

# Halton Area Planning Partners (HAPP)

## BILL 204: Inclusionary Zoning

August 16, 2016



Submitted by:



## Introduction

The Halton Area Planning Partnership (HAPP) is comprised of Halton Region and its Local Municipalities: the City of Burlington, the Town of Halton Hills, the Town of Milton, and the Town of Oakville. This submission represents HAPP's comments to questions posed within the Ministry of Municipal Affairs and Housing's (MMAH) "Long-Term Affordable Housing Strategy Update: Inclusionary Zoning Consultation Discussion Guide, May 2016."

This submission focuses mainly on key gaps found in Bill 204: "An Act to amend or repeal various Acts with respect to housing and planning" specifically pertaining to inclusionary zoning as a tool to increase the supply of affordable housing units. HAPP generally undertakes greater editorial review of proposed legislative text (see Appendix Two), but due to the significant gaps in operationalizing the expected and assumed outputs and outcomes, the members have focussed solely on the major gaps.

HAPP is responding to the broad questions in the MMAH Consultation Document grouped under the following twelve themes:

1. An inclusionary zoning framework for Ontario;
2. Program Targets;
3. Price and Rent;
4. Unit Set-Aside;
5. Affordability Periods;
6. Threshold Size;
7. Measures and Incentives;
8. Requirements and Standards;
9. Agreements;
10. Administration, Monitoring and Reporting;
11. Use with Section 37 (height and density bonusing); and
12. Transitional Matters.

The Consultation Guide posed fifteen questions pertaining to the above twelve points. HAPP answers these questions in the charts found in Appendix One attached.

## Key Concerns

The following are the key concerns resulting from HAPP's review of the proposed Bill 204 and a review of the Inclusionary Zoning Consultation Discussion Guide questions:

### 1) OPTIONAL IMPLEMENTATION

The approach for inclusionary zoning should be to make it optional. That is, it should enable municipalities to utilize inclusionary zoning as one of the tools to address and increase the supply and integration of affordable housing through private development. Municipalities have the ability to assess and analyze area-specific circumstances and determine how inclusionary

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zoning can be aligned with other land-use policy tools to achieve required affordable housing outcomes.

The Province should enhance the legislation and update its guidance documents on tools for affordable housing to identify options to align inclusionary zoning with other planning policy tools to create a broader framework for inclusionary planning in private development proposals. In particular, this framework should identify how inclusionary zoning could be utilized and aligned with Community Improvement Plans, Community Development Permits and Section 37.

Prescribed standards to measure and report on local affordable housing needs and outcomes could serve as a province-wide basis for municipal policy decisions.

**HAPP recommends that** municipalities are enabled to utilize inclusionary zoning at their own discretion, but that the housing need data that inform policy decisions is based on a province-wide standard / methodology. If the Province were to proceed with prescribed measures pertaining to price points, threshold size and set-aside targets, it should be positioned as a base-line that can be tailored to meet the unique requirements and conditions at the local level.

**HAPP recommends that** the Province provide clarity on utilization and alignment of section 37, Community Improvement Plans and Community Development Permits as implementation tools for inclusionary zoning.

## 2) ADMINISTRATIVE ENTITY AND FUNDING

From an implementation perspective, the proposed legislation allowing municipalities to require the provision of affordable housing units in new developments is clear, as is the assumed outcome. However, the consultation paper does not provide clarity on regulatory provisions with regard to initial ownership of the inclusionary zoning units and subsequent transfer of title. It is also unclear what party will be managing these and other administrative program activities and how this is funded.

A sample scenario may assist in explaining this dilemma:

Scenario: A developer provides 10 affordable units in a new high density development as required under the current inclusionary zoning legislation. Developers are in the business of selling units and the normal business model for them, is to pre-sell units or sell units immediately upon completion, normally through a real estate agency.

Question 1: Does the municipality purchase these units to administer the mortgage program with qualified purchasers for the duration of the program or does the private sector developer or real estate agent screen eligible purchasers if the municipality does not purchase the units? This screening of purchasers is to ensure they qualify as the pre-set middle-income target population set by a municipal zoning by-law or Provincial regulation.

Question 2: Currently municipalities have no ability to govern the resale price of private dwellings. What is the mechanism to enforce an affordable 'market price' over the long-term when the initial purchasers' units are sold to another purchaser in the market for an 'affordable unit'?

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There is a broad gap within the proposed legislation regarding administrative oversight and program compliance. Without the establishment of a corporation or housing agency with required capital and operating funds, the unexpected consequence may be that these units may remain unoccupied for a longer period of time or be sold off at market rate for profit due to lack of feasible enforcement options available to municipalities.

To operationalize an inclusionary zoning tool and to address local needs, guidelines for the administrative delivery framework, aligned with long-term predictable, sustainable Provincial program funding would be required. Currently, lower-tier municipalities do not have sufficient funds to manage a housing program in the long-term as municipal funding is limited and sourced from the property tax base.

**HAPP recommends** that the Province provides:

- 1) a clear business model identifying all business activity and liabilities associated with managing and administering the IZ unit portfolio from the initial IZ agreement to end of affordability period.
- 2) clarity on which party is expected to operate these program activities and how this is to be funded (adequate provincial funding is anticipated).

### 3) AFFORDABILITY

The legislation is focused on establishing a mechanism to provide for a proportion of housing production in the marketplace to be "affordable" with an administrative entity to manage / oversee a restrictive resale pricing arrangement

It is important that the Inclusionary Zoning unit prices are exclusively targeted for affordable thresholds identified in either the PPS or comparable thresholds used by municipalities. Deeper affordability targets should not be addressed through this tool. Inclusionary Zoning should not be used as a substitute for assisted housing or other programs for low-income residents. The Province should continue to offer support for low-income residents through assisted housing programs such as fiscal or shelter allowance provisions.

**HAPP recommends** that while Inclusionary Zoning could assist in enhancing the supply of moderately affordable housing, the issue of deeper housing affordability is best, and more efficiently, addressed through the provincial tax system or through the provision of shelter allowances. In this manner specific target groups may be more efficiently identified with the subsidy being more effectively targeted.

### 4) TARGETS

From the housing program delivery side, there is a concern with setting a prescribed target. While this would ensure a level playing field, there still needs to be local flexibility as there is a wide range of needs based on regional and local circumstances.

**HAPP recommends:** that targets remain an optional municipal decision. If a provincial baseline is established, it should be set at a low baseline so that the numbers are tailored to regional/local demand and needs.

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## 5) BY-LAWS VS HOUSING PROGRAMS

Throughout the discussion guide, the Province substitutes the terms 'zoning' with 'programs'. The *Planning Act* is not founded on the delivery of programs and services, but rather, as stated in the *Planning Act's* commentary section: "the purpose of the *Planning Act* is to regulate the use of land and the subdivision and alienation of land."

**HAPP recommends** that while Inclusionary Zoning may be embedded in land use legislation, the Province should continue to regulate housing programs and services through other applicable legislation rather than attempting to introduce 'programming' into the *Planning Act*.

