

**REPORT TITLE: Response to Provincial Consultation on Minister's Zoning Orders and the Provincial Policy Statement**

**FROM: Kealy Dedman, Commissioner of Public Works**

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## **RECOMMENDATION**

**That the staff comments on the proposed amendments to the *Planning Act*, having the effect, that certain Minister's Zoning Orders would not have to be consistent with the Provincial Policy Statement, as outlined in the report of the Commissioner of Public Works, listed on the April 29, 2021 Planning and Growth Management Committee agenda, titled "Response to Provincial Consultation on Minister's Zoning Orders and the Provincial Policy Statement", be endorsed;**

**And further, that a copy of the subject report be forwarded to the Ministry of Municipal Affairs and Housing, the City of Brampton, the Town of Caledon and the City of Mississauga.**

## **REPORT HIGHLIGHTS**

- On March 4, 2021 the Province introduced Schedule 3 of *Bill 257*, which proposed amendments to the *Planning Act* to provide that Minister's Zoning Orders (MZO) are not required and are deemed to never have been required to be consistent with the Provincial Policy Statement (PPS). This proposed amendment would not apply to MZO's within the Greenbelt.
  - On April 12, 2021, *Bill 257* received Royal Assent in the Provincial legislature.
  - The Region has significant concerns with changes that would allow an MZO to not be consistent with the PPS.
  - The changes to the *Planning Act* could undermine and compromise the integrity of provincial and local planning policies and create challenges in achieving good planning outcomes, including environmental protection, the development of complete communities, public consultation, and municipal autonomy in decision-making.
  - The Region does not support the routine use of MZO's as they can undermine important planning considerations, such as public consultation, technical review standards, municipal autonomy in planning decisions, and may by-pass elements of 'good planning'.
  - The Region remains committed to continuing to work with the Province to advance strategic provincial projects, such as affordable housing, long-term care homes and transit-oriented communities to assist with Peel Region and Ontario's economic recovery from the COVID-19 pandemic.
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# Response to Provincial Consultation on Minister's Zoning Orders and the Provincial Policy Statement

## DISCUSSION

### 1. Background

On March 4, 2021, the provincial government released a posting on the Environmental Registry of Ontario (No: 19-3233) seeking comments on legislative changes to the *Planning Act* proposed through Schedule 3: of *Bill 257: Supporting Broadband Infrastructure Expansion Act, 2021*. Regional staff submitted comments on April 1, 2021 to meet the Provincial deadline of April 3, 2021. Schedule 3 of *Bill 257* introduced changes to the *Planning Act*, so that certain Minister's Zoning Orders (MZOs), including MZO's made prior to the enactment of the legislative amendments, would not have to be consistent with the Provincial Policy Statement (PPS). The amendment would not apply to lands located within the Greenbelt Area. On April 12, 2021, Schedule 3 of *Bill 257* received Royal Assent in the Provincial legislature.

The legislative changes come after the in-effect changes, introduced through *Bill 197: COVID-19 Economic Recovery Act, 2020*, that enable the Minister of Municipal Affairs and Housing, through an MZO, to address site plan matters and require affordable housing units through inclusionary zoning.

This report provides an overview of Regional staff comments that were provided to the Province through municipal consultation on MZOs. A copy of the Regional comment letter is included in Appendix I of this report.

### 2. Regional Comments on Provincial Proposal that would allow MZOs to not be Consistent with the PPS

#### a) General Comments

Regional staff have significant concerns with changes to the *Planning Act* that would allow an MZO to not be consistent with the PPS, as originally proposed and now enacted through *Bill 257*. The PPS provides policy direction on matters of provincial interest related to land use planning and development, and contains policies regarding growth management, natural resources, protecting the environment and health and public safety. It is the foundational planning policy document in Ontario.

Land use planning decisions by both municipalities and the Province must be consistent with the PPS. All official plans prepared by local and regional municipalities in Ontario must be consistent with the policies in the PPS. The changes to the *Planning Act* made pursuant to *Bill 257* would undermine and compromise the integrity of provincial and local planning policies and create challenges to ensuring that good planning outcomes are achieved, including environmental protection, the development of complete communities, public consultation, and municipal autonomy in decision-making.

