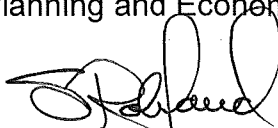




**CITY OF HAMILTON**  
**CORPORATE SERVICES DEPARTMENT**  
**Legal and Risk Management Services Division**  
**and**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Planning Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	June 4, 2019
<b>SUBJECT/REPORT NO:</b>	Bill 108, <i>More Homes, More Choice Act, 2019</i> – Ontario Proposed Changes to Land Use Planning, Heritage and Appeals Systems (LS19020/PED19125) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Joanna Wice (905) 546-2424 Ext. 4638 Anita Fabac (905) 546-2424 Ext. 1258
<b>SUBMITTED BY:</b>	Nicole Auty City Solicitor Legal and Risk Management Services
<b>SIGNATURE:</b>	<p><i>per Nicole Auty</i> <i>ukent</i></p> <p>Steve Robichaud Director of Planning and Chief Planner Planning and Economic Development Department</p> 

**RECOMMENDATIONS**

- (a) That Council adopt the submissions and recommendations as provided in Report LS19020/PED19125 regarding Schedules 5, 9, 11, and 12 of Bill 108, *More Homes, More Choice Act, 2019*;
- (b) That the Director of Planning and Chief Planner be authorized and directed to confirm the submissions made to the Province attached as Appendix "A" to Report LS19020/PED19125;
- (c) That the Director of Planning and Chief Planner and the City Solicitor be authorized to make submissions on Bill 108, *More Homes, More Choice Act*,

2019 and any associated regulations consistent with the concerns raised in Report LS19020/PED19125.

## **EXECUTIVE SUMMARY**

On May 2, 2019, Bill 108, *More Homes, More Choice Act, 2019*, was introduced at the Ontario Legislature. If enacted, this Bill would made amendments to 13 different statutes; the purpose of this Report is to provide information on the changes proposed to be made to the *Local Planning Appeal Tribunal Act, 2017*, the *Ontario Heritage Act*, the *Planning Act* and the *Endangered Species Act*.

Changes to the *Ontario Heritage Act* include new timeframes and notice provisions including when a property is added to the Register and permitting property owners to object to their property being included in the Register, to permit demolition or removal of a property in a Heritage Conservation District only if it would not affect the property's heritage attributes as listed in the Heritage Conservation District Plan, and that all municipal heritage appeals will be heard by the LPAT instead of the Conservation Review Board.

Changes to the *Planning Act* include restricting where Inclusionary Zoning can be applied, reduced development application processing timelines, deletion of Section 37 and replacement with a Community Benefits Charge and deletion of the alternative parkland dedication requirements based on density.

Further changes to the *Planning Act* relate to changes to the *Local Planning Appeal Tribunal Act, 2017*. Those amendments remove previous changes made to the planning appeals process that introduced a threshold test for appealing from major land use planning decisions, reducing the first appeal to a summary hearing on the threshold test, and providing municipalities the opportunity to make a second decision. Those changes were made as part of Bill 139 which reformed the Ontario Municipal Board process; Bill 108 reverts the planning appeal process back to the OMB *de novo* hearing procedures.

Changes to the *Endangered Species Act* include broadening the Committee on the Status of Species at Risk in Ontario (COSSARO) member qualifications to include members with expertise in "community knowledge", requiring COSSARO to consider a species' condition around its broader biologically relevant geographic area, inside and outside of Ontario before classifying a species as endangered or threatened and increased discretionary powers to be given to the Minister.

Staff do not support the proposed changes to the *Ontario Heritage Act*, *Planning Act*, *Endangered Species Act*, and *Local Planning Appeal Tribunal Act, 2017*.

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**SUBJECT: Bill 108, *More Homes, More Choice Act, 2019* – Ontario Proposed Changes to Land Use Planning, Heritage and Appeals Systems (LS19020/PED19125) (City Wide) - Page 3 of 8**

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The Province has not released information on the regulations required for implementation of Bill 108 and therefore it is not possible to fully understand the implications of the changes proposed by this Bill.

The deadline for comments on Bill 108 is June 1, 2019. As such and given the timing, staff-level comments have been submitted to the Province and through this Report and are contained at Appendix “A” to Report LS19020/PED19125. If the recommendations of this Report are approved by Council, the Director of Planning and Chief Planner will notify the Province that the submissions that were made have been adopted by Council for the City of Hamilton.