## 6) Section 37 and Inclusionary Zoning

Municipalities should not be required to choose between creating affordable housing and achieving other city building objectives available through section 37. Applications for increased height/density will still occur in areas subject to inclusionary zoning, particularly in intensification areas and municipalities must have the ability to obtain community benefits in exchange for increased height and density section 37 regardless of whether the development contains affordable housing units in it or not. As section 37 provides municipalities with the flexibility to consider affordable housing as well as a variety of other measures, municipalities may choose not to implement Inclusionary Zoning By-laws in favour of maintaining the flexibility and options provided through section 37.

**HAPP recommends** that section 37 and Inclusionary Zoning should not be mutually exclusive and that section 37 should only be limited from being used to achieve additional affordable housing measures beyond that already prescribed through an Inclusionary Zoning By-law.

## 7) LEGAL REVIEW

There is a concern regarding the use of restrictive covenants and agreements as a compliance mechanism for a unit affordability program. This concern is compounded by the lack of clarity of administrative oversight in the draft legislation.

**HAPP recommends** that the Province review alternate tools, other than restrictive covenants on title, to control unit prices over the long term.

## 8) PROGRAM TIME PERIODS

Under the IAH program, current Provincial assisted housing programs are administered for a 20 year period with a 10 year phase out based on municipal consent. This may coincide more efficiently with mortgage lending periods.

**HAPP recommends** that the time period should be left to the discretion of local conditions and needs and/or made consistent with existing housing programs.

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## CONCLUSION

While HAPP is supportive of inclusionary zoning as a *Planning Act* tool within a broader framework of policies and tools, it is not considered to be the panacea to increase the supply of and integration of affordable housing units in a municipality. As identified in the Region's Long-Term Affordable Housing Strategy (LTAHS) submission to the Province in 2015, the Province should consider a broad suite of land use planning and non-planning tools to address long term sustainable affordable housing supply to achieve a mix in terms of tenure, and to address socio-economic needs. The Province needs to establish policies, guidelines and programs with funding to ensure that units can be secured and maintained for the long-term.

HAPP hopes that once the Province addresses the many gaps identified, that a follow-up review will result. Halton Region and the City of Burlington, the Town of Halton Hills, the Town of Milton and the Town of Oakville appreciate the opportunity to comment on the Inclusionary Zoning consultation, and reaffirm support for making the land use planning system predictable, transparent, cost-effective and responsive.

Respectfully submitted,



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## APPENDIX ONE: HAPP Response to Consultation Discussion Guide

Bill 204 Inclusionary Zoning: Consultation Discussion Guide HAPP Responses July, 2016	
1. Should there be provincial direction to further specify the target groups for inclusionary zoning, or should this be left to each municipality to determine?	
Partially	Province should provide baseline direction, e.g. universal criteria re: affordability target groups; addressing market fluctuations
<p><b>If HAPP thinks direction is needed, who should be addressed based on the PPS definition of “affordable”?</b></p> <p><i>in the case of ownership housing, the least expensive of:</i></p> <ol style="list-style-type: none"> <li>1. housing for which the purchase price results in annual accommodation costs which do not exceed 30 percent of gross annual household income for low and moderate income households; or</li> <li>2. housing for which the purchase price is at least 10 percent below the average purchase price of a resale unit in the regional market area;</li> </ol> <p><i>in the case of rental housing, the least expensive of:</i></p> <ol style="list-style-type: none"> <li>1. a unit for which the rent does not exceed 30 percent of gross annual household income for low and moderate income households; or</li> <li>2. a unit for which the rent is at or below the average market rent of a unit in the regional market area.</li> </ol>	
<p><b>HAPP RESPONSE:</b></p> <p>Provincial direction should provide a minimum baseline target that may be tailored at the local level, putting forward the overall “intent” for the use of inclusionary zoning which is to provide housing to meet the definition of “affordable” in the PPS. Beyond that, municipalities require flexibility to develop programs tailored to their specific housing needs, if any, identified in their comprehensive housing strategies and/or housing and homelessness plans (i.e. directing programs to specific persons or groups), to implement inclusionary zoning through the private market.</p> <p>Municipalities have greater capacity to determine which indicator of “affordable” (as defined in the PPS) may be applied in developing an inclusionary zoning program (i.e. 30% of gross annual income for low and moderate income households, or purchase price being 10% below the average purchase price, etc.). The Region clearly distinguishes between the terms ‘assisted’ and ‘affordable’. ‘Affordable’ pertains to middle-income earners above poverty line (LICO). The PPS definition speaks to what an affordable unit would cost rather than who would be eligible.</p> <p>Regulations that are provided in an implementing zoning by-law cannot be zoned for “people”. If there are specific groups of people in a municipality that are to be targeted for the provision of affordable housing units, this would have to be done through programming outside of a zoning by-law and based on comprehensive housing strategies / housing and homelessness plans.</p>	
2. Should there be provincial direction on how price and rent would be determined in an inclusionary zoning by-law when inclusionary zoning units are sold or leased?	
YES	Province could provide methodological direction.
<p><b>If so, what approach would HAPP recommend?</b></p> <p><b>HAPP RESPONSE:</b></p> <p>Provincial direction should be provided that standardizes a methodology for market cost calculations and ensure a consistency between LTAHS IAH program matters and <i>Planning Act</i> by-law matters. If the price and rent of inclusionary zoning units are based on the “area median income,” the process of how municipalities calculate “area median income” should be standardized to ensure equitable outcomes across municipalities. As such, the methodology for how municipalities calculate their housing “gaps” in their comprehensive housing strategies and/or housing and homelessness plans may also need to be</p>	

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<p>standardized in order to provide for a direct comparison of housing need across the Province. A standardized methodology would permit the Province to measure success or failures of the expected outcomes. There is an assumption that the outcomes will vary across municipalities due to local market contexts and market demand.</p> <p>Once a standard methodology is developed, the Province will need to provide data to ensure consistent interpretations and analysis across municipalities.</p>	
<b>3. Should minimum and/or maximum unit set asides be specified province-wide or should this be left to each municipality to determine?</b>	
MUNICIPALITIES TO DETERMINE	
<b>If HAPP thinks that a specified number or percentage of units should be applied <u>by municipalities</u>, what would you recommend?</b>	
<p>Municipalities are more capable of determining quantity of affordable unit set asides based on local market demand. Municipalities determine housing demand/need through comprehensive housing strategies and/or housing/homelessness plans.</p> <p>“Minimum” unit set-asides should be set by municipalities, but if a base is required, the Province could set a 2% target as a minimum. It must be noted that any such percentage target limits s. 37 bonusing under the <i>Planning Act</i>. The unintended consequence of any target is that a low minimum set by the Province may result in larger municipalities delivering results on the minimum. Concurrently, If the minimum is set too high, smaller communities with less demand may deter development.</p> <p>Furthermore, there are several variables that may have to be considered at a municipal level which do not lend themselves to a provincially mandated standard. For example, at a municipal level there should be flexibility on how to address meeting a municipal target in varying contexts such as:</p> <ul style="list-style-type: none"> <li>• greenfield vs. within the built boundary</li> <li>• providing units in various development projects and unit types (i.e. semi-detached, townhouses, apartments)</li> <li>• located within a growth area, corridor, stable area or near transit facilities</li> </ul> <p>This must be coordinated with the approach considered in discussion question 5 below.</p>	
<b>4. Should there be provincial direction for a minimum or maximum affordability period that would apply to inclusionary zoning programs province-wide, or should this be left to each municipality to determine?</b>	
YES	Province could provide direction consistent with IAH programs.
<b>If HAPP thinks a province-wide affordability period should be specified, what would you recommend (e.g., 20 years, 30 years, no time limitation)?</b>	
<p>A 20 year period should be established to align programs with mortgage-lending periods. Given market rate adjustments combined with the long term program administration and maintenance, it will be difficult to maintain these over the long term. A legislated performance review period should be established to determine cost and program effectiveness to assess, affordability ratios, price criteria, contract duration and the efficacy of the legislation itself. For instance, there is no need to maintain restrictions on housing rent or price if affordability issues are no longer persist in the Regional Market Area.</p> <p>There is a concern regarding enforcement over time and that, although the zoning may not be appealed, private agreements could be brought to court and program time limits may become nul and void.</p>	
<b>5. Should there be provincial direction for a minimum and/or maximum threshold size that would apply to inclusionary zoning programs province-wide, or should this be left to each municipality to determine?</b>	
Municipal / Optional	Provision should be made to allow for regional variation if it is determined on the basis of regional market analysis that an alternative threshold size is warranted.