The Region recognizes the Province's objective to use MZO's to overcome potential barriers and development delays in the construction of strategic projects such as affordable housing, transit station infrastructure, health care facilities and long-term care homes. Nevertheless, the Region does not support overriding planning policy by means of an MZO without clear criteria, process, and consultation mechanisms in place.

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### **b) Previous Regional Comments on MZOs**

The Region previously supported changes to the *Planning Act* introduced through *Bill 197: COVID-19 Economic Recovery Act*, that enabled the Minister of Municipal Affairs and Housing to address site plan matters and to apply inclusionary zoning as part of an MZO. However, the Region's support was limited to circumstances where there is a demonstrated need for urgency that aligns with provincial and local interests for strategic projects such as affordable housing, transit station infrastructure, health care facilities, and long-term care homes. The Region recognizes the importance of these projects to assist in the Ontario's economic recovery from the COVID-19 pandemic. However, the Region does not support the use of MZOs on a routine basis.

An important aspect of building complete communities in Peel is ensuring the principles of good land use planning are adhered to, including public consultation and municipal autonomy. In its comments on the MZO changes in *Bill 197*, Regional staff recommended that the Minister work with municipal partners to develop a transparent process to be followed prior to issuing MZO's. This process should include:

- A clear procedure that is to be followed including engagement protocols with all impacted municipalities, as well as with members of the public;
- Explicit guidelines, conditions and planning rationales that support the use of an MZO;
- A requirement that advanced notice be provided to all relevant municipalities and members of the public prior to the issuance of an MZO; and
- Improved communication tools for MZOs, such as a mapping platform or online repository that allows municipalities and members of the public to quickly determine the status and details of an MZO.

### **c) Additional Feedback**

Further changes that would allow MZOs to be not consistent with the PPS, to be used both retroactively and prospectively, would be a substantial change in provincial direction. It would circumvent important land use planning considerations outlined with the PPS, related to natural heritage, environmental protection, water resources, agricultural lands and other areas of provincial interest.

Regional staff continue to reiterate and recommend that clear procedures, criteria and engagement protocols be established with municipalities and members of the public. The Region urges the Minister to develop a transparent process that includes public consultation, municipal collaboration and support for the planning direction to be furthered by MZO's, prior to issuing such orders. The use of MZO's must be carefully considered so that the principles of good planning are maintained, including environmental protection, public consultation and autonomy in municipal decision-making. This approach would allow staff the opportunity to participate in MZOs that align with the Region's strategic initiatives, and where there is a demonstrated need for urgency that aligns with provincial and local interests.

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### **RISK CONSIDERATIONS**

The use of an MZO overrides normal public consultation and development approvals technical processes. Without a clear process, there is the potential that the use of MZOs will:

1. Reduce municipal autonomy in planning-decisions;
2. Reduce public consultation and input;
3. By-pass elements of ‘good planning’; and
4. Undermine and compromise the integrity of provincial and local land use planning Policies

### **CONCLUSION**

The Region of Peel has significant concerns with the changes to the *Planning Act* that allows an MZO to not be consistent with the PPS, as introduced through *Bill 257*. The Region recognizes the Province’s objective to use MZO’s to overcome potential barriers and development delays in the construction of strategic projects such as affordable housing, transit station infrastructure, health care facilities and long-term care homes. Nevertheless, the Region does not support overriding planning policy by means of an MZO without clear criteria, process, and consultation mechanisms in place.

The Region remains committed to continuing to work with the Province to assist in Ontario’s economic recovery from the COVID-19 pandemic and developing appropriate processes where the use of an MZO is warranted in alignment with provincial and municipal strategic initiatives.

### **APPENDICES**

Appendix I – Region of Peel Comments on Environmental Registry of Ontario 019-3233

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*For further information regarding this report, please contact Adrian Smith, Chief Planner and Director of Regional Planning and Growth Management, Ext. 4047, [Adrian.smith@peelregion.ca](mailto:Adrian.smith@peelregion.ca)*

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***Reviewed and/or approved in workflow by:***

Department Commissioner, Division Director and Legal Services.