**Alternatives for Consideration – N/A**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** Bill 108 will have financial implications on the City. The degree and magnitude are unknown at this time, but largely implicate the changes to section 37, parkland, and the development charges regime. Some of these implications are more fully described in the May 14, 2019 Information Report provided by Finance and Corporate Services.

**Staffing:** At this time, Bill 108 only proposes changes and there are no staffing implications at this time. However, if Bill 108 is enacted as currently drafted, there will be staffing resourcing implications associated with the changes.

**Legal:** Legal Services and the Planning Division will continue to monitor the status of Schedules 5, 9, 11 and 12 of Bill 108 and report back where necessary with recommendations for the implementation of Bill 108, if enacted.

**HISTORICAL BACKGROUND**

Under the previous Provincial government, the planning system was reviewed, and changes were made through Bill 139 that resulted in various changes to the *Planning Act* and with the creation of the Local Planning Appeal Tribunal. (It should be noted that at that time, there were no changes to the *Ontario Heritage Act* (“OHA”) other than technical amendments or to the *Endangered Species Act*). Those changes came into force on April 4, 2018.

On May 2, 2019, Bill 108, *More Homes, More Choice Act, 2019*, was introduced in the Legislative Assembly and received first reading. This Report serves to provide an update on the proposed legislative changes only as they relate to Schedule 5 (changes to the *Endangered Species Act*), Schedule 9 (changes to the *Local Planning Appeal*

*Tribunal Act, 2017*), Schedule 11 (changes to the *Ontario Heritage Act*), and Schedule 12 (changes to the *Planning Act*). Changes made through other schedules will be discussed in separate reports brought to the attention of Council by other divisions.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATIONS**

### **Changes to the *Ontario Heritage Act, Planning Act* and *Endangered Species Act***

In summary, staff are not supportive of the proposed changes to the *Ontario Heritage Act*, the *Planning Act* or the *Endangered Species Act*. The proposed changes will have an impact on the City's finances, the ability to secure parkland, the evaluation of development applications, the conservation of heritage resources and the protection of endangered species. The proposed changes should not proceed without the appropriate regulations and meaningful consultation with municipalities.

An analysis of the proposed changes, including implications and recommendations, is included in Appendix "B", "C" and "D" to Report LS19020/PED19125.

Should the Province proceed with the proposed changes, staff will report back to Council on any development application process changes and staffing implications expected.

### **Changes to Planning Appeals Processes and Procedures**

Bill 108 proposes a number of changes to the *Planning Act* and the *Local Planning Appeal Tribunal Act, 2017* that make significant changes to the land use planning appeals process. Largely, these have the result of returning the process to that of the former Ontario Municipal Board. It is unclear how these changes would support the stated goal of bring more homes to market faster. Some of those changes are noted below:

#### Shortened timelines for municipal decisions, no timeline for LPAT decisions

In order to file for an appeal of a non-decision, the time periods are proposed to be reduced significantly. The power of the Minister to create regulations setting a time period for LPAT decisions to be made within is also proposed to be deleted, which means that the regulation that sets out the time periods for LPAT decisions will likely be repealed. The result of this change is that while the time for a municipality to consider an application has shrunk, the period of time in which the LPAT may consider a matter will be unfettered. These changes will likely result in a greater number of non-decision appeals, creating an increased workload for the LPAT, resulting lengthy periods for the resolution of appeals.

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Return to “good planning” test and *de novo* hearings

One of the significant aspects of the Bill relates to the reform of the LPAT's hearing process to restructure the hearing process, remove the deferential test established by Bill 139, and return to the pre-LPAT OMB *de novo* hearing. As a result of Bill 139, a “first appeal” process was created that requires an appellant to base its appeal on Provincial policy/plan consistency/conformity, with the matter being returned to Council for further consideration. This step was created to give greater weight to municipal decisions and to deter appeals.

Bill 108 would remove that process and revert to the *de novo* style hearing. The *de novo* hearing was the lengthy hearing that included submissions by the parties along with the calling and examining of witnesses and evidence. The test in those appeals is merely “good planning”, which sometimes results in municipal decisions being overturned, despite the municipal position being good planning, because another position was regarded as “better” planning.

Certain appeals limited

There were a few changes made that would limit certain types of appeals: there is no appeal related to parts of an official plan that are necessary to establish a develop permit system that was required to be created by the Minister.