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If HAPP thinks the threshold size should be specified <u>by municipality</u> , what would you recommend?	
<p><b>HAPP Response:</b></p> <p>With respect to any threshold measure, the variety, scale and price point of developments constructed across the Region of Halton suggest that a municipally determined threshold size or alternative approach for requiring affordable units through inclusionary zoning would be preferred in order to better address local circumstances. Any approach that is taken should be implemented to ensure that overall housing need, as expressed in a municipal comprehensive housing strategy and/or housing and homelessness plan, can be achieved. Further, an approach for “threshold size” should be coordinated with “unit set-asides” as seen in discussion question 3.</p> <p>In determining an appropriate threshold size or alternative approach to trigger the requirement for affordable units, a numbers of factors and parameters could be considered:</p> <ul style="list-style-type: none"> <li>• land size of development (hectares)</li> <li>• number of units proposed (unit set-asides; percentage vs. number of units)</li> <li>• size of development (square footage)</li> <li>• development phasing considerations</li> <li>• housing forms (e.g. townhouse, apartment, etc.)</li> <li>• development type (e.g. subdivision, plan of condo)</li> <li>• valuation of land/development</li> </ul>	
6. Should measures and incentives be required on a <u>municipal</u> basis through regulation, or should this be left up to municipalities?	
MUNICIPALITY	<p>To determine as appropriate.</p> <p>Significant regional variations in incentives must be rooted in a Regional Market Study prepared and approved by the Upper tier municipality or single tier and be based upon a locally determined need driven by empirical data. Arbitrary provincial wide targets and incentives are not supported nor are any initiatives that have the effect of creating a disincentive that diverts investment to lower cost jurisdictions solely on the basis of this program for competitive economic development purposes.</p>
If HAPP thinks the <del>province</del> municipality should provide direction, what would you recommend?	
<p><b>HAPP Response</b></p> <p>Through the proposed amendments to the <i>Planning Act</i>, various measures are already being considered to enable affordable housing including:</p> <ol style="list-style-type: none"> <li>1) allowing the Minister, through regulation, to provide no minimum parking rates for specified land buildings or structures; and</li> <li>2) capping fees to the maximum prescribed by regulation for the processing of an application related to a development or redevelopment that will include affordable housing units.</li> </ol> <p>With regard to number 2 above, capping application fees is not an incentive to developers (since the fees are minimal) but rather a disincentive to municipalities who rely on these fees to process applications. If additional measures or incentive programs are warranted, they should be determined and implemented at the municipal level rather than having mandated programs from the Province. It is unknown at this time how funding for these programs would work at a lower-tier level, unless opportunities exist for the Province to fund these programs at the lower-tier.</p>	
7. Should there be provincial direction to specify minimum requirements and standards for inclusionary zoning units or should these be left up to each municipality to determine?	
Provincial Guidelines	<p>There is scope to provide guidelines for inclusionary zoning provision based upon Regional needs as established in a Regional Housing Market</p>

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	review. However, this should not be used to otherwise drive or determine the nature of the built form or density otherwise proposed by the applicant or established in local official plans and zoning by-laws.
<b>If HAPP thinks <del>requirements or standards</del> <u>guidelines</u> should be specified province-wide, what would HAPP recommend?</b>	
<b>HAPP response:</b> Provincial guidelines should be considered on housing type and location but established by Regional Housing Market Studies related to local need. The guidelines could identify a baseline for municipalities to ensure that a range of affordable unit types are captured (e.g. minimum unit size requirements, multiple bedroom requirements). However, Provincial direction should specify that municipalities can go beyond the minimum requirements of the Province should it be warranted to address housing needs identified in their comprehensive housing strategies and housing and homelessness plans.	
<b>8. Should there be provincial direction on inclusionary zoning agreements?</b>	
YES	Province could provide direction such as criteria for agreements. The scope and effect of the agreements would be customized to address the substantive matter of need within the Regional Market Area including the manner in which issues such as price or rent increases or variations are to be administered.
<b>If so, what would HAPP recommend?</b>	
<b>HAPP Response:</b> Provincial direction on standardized criteria to be contained within an inclusionary zoning agreement could be explored. Consistency among inclusionary zoning agreements for the purpose of enforcement and compliance is advantageous to the successful implementation of inclusionary zoning and will act to safeguard municipalities from potential litigation. Some examples of criteria to be contained in an IZ Agreement could include: <ul style="list-style-type: none"> <li>• Purpose for affordable units</li> <li>• Intended use of affordable units</li> <li>• Relationship of affordable units to the remainder of the development</li> <li>• Operational clauses</li> <li>• Linkage to agreements on title (and time period of applicability)</li> <li>• Confirmation of affordability</li> <li>• Sale of property to remain affordable (within control period)</li> </ul> Other considerations include: <ul style="list-style-type: none"> <li>• Consistency among agreements for enforcement/compliance</li> <li>• Conditional zoning regulations</li> <li>• Administrative monitoring tool (performance measures; program adjustments)</li> <li>• Enforcement tools</li> <li>• Transitional Provisions for program conclusion</li> </ul>	
<b>9. Should there be provincial direction on requirements for ongoing administration of units and ensuring affordability over the control period?</b>	
YES	To ensure consistent application and monitoring of the program, regulatory standards are required. Any program should be administered at a Regional level which is better positioned with resources and capacity to deliver such a program if required.

