



**Proposed Regulations under the Local Planning  
Appeal Tribunal Act, 2017  
O. Reg. 102/18**

August 5, 2019

## **Background**

The City of Brampton supports the Provincial goal of housing affordability and appreciates further opportunity to provide input through formal consultation process on Bill 108.

However, the changes to the Local Planning Appeal Tribunal Act, 2017, (“LPAT Act”) give the Local Planning Appeal Tribunal the authority to make a final determination on appeals of major land use planning matters, removing existing restrictions on a party’s ability to introduce evidence, and allowing the Tribunal to call and examine witnesses at hearings.

More specifically, through the combined changes to the Planning Act and the LPAT Act, the Province is proposing to repeal the conformity and consistency tests with respect to Provincial plans and municipal policies introduced by Bill 139. These tests made it much more difficult to successfully appeal a municipal decision on a major land use planning application. These amendments remove the deference to municipal decision making in local planning matters that Bill 139 instituted.

The City of Brampton requests the Province consider regulations that would support more deference for the decisions of municipal councils, including maintaining the existing appeal grounds, i.e. tests for consistency with provincial policy statements, provincial plans and the Official Plan.

## Detailed Comments

Bill 108 amends the Local Planning Appeal Tribunal Act, 2017 (the Act) to remove provisions that restrict oral testimony and submissions at hearings of major land use planning appeals (e.g., appeals of official plans, zoning by-laws) before the Local Planning Appeal Tribunal (the Tribunal). Section 43 of the Act provides that the Minister (i.e., the Attorney General) may make regulations governing the practices and procedures of the Tribunal and prescribing timelines for appeals to the Tribunal under the Planning Act. Section 43.1 of the amended Act provides that the Minister may make regulations providing for transition rules for major land use planning appeals before the Tribunal that were commenced before, on or after the amendments to the Act come into force.

The following transition rules are proposed for major land use planning appeals before the Tribunal:

**The amended Act applies to a major land use planning appeal that was commenced and continued under the former Ontario Municipal Board Act, except for the requirement to hold a case management conference.**

**The amended Act also applies to a major land use planning appeal that was commenced under the former Ontario Municipal Board Act and continued under the existing Act, except where a hearing on the merits of the appeal has been scheduled before the amendments come into force. If a hearing on the merits of the appeal has been scheduled before that day, the existing Act will continue to apply to the appeal.**

**The amended Act applies to a major land use planning appeal commenced on or after the day the amendments to the Act come into force.**

*The City of Brampton requests that the application of the amended Act be limited to new appeals filed after the legislation comes into force. Appeals filed prior to the legislation coming into force, but without a hearing scheduled, should remain subject to the legislation applicable to the appeal as of the date the matter was appealed. More specifically, where an appeal is subject to the conformity test, it should not now be subject to the de novo hearing process, based on whether a hearing date has been set.*

**The Ministry is further proposing to revoke an existing regulation under the Act that prescribes timelines for the disposition of Planning Act proceedings before the Tribunal, establishes time limits for submissions at oral hearings of major land use planning appeals before the Tribunal and limits the examination or cross-examination of parties and witnesses in a major land use planning appeal, other than by the Tribunal, prior to the hearing of that appeal. The revocation is proposed as the existing regulation is no longer relevant given the recent amendments to the Act and the Planning Act under Bill 108.**

*It is the City's view, that the revocation of the currently prescribed timelines and other procedural limits (including limits on cross-examination and oral submissions) will increase the time, cost and resources required to address major land use planning appeals. It is recommended the Province consider maintaining the current Planning Act Appeals regulation and/or establishing appropriate timelines and*

*procedural rules and limits for major land use planning appeals generally consistent with those currently found in the regulation.*