For matters where the City needs approval from the Ministry for an official plan amendment, if the Ministry fails to make a decision within 120 days, those decisions may now only be appealed by the City or the applicant (if the amendment is in response to an application).

Potential for mandatory mediation

Bill 108 introduces changes to the legislation that would allow the Tribunal to create rules that would require mandatory mediation or other alternative dispute resolution in proceedings. Mandatory mediation has the potential to result in mediations where one or more parties are forced to participate where they are unable or unwilling to compromise. This then could result in wasted time and resources in these proceedings.

Limitations on community involvement in hearings

One of the proposed changes would result in the limitation of a participant in a hearing to only written submissions being filed. Previously, under the Ontario Municipal Board process, a participant to a proceeding had the ability to make

oral submissions to the Board, as well as provide written material. The participant could have been subject to questioning by the parties. Given this proposed new restriction, this may result in a greater number of participants seeking party status in proceedings to protect their right to participate more fully in the proceeding.

#### Ability to set differential fees for different types of proceedings

One of the changes made to the *Local Planning Appeal Tribunal Act, 2017* permits the Tribunal to set different fees for different types of proceedings and “different classes of persons”. It is unknown at this time how the LPAT may exercise this power, but the fee structure for various types of appeals would have an impact on the ability for some to participate in proceedings.

#### Transitioning of existing appeals

It is unclear at this time how the Province would transition existing appeals before the LPAT if Bill 108 is enacted. Currently, there are two “streams” of appeals at the LPAT: matters commenced under the OMB process, known as “OMB legacy appeals”, as well as appeals commenced under the LPAT system.

There has been an existing backlog of both types of matters: the OMB legacy appeals have been somewhat stalled as the Province had frozen the LPAT’s ability to fill vacant positions resulting the LPAT not having a full complement of adjudicators to handle those appeals. These appeals are currently being scheduled as far out as late-2020. Current LPAT process appeals have been slowed down given the conflicts that have arisen regarding the proper interpretation and implementation of the amended legislation.

Nevertheless, the provisions in Bill 108 permit the Minister to create transition regulations that contain rules for the transitioning of appeals that were commenced before, on or after the Bill comes into force.

Given the re-creation of the OMB process, this could result in three streams of appeal types, adding to the complexity of the procedures for matters currently before the Tribunal.

#### **Changes to Heritage Appeals Processes and Procedures**

Bill 108 makes significant changes to the objections and appeals proceedings for heritage matters. Most of these types of matters currently proceed typically before the Conservation Review Board (“CRB”), with demolition matters proceeding to the LPAT.

The CRB considers matters and reports back to municipal councils who have the power of the final decision; the CRB does not issue binding decisions on municipalities.

The changes proposed would result in the elimination of the CRB's involvement in municipal heritage objections and appeals and instead those matters would be sent to the LPAT for final determination. The changes would introduce new appeals related to designations and alterations.

Generally speaking, the changes proposed to the *Ontario Heritage Act* collectively result in a more rigid and litigious process for heritage matters. While there are still quite a number of unknowns, what has been drafted so far in the Bill will likely result in an increase in challenges to heritage matters for the City.

### **Procedural Next Steps**

At the time of the drafting of this Report, Bill 108 was being debated at Second Reading at the Legislative Assembly. Should the Province wish to proceed with this Bill, it may be subject to further discussion at a standing committee and may be debated further in Third Reading. If it passes Third Reading, it can receive Royal Assent whereupon Bill 108 becomes law. However, the Bill's changes would only come into force upon each individual schedule's proclamation.

There are a significant number of proposed changes that necessitate the creation of regulations. As indicated, no regulations have been proposed at this time, making it difficult to understand the implications of the changes. It is unknown whether the City will be consulted as a stakeholder in the creation of those instruments.

Given the short time in which staff had to review this Bill, and in addition to the unknowns with respect to the regulations necessary to implement the changes proposed in the Bill, a further report discussing the changes in further detail along with implementation measures will be prepared for Council's consideration if the Bill is enacted.

## **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

### **Community Engagement and Participation**

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

### **Our People and Performance**

Hamiltonians have a high level of trust and confidence in their City government.