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If so, what types of requirements would HAPP recommend?	
<b>HAPP Response:</b> Provincial direction which outlines administrative processes, procedures, monitoring and annual reporting requirements could be provided to ensure program effectiveness. This would ensure that inclusionary zoning programs across the Province are administered and reported on in a consistent manner which in turn will assist the Province to examine the successes and challenges with the programs and make recommendations and/or amendments as necessary. A big concern is that many lower-tier planning departments do not have the capacity to administer such a large and lengthy program and do not have in-house housing program staff. It may be unfeasible for each lower-tier municipality in Ontario to administer housing programs as new staffing may be needed.	
10. Should there be provincial direction on mandatory requirements for municipal monitoring procedures?	
YES	To ensure consistent application and monitoring of the program, regulatory standards are required.
If so, what mandatory requirements would HAPP recommend?	
<b>HAPP Response:</b> Required annual reporting on activities including number of inclusionary units produced, contract duration etc. Summary reporting should be generalized for the purposes of ensuring program effectiveness. This could be accomplished in Regional Housing Reports which are prepared and updated annually. See response to Question #9 above.	
11. Should there be provincial direction on municipal reporting of inclusionary zoning units (e.g., reports must be publicly available; reports must be provided annually to municipal council)?	
PARTIAL	Dependent upon level of detail, as the Region has reported on the State of Housing for several years. Province should monitor with current Performance Monitoring program.
If so, what would HAPP recommend?	
<b>HAPP Response:</b> See Q9 above. Any reporting that would be required at a municipal level should be flexible and allow municipalities to roll the reporting into existing reporting structures. For Halton Region, this reporting could be included in the existing State of Housing Report. It is also suggested that the Province develop and make public an annual monitoring report, province-wide, on the successes and challenges of the inclusionary zoning program (all activities, housing production and prices) to continually improve the program, and inform municipalities.	
12. In what circumstances would it be appropriate to require inclusionary zoning units as well as community benefits in exchange for additional height and density?	
<b>HAPP Response:</b> There is a concern with the proposed <i>Planning Act</i> amendment which limits the use of bonusing in instances where inclusionary zoning would apply unless otherwise permitted by the Minister. Particularly, locations such as urban growth centres, intensification areas and corridors would be the primary focus for where inclusionary zoning would apply (since this is where new growth is directed) which are also the same areas where applications for increased height/density are most likely and where section 37 would most likely be invoked to address potential impacts to the surrounding areas and achieve other city building objectives (e.g. transit improvements, public art). If Inclusionary Zoning was implemented across an entire municipality, the unintended consequence will be that s. 37 would no longer be permitted and municipalities would be left with no avenue for considering potential 'trade-offs' associated with proposed height and density increases.	

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<b>13. Should conditions or restrictions apply to these circumstances, and if so, what would HAPP recommend?</b>	
No	
<b>HAPP Response:</b> Municipalities should not be limited in their use of s.37 at the expense of inclusionary zoning. There are several other goals and objectives identified in official plans that could be undermined.	
<b>14. Does HAPP think that planning applications commenced prior to enactment of the proposed legislative process should be grandfathered?</b>	
YES	Feasibility changes with inclusionary zoning.
<b>15. Does HAPP think that planning applications commenced prior to municipal adoption of inclusionary zoning official plan policies and/or zoning by-laws should be exempted?</b>	
YES	Feasibility changes with inclusionary zoning.

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## APPENDIX TWO:

### HAPP COMMENTS Bill 204 - Proposed Amendments to Planning Act, RSO 1990

PLANNING ACT AMENDMENTS		HAPP COMMENTS		Where applicable: Provincial or Municipal regulation
Sections:		Track Changes to Amendment	Comment	
16	<b>CONTENTS OF OFFICIAL PLAN</b>			
	<b>(4) Inclusionary zoning policies</b>			
	An official plan of a municipality that is prescribed for the purpose of this subsection shall contain policies that authorize inclusionary zoning by,	An official plan of a municipality <del>that is prescribed for the purpose of this subsection</del> shall contain policies that authorize inclusionary zoning by,		
	(a) authorizing the inclusion of affordable housing units within buildings or projects containing other residential units; and			
	(b) providing for the affordable housing units to be maintained as affordable housing units over time.	(b) providing for the affordable housing units to be maintained as affordable housing units over <b>the determined amount of</b> time.	The affordability time period needs to be uniform throughout the province to ensure a consistent supply of units. Without direction, some municipalities may opt to maintain for only 5 years which would reduce/fluctuate the supply over long periods of time. The Province should consider introducing a section that specifically speaks to the roles and responsibilities of the upper and lower tier municipalities with respect to inclusionary zoning given that	Needs to be uniform across province

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PLANNING ACT AMENDMENTS		HAPP COMMENTS		Where applicable: Provincial or Municipal regulation
Sections:		Track Changes to Amendment	Comment	
			<p>affordable housing is a responsibility of upper-tier municipalities but inclusionary zoning requires the exclusive use of lower-tier planning tools.</p> <p>This section should also include a requirement that upper-tier municipalities establish a housing strategy that recognizes and coordinates local inclusionary zoning efforts as part of a broader comprehensive strategy to address housing needs across a Region.</p>	
	<b>(5) Same</b>			
	An official plan of a municipality that is not prescribed for the purpose of subsection (4) may contain the policies described in subsection (4).	An official plan of a municipality <del>that is not prescribed</del> for the purpose of subsection (4) may contain the policies described in subsection (4).		
	<b>(6) Goals and objectives</b>			
	The policies described in subsection (4) shall include goals and objectives and a description of the measures and procedures proposed to attain those goals and objectives.	The policies described in subsection (4) shall include goals and objectives and a description of the measures and procedures proposed to attain those goals and objectives as <del>prescribed</del> <b>determined by the municipality.</b>	<p>Each municipality will have different goals and objectives. Giving municipalities flexibility to set desired targets will focus affordable housing in areas where it is needed. Targets need to be established specifically to each municipality but the Province should set a base amount.</p> <p>Lower-tier staff will work with the Upper-tiers to establish appropriate</p>	Province should set base But overall goals should be set by each municipality

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PLANNING ACT AMENDMENTS		HAPP COMMENTS		Where applicable: Provincial or Municipal regulation
Sections:		Track Changes to Amendment	Comment	
			goals, objectives, measures and procedures that work for lower-tiers within a Regional housing context. Due to certain factors associated with the mixing of affordable vs. market units that are beyond the control of municipalities (stigma, required facilities) inclusionary zoning will likely serve to provide units that meet the bare minimum to address affordability and will be less likely to produce units that serve those with more significant needs (the homeless, those in poverty). The Province may want to provide greater guidance as to their own goals and objectives for inclusionary zoning and outline which part of the broader housing spectrum the inclusionary zoning piece is intended to address. This would help provide guidance to municipalities when developing policies and requirements to ensure they support the intended outcomes.	
	<b>(7) Prescribed provisions and matters</b>	<del>(7) Prescribed provisions and matters</del>		
	The policies described in subsection (4) shall include the prescribed provisions and provisions about the prescribed	<del>The policies described in subsection (4) shall include the prescribed provisions and provisions about the prescribed matters.</del>		

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PLANNING ACT AMENDMENTS		HAPP COMMENTS		Where applicable: Provincial or Municipal regulation
Sections:		Track Changes to Amendment	Comment	
	matters.			
	<b>16.(8) No limitations</b>	16.(8) No limitations	The 's' at the end of limitation is inconsistent with Bill 204 Proposed Amendments to Planning Act (one is a typo)	
	Each subsection of this section shall be read as not limiting what an official plan is required to or may contain under any of the other subsections.	Each subsection of this section shall be read as <del>not limiting</del> <b>including but not limited to</b> what an official plan is required to or may contain under any of the other subsections.	"as not limiting' is confusing and may be considered a double negative.	
17	<b>APPROVALS</b>			
	<b>(24.1.1) Exception re Minister</b>			
	Subsection (24.1) does not apply to an appeal by the Minister.		Restricting appeals on certain conformity matters will enable municipalities to implement provincial policy requirements in a consistent and timely manner. This will shelter municipalities from costly and time consuming adjudicative processes.	
17	<b>(24.1.2) No appeal re inclusionary zoning policies</b>			
	Despite subsection (24), there is no appeal in respect of policies described in subsection 16 (4), including, for greater certainty, any requirements or standards that are part of such policies.			
	<b>(24.1.3) Exception re Minister</b>			
	Subsection (24.1.2)			

