

The interrelationship between MTSA, PMTSA and Inclusionary Zoning

February 18, 2021

There is a strong relationship between the selection of Major Transit Station Areas (MTSAs), their status as Protected Major Transit Station Areas (PMTSAs) and the implementation of inclusionary zoning as a planning tool to accommodate affordable housing.

The provincial planning framework for MTSAs continues to evolve. The [Planning Act](#) and policies directed by the Ministry of Municipal Affairs and Housing (the Ministry), such as the [Provincial Policy Statement 2020](#) and [Amendment 1 \(2020\) to A Place to Grow: Growth Plan for the Greater Golden Horseshoe](#) (Growth Plan), emphasize using Ontario's existing and planned transit networks to encourage transit-supportive land use planning principles for residential and employment growth.

Provincial policy requires a more refined approach when planning MTSAs at a regional, county and local level, to ensure policies and zoning under each authority provide as-of-right permissions to facilitate transit-oriented development. Focusing on and planning for MTSAs is a well-recognized and important way for municipalities to build on their intensification strategies and achieve the provincial Growth Plan objectives.

Overview: MTSA > PMTSA > Inclusionary Zoning Framework

- The Planning Act enables inclusionary zoning as a planning tool under (s. 16(4))
 - [O Reg 232/18](#) prescribes requirements for a municipality's Inclusionary Zoning approach
- The Planning Act allows for inclusionary zoning to be implemented within PMTSAs (s. 16(5))
- The Planning Act permits municipalities to delineate PMTSAs (s. 16(15, 16))
 - The Growth Plan requires upper- and single-tier municipalities to delineate MTSAs (s. 2.2.4.2) by July 1, 2022 (the Ministry-directed deadline for all municipalities to complete their conformity exercises, known as Municipal Comprehensive Reviews or MCRs)

- It is the responsibility and jurisdiction of a municipality to determine which MTSA it identifies as PMTSAs, but PMTSAs require Ministry approval.
 - Identifying a PMTSA allows for inclusionary zoning to be implemented and used by municipalities as a planning tool.

The origins of today 's inclusionary zoning regime

On April 11, 2018, [O Reg 232/18](#) under the Planning Act was prescribed to allow municipalities to implement and use inclusionary zoning. Inclusionary zoning is a land-use planning tool that aims to increase the supply of affordable housing by requiring a certain percentage of new development to include affordable units.

Bill 108 (the [More Homes, More Choice Act, 2019](#)), enacted on June 6, 2019, amended the Planning Act to limit inclusionary zoning to PMTSAs and areas where a Development Permit System is in place. MTSA's are delineated areas surrounding a higher-order transit station or stop.

PMTSA's are MTSA's that have been specifically identified as "protected" by a municipality, and for which specific Official Plan policies have been incorporated. The MTSA delineation process, and the establishment of PMTSA's, plays a key role in [implementing inclusionary zoning](#) to require/provide affordable housing.

Major Transit Station Areas vs. Protected Major Transit Station Areas

Under the Growth Plan, MTSA's are generally defined as the approximately 500- to 800-metre radius surrounding an existing or planned higher-order transit stop or station. MTSA's are areas intended to accommodate a substantial proportion of a municipality's future residential and employment growth in order to encourage transit usage. The current Growth Plan requires upper- and single-tier municipalities to delineate the boundaries of MTSA's on priority transit corridors (as identified in Growth Plan Schedule 5) or subway lines.

PMTSA's are MTSA's identified by a municipality and subsequently approved by the Minister, as protected. There is no legislative requirement for municipalities to identify PMTSA's. If, however, a municipality wants to implement inclusionary zoning, then it must identify and "protect" a delineated MTSA.

Under ss. 16(15) and 16(16)¹ of the Planning Act, if a municipality does choose to undertake this process, they must update their Official Plan to include policies that:

- Identify the minimum number of residents and jobs, collectively, per hectare that are planned to be accommodated in the area;
- Identify the authorized uses of land in the major transit station area and of buildings or structures on lands in the area; and
- Identify the minimum densities authorized with respect to buildings and structures on lands in the area.

In addition, municipalities may choose to include policies that specify minimum and maximum heights and maximum densities with respect to buildings and structures on lands in the area.

Under s. 17(36.1.4) of the Planning Act, there is no appeal with respect to any policies that identify a PMTSA or any of its related policies, including minimum and maximum densities and heights of buildings or structures, as well as authorized uses of land.

MTSA delineation process

The Growth Plan requires all municipalities to develop an intensification strategy to demonstrate how its intensification target will be achieved (s. 2.2.2.3). Within these strategies, municipalities identify Strategic Growth Areas to support achieving the intensification target. MTSA are included in the definition of Strategic Growth Areas. As such, it is anticipated that municipalities will undertake their MTSA delineation process as part of their larger intensification strategies.

There is no prescribed method by which a municipality must undertake the delineation process. The Ministry has, however, set a July 1, 2022 deadline for municipalities to complete their MCRs.

In two-tier municipalities, upper-tier municipalities coordinate with their local municipalities throughout the delineation process.

City of Toronto: MTSA delineation in progress

On August 4, 2020, the City of Toronto started its MCR exercise, which includes a phased approach to delineating all MTSA in the city.

To inform the process and determine density calculations, the city will conduct local area studies for some MTSA, and will also apply outcomes from recently completed planning studies in order to avoid duplicating work. Due to the high number of MTSA in the city (approximately 180), staff are implementing a three-phase approach to delineating and setting the density targets of all MTSA. The table below sets out the criteria that informs the phase selection. [Read the city's full list of MTSA, broken down by phase.](#)

Phase	MTSA Criteria
1 (approx. 40 MTSA)	Station areas that already meet or exceed the minimum density targets and may not require a planning study.
	Station areas that are within the strong or moderate market potential for the application of inclusionary zoning.

<p>2 (approx. 65 MTSAs)</p>	<p>Station areas located within the boundaries of a recently completed and council-adopted planning study that includes potential MTSAs.</p>
	<p>Station areas located within the boundaries of a planning study currently underway and nearing completion that includes potential MTSAs.</p>
	<p>Station areas where significant intensification is constrained or prohibited by provincial policy and may require a request for lower density targets, given the local context.</p>
<p>3 (approx. 50 MTSAs)</p>	<p>Station areas that have lands surrounding them that are not planned for transit supportive development, but require a study to set in place a Council adopted planning framework.</p>

In Toronto, when determining PMTSA candidacy, City staff will evaluate based on the following key considerations:

- Enabling transit-oriented development (TOD);
- Facilitating large-scale revitalization;
- Implementing inclusionary zoning; and
- Building on recently completed planning studies where significant work was conducted to put in place the required level of specificity described above.

Takeaway

Delineating MTSAs is a complex exercise that considers numerous factors, such as infrastructure, transportation corridors, environmental features, existing built form, heritage and employment areas, all of which have an effect on the uniformity of delineated boundaries. In the end, the perfect 500-800 metre radii that we are used to will no longer be the case and a more realistic representation of transit-oriented intensification areas will take shape.

¹ In the case of upper-tier municipalities that choose to undertake this process, the upper-tier official plans must be updated to require the relevant lower-tier official plan(s), to include policies addressing authorized uses and minimum densities in the area.

By

[Adam Shipowick](#), [Katie Butler](#)

Expertise

[Municipal & Land Use Planning](#), [Land Use Planning](#)

BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 725 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

blg.com

BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing unsubscribe@blg.com or manage your subscription preferences at blg.com/MyPreferences. If you feel you have received this message in error please contact communications@blg.com. BLG's privacy policy for publications may be found at blg.com/en/privacy.

© 2024 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.