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**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" – Letters submitted to the Province with comments

Appendix "B" – Proposed Changes to the *Ontario Heritage Act*

Appendix "C" – Proposed Changes to the *Planning Act*

Appendix "D" – Proposed Changes to the *Endangered Species Act*

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Physical Address: 71 Main Street West  
Phone: 905.546.2424 Ext. 4281 Fax: 905.546.4202  
Email: Steve.Robichaud@hamilton.ca

Hamilton

May 30, 2019

Ministry of Environment, Conservation and Parks  
c/o Macdonald Block Mailing Facility  
77 Wellesley Street West  
PO Box 200  
Toronto, ON  
M7A 1N3

Re: Bill 108 - (Schedule 5) – The Proposed More Homes, More Choice Act:  
Amendments to the Endangered Species Act

Dear Sir or Madam:

On behalf of the City of Hamilton, I am pleased to provide this letter as Hamilton's submission on Schedule 5 of Bill 108. Please find attached to this letter an outline of the key submissions the City wishes to make on the proposed changes to the Endangered Species Act. The City is also submitting comments on the other Schedules of Bill 108 under separate letter and City staff will be taking a report to Planning Committee on June 4, 2019 and to Council on June 12, 2019 outlining our submission. Council's position will be forwarded to the Province once it has been ratified.

We look forward to seeing the results of the consultation on Bill 108. City staff would be pleased to meet with you to discuss these comments in greater detail.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Robichaud".

Stephen Robichaud  
Director of Planning and Chief Planner  
Planning and Economic Development Department

Copies to:

Anita Fabac, Manager of Development Planning, Heritage and Design

**City of Hamilton Submissions on Bill 108 – Changes to the *Endangered Species Act***

Staff are not supportive of the proposed changes as they will have the effect of adding additional processes and delay to the classification, listing, and protection of species at risk. Changes are also being proposed which may undermine the role of COSSARO. The proposed changes are not detailed therefore it is difficult for staff to fully assess the implications without the details.

- Staff recommends that "community knowledge" be deleted.
- Staff recommends that the consideration of species condition in a broader geographic context be deleted.
- Staff recommends that the extension of timing to add species to the Species at Risk list be deleted.
- Staff recommends that the reconsideration of classifications be deleted.
- Staff recommends that the mandatory requirement and timeline to develop a habitat regulation for each newly listed species and temporary suspension to protect of up to three years be deleted.
- Staff recommends that the discretion remain with the Lieutenant Governor in Council.
- Staff advises the Province not to proceed until the Province consults with municipalities and other key stakeholders on the SAR Conservation Fund, the details of the agency, including who would be on the board, and where and funds would be dispersed.
- Staff advises the Province not to proceed until the Province consults with municipalities and other key stakeholders on the Landscape Agreements.



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Email: Steve.Robichaud@hamilton.ca

Hamilton

May 30, 2019

Lorraine Dooley  
Ministry of Tourism, Culture and Sport  
401 Bay Street  
Suite 1800  
Toronto, ON  
M7A 0A7

Re: Bill 108 - (Schedule 11) – The Proposed More Homes, More Choice Act:  
Amendments to the Ontario Heritage Act

Dear Madam:

On behalf of the City of Hamilton, I am pleased to provide this letter as Hamilton's submission on Schedule 11 of Bill 108. Please find attached to this letter an outline of the key submissions the City wishes to make on the proposed changes to the Ontario Heritage Act. The City is also submitting comments on the other Schedules of Bill 108 under separate letter and City staff will be taking a report to Planning Committee on June 4, 2019 and to Council on June 12, 2019 outlining our submission. Council's position will be forwarded to the Province once it has been ratified.

We look forward to seeing the results of the consultation on Bill 108. City staff would be pleased to meet with you to discuss these comments in greater detail.

Sincerely,

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Stephen Robichaud  
Director of Planning and Chief Planner  
Planning and Economic Development Department

Copies to:

Anita Fabac, Manager of Development Planning, Heritage and Design

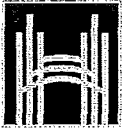
**City of Hamilton Submissions on Bill 108 – Changes to the Ontario Heritage Act**

Staff are not supportive of the proposed changes as it will have an impact on how the City administers the Act and its current processes. The proposed changes in some case will lengthen the process, delaying projects, and will require additional staff resources with added complexity to processes. The changes proposed by Bill 108 may result in increased appeals to the LPAT as the addition of properties to the Register can now be appealed to the LPAT.

The *Ontario Heritage Act* is a tool for managing change of heritage resources that balances both public and private interests. The proposed changes to the Act tip the balance away from public interest to the interest of private owners/developers. In particular, the City is not supportive of the transfer of objections on heritage matters to the Local Planning Appeal Tribunal.