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PLANNING ACT AMENDMENTS		HAPP COMMENTS		Where applicable: Provincial or Municipal regulation
Sections:		Track Changes to Amendment	Comment	
	does not apply to an appeal by the Minister.			
	<b>(36.1.1) Exception re Minister</b>			
	Subsection (36.1) does not apply to an appeal by the Minister.			
	<b>(36.1.2) No appeal re inclusionary zoning policies</b>			
	Despite subsection (36), there is no appeal in respect of policies described in subsection 16 (4), including, for greater certainty, any requirements or standards that are part of such policies.			
	<b>17.(36.1.3) Exception re Minister</b>			
	Subsection (36.1.2) does not apply to an appeal by the Minister.			
<b>34</b>	<b>ZONING BY-LAWS</b>			
	<b>(5.1) Loading or parking facilities – by-law provisions</b>			
	A by-law passed under paragraph 6 of subsection (1) shall include the prescribed provisions and provisions about the prescribed matters.	A by-law passed under paragraph 6 of subsection (1) shall include the prescribed provisions and provisions about the prescribed matters.	Regulations have not yet been developed with regard to secondary suites or inclusionary zoning. This amendment, as written, could potentially be applied beyond being used solely for implementing secondary suites and inclusionary zoning	

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PLANNING ACT AMENDMENTS		HAPP COMMENTS		Where applicable: Provincial or Municipal regulation
Sections:		Track Changes to Amendment	Comment	
			policies.	
34	<b>(19.1) No appeal re Second Unit policies</b>			
	Despite subsection (19), there is no appeal in respect of the parts of a by-law that give effect to policies described in subsection 16 (3), including, for greater certainty, no appeal in respect of any requirement or standard relating to such policies.		Restricting appeals on certain conformity matters will enable municipalities to implement provincial policy requirements in a consistent and timely manner. This will shelter municipalities from costly and time consuming adjudicative processes.	
	<b>(19.2) Exception re Minister</b>			
	Subsection (19.1) does not apply to an appeal by the Minister.			
	<b>34.(19.3) No appeal re inclusionary zoning policies</b>			
	Despite subsection (19), there is no appeal in respect of the parts of a by-law that give effect to policies described in subsection 16 (4), including, for greater certainty, no appeal in respect of any condition, requirement or standard relating to such policies.			
	<b>34.(19.4) Exception re Minister</b>			
	Subsection (19.3) does not apply to an appeal by the Minister.			

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PLANNING ACT AMENDMENTS		HAPP COMMENTS		Where applicable: Provincial or Municipal regulation
Sections:		Track Changes to Amendment	Comment	
35.2	(1) If the official plan in effect in a local municipality contains policies described in subsection 16 (4),			
	<p>(a) the council of the municipality shall pass one or more by-laws under section 34 to give effect to the policies, if the municipality is prescribed for the purpose of subsection 16 (4);</p> <p>(b) the council of the municipality may pass one or more by-laws under section 34 to give effect to the policies, if the municipality is not prescribed for the purpose of subsection 16 (4).</p>	<p>(a) the council of the municipality may pass one or more by-laws under section 34 to give effect to the policies, if the municipality is prescribed for the purpose of subsection 16 (4);</p> <p><del>(b) the council of the municipality may pass one or more by-laws under section 34 to give effect to the policies, if the municipality is not prescribed for the purpose of subsection 16 (4).</del></p>	<p>“Prescribed municipalities” have not been identified and will be determined through regulation. Should the upper-tier become a prescribed municipality, the lower-tiers will automatically be required to pass zoning by-laws to implement official plan policies regarding inclusionary zoning.</p>	
	<b>(2) Content of by-law</b>			
	If a by-law is passed under section 34 to give effect to policies described in subsection 16 (4), the by-law,		To implement inclusionary zoning, a detailed partnership between an upper-tier municipality, in its capacity as the housing service manager, and the lower-tier municipalities, in their capacity to implement a zoning by-law, must be established.	
	(a) shall require that the development or redevelopment of specified	(a) shall require that the development or redevelopment of specified lands, buildings or structures include the number of affordable housing units	Regulations and By-laws in regards to targets should be set by the municipality; this will help achieve specific	Municipal

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PLANNING ACT AMENDMENTS		HAPP COMMENTS		Where applicable: Provincial or Municipal regulation
Sections:		Track Changes to Amendment	Comment	
	lands, buildings or structures include the number of affordable housing units determined under the regulations or, in the absence of such regulations, the number of affordable housing units determined under the by-law;	determined under <del>the regulations or, in the absence of such regulations, the number of affordable housing units determined under the by-law;</del>	targets set by the local community.	
	(b) shall require that the affordable housing units be maintained as affordable housing units for the period of time determined under the regulations or, in the absence of such regulations, for the period of time determined under the by-law;	(b) shall require that the affordable housing units be maintained as affordable housing units for the period of time determined by the municipality <del>under the regulations or, in the absence of such regulations, for the period of time determined under the by-law;</del>		Shall be determined by Province to remain uniform. We need a consistent/ constant supply of affordable units and varying periods of time would have the supply fluctuate frequently
	(c) shall require that the affordable housing units meet the requirements and standards specified in the regulations or, in the absence of such regulations, that the affordable housing units meet requirements and standards	(c) <del>may shall</del> require that the affordable housing units <del>meet the requirements and standards specified in the regulations or, in the absence of such regulations, that the affordable housing units</del> meet requirements and standards specified in the by-law;		Province should set regulations and requirements

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PLANNING ACT AMENDMENTS		HAPP COMMENTS		Where applicable: Provincial or Municipal regulation
Sections:		Track Changes to Amendment	Comment	
	specified in the by-law;			
	(d) in addition to requiring that the affordable housing units meet the requirements and standards specified in the regulations, may require that the affordable housing units meet additional requirements and standards specified in the by-law;	<del>in addition to requiring that the affordable housing units meet the requirements and standards specified in the regulations, may require that the affordable housing units meet additional requirements and standards specified in the by-law;</del>		Municipal - gives some room to work with
	(e) shall provide for the measures and incentives specified in the regulations to support the policies described in subsection 16 (4) or, in the absence of such regulations, may provide for measures and incentives to support those policies;	<del>(e) shall provide for the measures and incentives specified in the regulations to support the policies described in subsection 16 (4) or, in the absence of such regulations, may provide for measures and incentives to support those policies;</del>	Measures and incentives should be set by the municipalities. It should be up to the municipality on how and if they want to use the various incentives.  Some communities may need to use incentives over others.	
	(f) in addition to providing for the measures and incentives specified in the regulations to support the policies described in subsection 16 (4), may provide for additional measures and	<del>(f) in addition to providing for the measures and incentives specified in the regulations to support the policies described in subsection 16 (4), may provide for additional measures and incentives to support those policies;</del>		

