017 (the “Growth Plan”) that would, if adopted, give municipalities greater flexibility when making certain key planning decisions. Under the proposed amendments, municipalities could permit certain employment land conversions, delineate major transit station areas (MTSAs), and approve some limited expansions to settlement area boundaries without first undertaking a municipal comprehensive review (MCR). The proposed amendments would also introduce a more refined approach to intensification and density targets that account for the circumstances of different municipalities and, in many cases, reduce current targets.

The proposed amendments are intended to address challenges that municipalities, developers and other stakeholders identified in implementing the Growth Plan’s vision for Ontario. The proposed amendments, the most significant of which are summarized in more detail below, are open for public comment until February 28, 2019.

Intensification and Density Targets

The proposed amendments to the Growth Plan include the introduction of a more refined approach to intensification and density targets. Under current policies, a minimum of 50% of all residential development each year until 2031 is to occur within delineated built-up areas, with that target increasing to 60% as of 2031. These targets currently apply to all single-tier and upper-tier municipalities. Under the proposed amendments, different municipalities would be subject to different targets, in an attempt to recognize that municipalities’ differing circumstances can affect intensification rates. Specifically, the City of Hamilton and the Regions of Peel, Waterloo and York would be subject to the 60% target, while the Cities of Barrie, Brantford, Guelph, Orillia and Peterborough, and the Regions of Durham, Halton and Niagara would be subject to the 50% target. These proposed rates would apply as soon as the proposed amendments take effect and would not be phased in. Other municipalities would have the freedom to identify their own targets through their next MCR.

Similarly, the proposed amendments would introduce different density targets for designated greenfield areas in each municipality. Under current policies, single- and upper-tier municipalities are generally required to achieve a density of at least 80 residents and jobs per hectare in designated greenfield areas, except that a density target of 60 residents and jobs per hectare would apply within the current settlement area boundaries of inner ring municipalities. Under the proposed amendments, more developed municipalities such as Hamilton and the Regions of Peel, Waterloo and York would be required to achieve a density of 60 residents and jobs per hectare across their entire designated greenfield areas, while other municipalities would be required to achieve lower targets of 40 or 50 residents and jobs per hectare.

Employment Land Conversions

The proposed amendments include changes that would allow municipalities to approve non-employment uses in most designated employment areas in advance of an MCR, thereby potentially allowing landowners to obtain such permissions earlier than they could under the current policy regime.

Under current Growth Plan policies, municipalities may only permit non-employment uses, including residential and major retail uses, in an employment area following an MCR that demonstrates certain criteria are met. MCRs, which can only be initiated and undertaken by a single- or upper-tier municipality, typically take place infrequently: every 5 years at the earliest.

The proposed amendments to the Growth Plan would give municipalities the flexibility to permit non-employment uses in advance of an MCR in employment areas that are not considered provincially significant. For such non-provincially significant employment areas, a “comprehensive review” would still be required, under existing policies in the Provincial Policy Statement, 2014. However, as a result of the proposed amendments to the Growth Plan, that study would not need to be initiated by a single- or upper-tier municipality; it could be undertaken

by a landowner as long as the municipality adopted an OPA to implement the conversion, or by a lower-tier municipality. However, the substantive tests that the landowner or lower-tier municipality would need to meet through its comprehensive review would be very similar to those under the current regime. In addition, under the *Planning Act*, municipalities' decisions (or failures to make a decision) on applications to convert employment lands to non-employment uses are not subject to appeal to the Local Planning Appeal Tribunal.

Under the proposed policies as amended, the opportunity to permit new non-employment uses in employment areas in advance of the next MCR would not be available for certain employment areas that are considered "provincially significant". The province has proposed to identify 29 provincially significant employment areas, including employment areas in Toronto, Vaughan, Durham and Oakville, among others. For these employment areas, the process and substantive tests for obtaining new residential permissions would remain the same as it is under current Growth Plan policies; namely, municipalities could only permit non-employment uses through an MCR that demonstrates the same criteria that govern today are met.

Major Transit Station Areas

The proposed amendments include changes intended to expedite the process of planning MTSAs. Current Growth Plan policies define MTSAs generally as the 500 metre radius around existing or planned higher order transit stations or stops, representing approximately a 10-minute walk. The Growth Plan requires municipalities to delineate MTSAs through an MCR and plan these areas in a transit-supportive manner, to provide for stipulated minimum densities. Under the *Planning Act*, official plan policies relating to MTSAs are generally insulated from appeal.

The proposed amendments would allow municipalities to delineate and plan for MTSAs in advance of an MCR, thereby freeing municipalities to accelerate the planning process for MTSAs. In addition, the proposed amendments expand the radius of MTSAs from 500 metres around existing or planned stations/stops to a range of 500 to 800 metres, to recognize that the distance associated with a 10-minute walk can vary depending on circumstances.

Settlement Boundary Adjustments and Expansions

The proposed amendments would also allow for settlement area boundary adjustments and expansions outside of an MCR. Under the proposed amendments, municipalities could adjust settlement area boundaries without the need to undertake an MCR, provided that the adjustment would result in no net increase in land within settlement areas, the adjustment would support the municipality's ability to meet its intensification and density targets, and there is sufficient infrastructure to service the lands, among other things. This would allow municipalities to exchange unserved lands within current settlement areas boundaries for other lands that can be more readily developed.

Small settlement boundary expansions of less than 40 hectares would also be permitted in advance of an MCR, provided that the lands will be planned to achieve applicable minimum density targets and there is sufficient infrastructure to service the lands, among other things.

Next Steps

As noted above, the proposed amendments to the Growth Plan are open for public comment until February 28, 2019. We will continue to monitor the proposal as it proceeds through the process of adoption. In the meantime, for more information, please contact any member of our [Municipal Law Group](#).

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