The following are the City's comments and recommendations:

- Staff advises the Province to consult with municipalities on the "prescribed principles" and that the regulation should clearly describe what constitutes a "prescribed principle".
- Staff advise the Province that a time limit for filing an objection for a property added to the Register with the Clerk be included.
- Staff requests the Province to remove the requirement that the property be on the Register before the building permit application is made.
- Staff advise the Province that there should be no limitations as to when Council may provide notice of an intention to designate. Should the Province proceed with including this requirement, the Province should consult with municipalities on the "prescribed event" and the regulation should clearly describe what constitutes a "prescribed event" prior to proceeding with these proposed changes to the Act.
- Staff requests that the Province reinstate referral of objections to the Conservation Review Board for a hearing and report and Council as the final decision making authority on objections to designations.
- Staff requests that the Province reinstate referral of objections to the Conservation Review Board for a hearing and report.
- Staff advises the Province to consult with municipalities on the "prescribed" information and that the regulation should clearly describe what constitutes "prescribed" information.
- Staff requests that the Province delete this regulation to continue to provide protection from demolition of heritage resources in a Heritage Conservation District Plan area.



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Email: Steve.Robichaud@hamilton.ca

Hamilton

May 30, 2019

Planning Act Review  
Provincial Planning Policy Branch  
777 Bay Street  
13th Floor  
Toronto, ON  
M5G 2E5

Re: Bill 108 - (Schedule 12) – The Proposed More Homes, More Choice Act:  
Amendments to the Planning Act

Dear Sir or Madam:

On behalf of the City of Hamilton, I am pleased to provide this letter as Hamilton's submission on Schedule 12 of Bill 108. Please find attached to this letter an outline of the key submissions the City wishes to make on the proposed changes to the *Planning Act*. The City is also submitting comments on the other Schedules of Bill 108 under separate letter and City staff will be taking a report to Planning Committee on June 4, 2019 and to Council on June 12, 2019 outlining our submission. Council's position will be forwarded to the Province once it has been ratified.

We look forward to seeing the results of the consultation on Bill 108. City staff would be pleased to meet with you to discuss these comments in greater detail.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Robichaud".

Stephen Robichaud  
Director of Planning and Chief Planner  
Planning and Economic Development Department

Copies to:

Anita Fabac, Manager of Development Planning, Heritage and Design

**City of Hamilton Submissions on Bill 108 – Changes to the *Planning Act***

In general, the City is not supportive of the proposed changes. The changes will provide municipalities with less time to adequately review development applications and impact the City's ability to increase the supply of affordable housing. Furthermore, the changes will decrease the deference given to municipal decision-making in achieving these and other goals.

The following are the City's comments and recommendations:

- Staff supports the proposed change that expands the opportunities for second units throughout the City. Issues such as compatibility, context and appropriate zoning standards need to be evaluated.
- Staff do not support the proposed change to restrict inclusionary zoning to limited areas in the City. This proposed change will restrict the City's ability to increase the supply of affordable housing. Staff requests the Province to permit municipalities to utilize the inclusionary zoning provisions City wide.
- Staff do not support the Minister requiring a development permit system to be put in place as this should be up to municipalities.
- Staff do not support the proposed change to delete the grounds for appeals. Staff requests the Province to retain the existing *Planning Act* grounds for appeals given that the Official Plan is the tool for translating provincial plans and policies into a local land use vision.
- Staff do not support the proposed changes to the timeframe for non-decision appeals. Staff requests the Province to retain the existing *Planning Act* timeframes.
- Staff do not support the proposed changes. Staff requests the Province to retain the existing criteria for parkland dedication.
- Staff do not support the proposed changes to who may appeal a decision on a Plan of Subdivision. Staff requests the Province to retain the existing *Planning Act* appeal rights.

### **Schedule 11 – Changes to the Ontario Heritage Act**

The following is a summary of the proposed changes to the *Ontario Heritage Act*:

- Establishing “prescribed events and principles” that shall be considered when making decisions.
- New timeframes and notice provisions including when a property is added to the Register. Municipalities will need to provide notice within 30 days of a property being added to the Register and property owners will be able to object to their property being included in the Register.
- With respect to Heritage Conservation Districts, Bill 108 will permit demolition or removal only if it would not affect the property’s heritage attributes as listed in the Heritage Conservation District Plan. If the heritage attributes are not specifically listed, the Act does not prohibit demolition or removal.
- Bill 108 will now require that all appeals be heard by the LPAT instead of the Conservation Review Board and has expanded the powers of the LPAT from the power the Conservation Review Board previously had. The power to make a final decision on designating a property has been removed from Council and now rests with the LPAT which will be final and binding.