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PLANNING ACT AMENDMENTS		HAPP COMMENTS		Where applicable: Provincial or Municipal regulation
Sections:		Track Changes to Amendment	Comment	
	incentives to support those policies;			
	(g) shall require that when the affordable housing units are sold or leased, they be sold at the price or leased at the rent determined under the regulations or, in the absence of such regulations, may require that when the affordable housing units are sold or leased, they be sold at the price or leased at the rent determined under the by-law;	(g) shall require that when the affordable housing units are sold or leased, they <del>be</del> <b>are</b> sold at the price or leased at the rent determined under the regulations or, in the absence of such regulations, may require that when the affordable housing units are sold or leased, they <del>be</del> <b>are</b> sold at the price or leased at the rent determined under the by-law;	'be' sounds awkward.  Has any discussion looked at fluctuating affordable rates for units? For example: selling one at 60% and another at 80% of the average market sale price to achieve the 70% affordability definition?	This should be set by the Province but based on 70% of the AMR (Average Market Rent) The AMR should be based on regional rates. Using RGI (Rent-gear-to-income) becomes a logistical nightmare for administration.  The sale price should be set at 70-80% of the average market sale price based on regional rates and comparable units.
	(h) shall include the prescribed provisions and provisions about the prescribed matters; and			
	(i) shall require that the owners of any lands, buildings or structures that are to be developed or redeveloped under the by-law enter into agreements with the municipality, dealing with the matters mentioned in clauses (a) to (h) and ensuring	(i) shall require that the owners of any lands, buildings or structures that are to be developed or redeveloped under the by-law enter into agreements with the municipality, dealing with the matters mentioned in clauses (a) to (h) and <del>shall ensure</del> <b>ensuring</b> continued compliance with those matters.	Wording correction.  It is still unclear who would administer a program to this scale. This should not be a burden the lower tier municipalities must bear.	

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PLANNING ACT AMENDMENTS		HAPP COMMENTS		Where applicable: Provincial or Municipal regulation
Sections:		Track Changes to Amendment	Comment	
	continued compliance with those matters.			
	<b>(3) Procedure to ensure affordability maintained</b>			
	A council of a municipality that passes a by-law giving effect to policies described in subsection 16 (4) shall establish a procedure for monitoring and ensuring that the required number of affordable housing units are maintained as affordable housing units for the required period of time.	A council of an <b>upper tier or single tier</b> municipality that passes a by-law giving effect to policies described in subsection 16 (4) shall establish a procedure for monitoring and ensuring that the required number of affordable housing units are maintained as affordable housing units for the required period of time.	This is something that many lower tier municipalities do not have the capacity to take on. A new position would be required in every municipality in Ontario to administer this substantial program.	Required time periods should be a Provincial regulation as this needs to be uniform throughout Ontario
	<b>(4) Same</b>			
	The procedure required under subsection (3) shall include the prescribed provisions and provisions about the prescribed matters.	<del>The procedure required under subsection (3) shall include the prescribed provisions and provisions about the prescribed matters.</del>		
	<b>(5) Prohibition</b>			
	A council of a municipality that passes a by-law giving effect to policies described in subsection 16 (4) with respect to specified land or a specified building or structure shall not pass a by-law described in section 37 with respect to the same land,	A council of a municipality that passes a by-law giving effect to policies described in subsection 16 (4) with respect to specified land or a specified building or structure shall not pass a by-law described in section 37 with respect to the same land, building or structure, except as permitted by the regulations, <b>that would permit the provision of additional affordable housing units beyond that which has been</b>	HAPP notes that the bonusing prohibition and removal of authority with regard to cash-in-lieu of affordable housing and the construction of units on another site will limit its ability to address affordable housing in a flexible manner.  Of particular concern, is in limiting the ability to bonus under Section 37,	

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Sections:		Track Changes to Amendment	Comment	
	building or structure, except as permitted by the regulations.	<b>required by the municipality under subsection 35.2(2)(a).</b>	<p>official plan goals and objectives will be undermined.</p> <p>The Province should reconsider this prohibition and allow municipalities to obtain non-affordable housing related community benefits for developments subject to inclusionary zoning regulations. If section 37 and inclusionary zoning are made mutually exclusive, city staff would not be able to support inclusionary zoning in our planned intensification areas as the existing section 37 policies already provide the City with the potential to achieve affordable housing units while also providing the flexibility to explore a variety of other benefits which may be required to address competing community and city building objectives which will be key to the successful redevelopment of these areas.</p> <p>As the Province has not limited the ability for applicants to submit applications for increased height or density on sites subject to inclusionary zoning, municipalities may be less inclined to consider such applications where the impacts of increased height/density on a community cannot be mitigated or</p>	

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Sections:		Track Changes to Amendment	Comment	
			compensated for through section 37. This could impact the desirability of these sites for redevelopment and limit the feasibility of some developments that could have otherwise achieved provincial objectives for intensification and the creation of affordable housing units.	
	<b>(6) No authority</b>			
	For greater certainty, if a council of a municipality passes a by-law giving effect to policies described in subsection 16 (4) with respect to specified land or a specified building or structure, nothing in this section authorizes the municipality, (a) to authorize the payment of money in lieu of the provision of affordable housing units as specified in the by-law; or (b) to authorize the erection or location of affordable housing units on land or in a building or structure other than the land, building or structure which the by-law specifies for those affordable housing units, in lieu of their erection or location on the land or in the building or structure specified in the by-law.		How can Inclusionary Zoning be used to increase the supply of <u>social</u> housing units? Inclusionary Zoning currently targets low to moderate incomes rather than the lowest. If money in lieu/relocation is unavailable and the sole focus of new residential development is to create units for low to moderate incomes, money for social housing would need to come from other sources.  Developers will not include social housing within market priced developments and the lack of money in lieu and authorization to build elsewhere removes most opportunities and funds to help the lowest incomes either with new developments or programs through Inclusionary Zoning.	

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PLANNING ACT AMENDMENTS		HAPP COMMENTS		Where applicable: Provincial or Municipal regulation
Sections:		Track Changes to Amendment	Comment	
	<b>(7) Registration of agreements</b>			
	An agreement entered into under clause (2) (i) may be registered against the land to which it applies and the municipality is entitled to enforce the provisions of the agreement against the owner and, subject to the <i>Registry Act</i> and the <i>Land Titles Act</i> , against any and all subsequent owners of the land.	An agreement entered into under clause (2) (i) may be registered against the land to which it applies and the municipality is entitled to enforce the provisions of the agreement against the owner and, subject to the <i>Registry Act</i> and the <i>Land Titles Act</i> , against any and all subsequent owners of the land <b>for the prescribed period of time.</b>	Add words to clarify that the agreement is for a specified period of time as set by the Province. Should the Bill be passed, the lower-tiers would work with the upper-tiers to create a standardized agreement template to streamline approvals. Currently, it is unknown how agreements would be enforced over the private sale of private property and who would ultimately be responsible for continually tracking these sales. Lower-tiers do not have housing program staff.	
	<b>(8) Application of <i>Municipal Act, 2001</i> or <i>City of Toronto Act, 2006</i></b>			
	Section 446 of the <i>Municipal Act, 2001</i> or section 386 of the <i>City of Toronto Act, 2006</i> , as the case may be, applies to the requirements imposed by an agreement entered into under clause (2) (i).			
	<b>(9) Reports and information</b>			
	A council of a municipality that passes a by-law giving effect to policies described in subsection 16 (4) shall provide the prescribed reports		Evaluation of the program is vital and necessary to determine the success and/or failure of the program and also provide opportunities to identify where changes can be made for	Reports should be uniform throughout province for enhanced evaluation

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Sections:		Track Changes to Amendment	Comment	
	and information concerning affordable housing units in the municipality to the prescribed persons or classes of persons at such times, in such manner and in accordance with such other requirements as may be prescribed.		<p>improvements. The reports need to be the same for every municipality in order to better evaluate the program on an ongoing basis.</p> <p>Reporting on affordable housing would likely form part of the State of Housing Report produced annually by the Region of Halton in its role as the housing service provider. Local municipalities should be provided with a methodology for reporting this information to ensure consistency across municipal reporting frameworks.</p>	
41	<b>SITE PLAN CONTROL AREA</b>			
	<b>(4) (3.1) Approval of Plans or Drawings</b>			
	(d.1) matters relating to exterior access to each building that will contain affordable housing units or to any part of such building, but only to the extent that it is a matter of exterior design, if the municipal by-law passed under subsection (2) and the official plan to which the by-law gives effect both		<p>Location and function of accesses to developments, and the ability to enforce use of such accesses once constructed (particularly with respect to commercial developments), is an existing issue that OP/zoning regulations have had limited success addressing to-date. Additional measures should be considered which will provide municipalities with greater power to require and enforce standards for exterior access. See suggested edit to s.45</p>	

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Sections:		Track Changes to Amendment	Comment	
	include provisions relating to policies described in subsection 16(4) and both include requirements or standards for exterior access to buildings that will contain affordable housing units;		(1.1.1) as an example.	
45	<b>Powers of Committee</b>			
	( 1.1.1) Subsection (1) does not allow the committee to authorize a minor variance from those provisions of a by-law that give effect to policies described in subsection 16 (4).	Subsection (1) does not allow the committee to authorize a minor variance from those provisions of a by-law that give effect to policies described in subsection 16 (4) <b>and associated regulations related to matters described in subsection s.41 (4)(3.1)(d.1)</b>	This provision would ensure that the required number of affordable housing units, as required by an established zoning framework, would be achieved which would bring certainty to the number of units to be provided for from the outset of the development application process. Provide greater clarity as to whether this would apply to all aspects and regulations related to inclusionary zoning (for example access or design provisions).	
<b>PART VI SUBDIVISION OF LAND</b>				
50	<b>(3) Subdivision control</b>			
	(b.1) the land is being leased for a period of not less than 21 years and not more than 99		Further clarification is required on this amendment and its potential outcomes.	

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PLANNING ACT AMENDMENTS		HAPP COMMENTS		Where applicable: Provincial or Municipal regulation
Sections:		Track Changes to Amendment	Comment	
	years, for the purpose of constructing or erecting a building or project that will contain affordable housing units;			
50	<b>(5) Part Lot Control</b>			
	(a.1) the land is being leased for a period of not less than 21 years and not more than 99 years, for the purpose of constructing or erecting a building or project that will contain affordable housing units;			
51	<b>(17) Contents</b>			
	(f.1) if any affordable housing units are being proposed, the shape and dimensions of each proposed afford-able housing unit and the approximate location of each proposed affordable housing unit in relation to other proposed residential units;	(f.1) if any affordable housing units are being proposed, the shape and dimensions of each proposed affordable housing unit and the approximate location of each proposed affordable housing units <del>in relation to other proposed residential units;</del>	<p>Good, but needs to have a realistic baseline for which they can be compared for appropriate shape and dimensions to ensure quality builds.</p> <p>The amendment for plans of subdivision would provide an opportunity to assess the draft plan of subdivision and its suitability in its provision of affordable housing units. However, there is a general concern as to the intent and suitability of why there needs to be an assessment of “affordable housing unit in relation to other</p>	

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PLANNING ACT AMENDMENTS		HAPP COMMENTS		Where applicable: Provincial or Municipal regulation
Sections:		Track Changes to Amendment	Comment	
			proposed residential uses". Does this lead us toward a NIMBY response?	
51	<b>(24) Criteria</b>			
	(d.1) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;	(d.1) if any affordable housing units are being proposed, the suitability of the proposed <b>affordable housing units must adhere to prescribed principal building requirements; for</b> <del>affordable housing;</del>	Re-word.  This is similar to comment above. Baseline is needed to ensure suitability. Units cannot be too small, inaccessible, etc.	
51	<b>(25) Conditions</b>			
	(e) in the case of an application for approval of a description or an amendment to a description, as referred to in subsection 9 (2) of the Condominium Act, 1998, if the condominium will contain affordable housing units and if a shared facilities agreement will be entered into with respect to the condominium, whether under section 21.1 of that Act or otherwise, that the shared facilities agreement be satisfactory to the approval authority.		Shared facilities agreements - no comment.	
51	<b>(39) Appeal (39.1) Restriction</b>			

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PLANNING ACT AMENDMENTS		HAPP COMMENTS		Where applicable: Provincial or Municipal regulation
Sections:		Track Changes to Amendment	Comment	
	Despite subsection (39), there is no appeal in respect of a part of the decision, or a condition, that gives effect to a policy described in subsection 16 (4).		Restricting appeals on certain conformity matters will enable municipalities to implement provincial policy requirements in a consistent and timely manner. This will shelter municipalities from costly and time consuming adjudicative processes.	
	<b>(39.2) Exception re Minister</b>			
	Subsection (39.1) does not apply to an appeal by the Minister.			
51	<b>(43) Appeal</b>			
	<b>(43.1) Restriction</b>			
	Despite subsection (43), there is no appeal in respect of a condition that gives effect to a policy described in subsection 16 (4).			
	<b>(43.2) Exception re Minister</b>			
	Subsection (43.1) does not apply to an appeal by the Minister.			
51	<b>(48) Appeal</b>			
	<b>(48.1) Restriction</b>			
	Despite subsection (48), there is no appeal in respect of a changed condition that gives effect to a policy described in subsection 16 (4).			
	<b>(48.2) Exception re Minister</b>			

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Sections:		Track Changes to Amendment	Comment	
	(Subsection (48.1) does not apply to an appeal by the Minister.			
69	<b>PART VII GENERAL</b>			
	<b>(2) Reduction or waiver of Fees</b>			
	<b>(2.1) Same</b> Despite a tariff of fees established under subsection (1), the council of a municipality, a planning board, a committee of adjustment or a land division committee, in processing an application related to development or redevelopment that will include affordable housing units, shall not require the payment of a fee that is greater than the maximum fee prescribed for the type of application being made.	Despite a tariff of fees established under subsection (1), the council of a municipality, a planning board, a committee of adjustment or a land division committee, in processing an application related to development or redevelopment that will include affordable housing units, <del>shall</del> <b>may</b> not require the payment of a fee that is greater than the maximum fee prescribed for the type of application being made.	An examination of development application fees will need to be reviewed against the fees prescribed by regulation in order to determine potential financial impacts. Any financial impact will be greatly influenced by the regulations to require inclusionary zoning.	
70	<b>1(1) Regulations</b>			
	<b>The Minister may make regulations</b>			
	<b>15.1</b> prescribing municipalities for the purpose of sub-section 16 (4);		In an effort to coordinate the implementation of inclusionary zoning within the broader framework of the official plan, it is suggested that the requirements for bringing forward amendments to official plans form part of a municipal comprehensive review.	

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PLANNING ACT AMENDMENTS		HAPP COMMENTS		Where applicable: Provincial or Municipal regulation
Sections:		Track Changes to Amendment	Comment	
	<p><b>15.2</b> in the case of municipalities prescribed for the purpose of subsection 16 (4), governing the time within which each municipality must submit an official plan containing policies that authorize inclusionary zoning for approval by the approval authority, and governing the time within which each municipality must pass one or more by-laws under section 34 to give effect to those policies;</p>			
	<p><b>15.3</b> prescribing provisions and matters relating to the policies described in subsection 16 (4), for the purpose of subsection 16 (7);</p>	<p><del>prescribing provisions and matters relating to the policies described in subsection 16 (4), for the purpose of subsection 16 (7);</del></p>		
70	<p><b>23.1</b> prescribing provisions and matters relating to loading or parking facilities, for the purpose of subsection 34 (5.1);</p>	<p><del>23.1 prescribing provisions and matters relating to loading or parking facilities, for the purpose of subsection 34 (5.1);</del></p>	<p>Regulations have not yet been developed with regard to inclusionary zoning. This amendment, as written, could potentially be applied beyond implementing an inclusionary zoning program. There are various concerns with the minister prescribing regulations as outlined as part of the associated discussion guide.</p>	

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PLANNING ACT AMENDMENTS		HAPP COMMENTS		Where applicable: Provincial or Municipal regulation
Sections:		Track Changes to Amendment	Comment	
	<b>23.2</b> respecting minimum parking requirements, including setting out minimum parking requirements for specified lands, buildings or structures or providing that there is no minimum parking requirement for specified lands, buildings or structures;	respecting minimum parking requirements, including setting out minimum parking requirements for specified lands, buildings or structures or providing that there is no minimum parking requirement for specified lands, buildings or structures <b>where such lands, buildings or structures are determined to be adequately served by transit;</b>	Unclear as to what land use criteria will be used to determine these parking requirements: Density? Goals? Zoning?  This amendment should be re-drafted to ensure that adequate public transit infrastructure must be in place before a municipality eliminates minimum parking standards.	
<b>70</b>	<b>24.0.1</b> governing the provisions of an agreement described in clause 35.2 (2) (i);			
	<b>24.0.2</b> for the purpose of subsection 35.2 (5), specifying circumstances in which a by-law described in section 37 may be passed with respect to the same land, building or structure and specifying the limitations and requirements that apply;	24.0.2 for the purpose of subsection 35.2 (5), specifying circumstances in which a by-law described in section 37 may be passed with respect to the same land, building or structure and specifying the limitations and requirements that apply;	Concern with Inclusionary Zoning in context of s. 37.	
	<b>24.0.3</b> exempting a municipality from the prohibition in subsection 35.2 (5) and specifying conditions or restrictions that apply with respect to the exemption;		What are these conditions or restrictions? Vague language surrounding the use of Section 37 with IZ policies.	

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PLANNING ACT AMENDMENTS		HAPP COMMENTS		Where applicable: Provincial or Municipal regulation
Sections:		Track Changes to Amendment	Comment	
70	30.1 for the different types of applications related to development or redevelopment that will include affordable housing units, prescribing a maximum fee that may be charged with respect to each type of application, for the purpose of subsection 69 (2.1);	30.1 for the different types of applications related to development or redevelopment that will include affordable housing units, prescribing a maximum fee that may be charged with respect to each type of application, for the purpose of subsection 69 (2.1);	Not an incentive – reducing application fees.	
	31. respecting any other matter that this Act refers to as a matter prescribed, specified or determined under the regulations, or as a matter otherwise dealt with by the regulations, other than matters respecting which the Lieutenant Governor in Council has authority to make regulations under sections 70 and 70.2, subsection 70.2.2 (5) and section 70.3.		This amendment does not apply specifically to inclusionary zoning and broader impacts may be realized.	
70	(3) Same			
	A regulation made under paragraph 30.1 of subsection (1) may provide that a maximum fee for a particular type of application is nil.		Of particular concern is that the minister may prescribe a regulation authorizing that a maximum application fee be set at nil. This would act as a disincentive.	

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PLANNING ACT AMENDMENTS		HAPP COMMENTS		Where applicable: Provincial or Municipal regulation
Sections:		Track Changes to Amendment	Comment	
70	<b>(4) Conflict</b>			
	In the event of a conflict between a regulation made under paragraph 23.2 of subsection (1) and a by-law passed by a municipality under paragraph 6 of subsection 34 (1), or a predecessor thereof, the regulation prevails to the extent of the conflict, but in all other respects the by-law remains in full force and effect.		<p>Would the municipalities have input into these matters when they occur? When would the Minister apply a regulation against a by-law?</p> <p>There is concern that a broad regulation regarding minimum parking standards will be unable to anticipate the variety of local circumstances.</p>	
70.7	<b>(1) Regulations re transitional matters, 2016 amendments</b>			
	The Minister may make regulations providing for transitional matters respecting matters and proceedings that were commenced before or after the effective date.		No regulation has been developed. Comments regarding transitional matters are provided in the discussion guide.	
	<b>(2) Same</b>			

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PLANNING ACT AMENDMENTS		HAPP COMMENTS		Where applicable: Provincial or Municipal regulation
Sections:		Track Changes to Amendment	Comment	
	<p>A regulation made under this section may, without limitation,</p> <p>(a) determine which matters and proceedings may be continued and disposed of under this Act, as it read on the day before the effective date, and which matters and proceedings must be continued and disposed of under this Act, as it read on the effective date;</p> <p>(b) for the purpose of subsection (1), deem a matter or proceeding to have been commenced on the date or in the circumstances specified in the regulation.</p>			
	<b>(3) Retroactive</b>			
	A regulation made under this section may be retro-active to May 18, 2016.			
	<b>(4) Conflict</b>			
	A regulation made under this section prevails over any provision of this Act specifically mentioned in the regulation.			
	<b>(5) Definition</b>			
	In this section, "effective date"			

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PLANNING ACT AMENDMENTS		HAPP COMMENTS		Where applicable: Provincial or Municipal regulation
Sections:		Track Changes to Amendment	Comment	
	means the date on which section 4 of Schedule 4 to the <i>Promoting Affordable Housing Act, 2016</i> comes into force.			
(1)	<b>Commencement</b>			
	Subject to subsection (2), this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.		No comment.	
(2)	<b>Same</b>			
	Subsections 2 (1) and (3) and 3 (2) and sections 7 and 8 come into force on the day the <i>Promoting Affordable Housing Act, 2016</i> receives Royal Assent.			

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