The following is a detailed summary of the proposed changes, implications for the City of Hamilton and staff recommendations to the Province. Staff are not supportive of the proposed changes as it will have an impact on how the City administers the Act and its current processes. The proposed changes in some case will lengthen the process, delaying projects, and will require additional staff resources with added complexity to processes. The changes proposed by Bill 108 may result in increased appeals to the LPAT as the addition of properties to the Register can now be appealed to the LPAT.

The *Ontario Heritage Act* is a tool for managing change of heritage resources that balances both public and private interests. The proposed changes to the Act tip the balance away from public interest to the interest of private owners/developers.

	CURRENT ONTARIO HERITAGE ACT REQUIREMENT	PROPOSED CHANGE TO THE ONTARIO HERITAGE ACT	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
Prescribed Principles	N/A	<p>Section 26.0.1</p> <p>The proposed changes would establish "prescribed principles" that shall be considered when making decisions under Part IV or V.</p>	<p>What constitutes a "prescribed principle" has not been provided. Clearer direction of "prescribed principle" is needed and in the absence of these details it is not possible to fully assess the implications of this proposed change.</p> <p><b>Staff advises the Province to consult with municipalities on the "prescribed principles" and that the regulation should clearly describe what constitutes a "prescribed principle".</b></p>
Adding Properties to the Register	N/A	<p>Section 27(5) and (6)</p> <p>The Act now requires notice be given to a property owner within 30 days of a property being added to the Register.</p> <p>The notice is to include a statement explaining why the property is of cultural heritage value or interest, a description of the property, a statement that if the owner objects</p>	<p>Staff currently has a process for adding properties to the Register. Individual properties are not added without a detailed review of the heritage value of the property.</p> <p>In addition, Staff currently provides a notice to an owner prior to the recommendation to add the property to the Register.</p> <p>The proposed changes will require a revision to the City's process from notifying an owner before</p>



	CURRENT ONTARIO HERITAGE ACT REQUIREMENT	PROPOSED CHANGE TO THE ONTARIO HERITAGE ACT	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
		<p>they may serve the Clerk with a notice of objection setting out the reasons and relevant facts, and an explanation of the restriction concerning demolition or removal.</p>	<p>to after it has been added to the Register.</p> <p>The proposed change will require municipalities to undertake a more robust assessment before adding a property to the Register. There must be a statement explaining why the property is of cultural heritage value or interest. This is currently not required by the Act.</p> <p>These proposed changes will impact the amount of time and cost it takes to add a property to the Register and will result in additional staff resources.</p> <p>This proposed change may have an impact on the heritage inventory work that the City currently undertakes as each property on the inventory will require an assessment of the properties cultural heritage value or interest given that the methodology and subsequent analysis must be robust enough to defend the decision in the event the decision is made to designate the property.</p> <p>The proposed change permits a property owner to object to the property being added to the Register. The proposed change does not identify</p>

	CURRENT ONTARIO HERITAGE ACT REQUIREMENT	PROPOSED CHANGE TO THE ONTARIO HERITAGE ACT	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
			<p>a timeframe for when an owner may serve a notice of objection and is open-ended.</p> <p><b>Staff advise the Province that a time limit for filing an objection for a property added to the Register with the Clerk be included.</b></p>
Notice of Objection to adding Property to the Register	N/A	<p>Section 27 (7) and (8)</p> <p>The Act now requires that if a notice of objection has been served, the municipality shall consider the notice and make a decision as to whether it should continue to be included on the Register and provide notice of the council's decision to the owner within 90 days of the decision.</p>	<p>The proposed change would require that Council consider an owners objection and make a decision as to whether it wishes to continue to include the property on the Register.</p> <p>Notice of council's decision must be given to the owner within 90 days of the decision.</p> <p>The proposed change will require a revision to the City's processes and will require additional staff resources to address the additional work and report preparation required.</p>
Restriction on demolition	N/A	<p>Section 27(9), (10) and (11)</p> <p>The owner shall not demolish or remove a building or structure for a property on the Register unless the owner gives Council at least 60 days</p>	<p>This notice would only apply if the property is on the Register before a building permit application to demolish is made. If it is not on the Register, but may have cultural heritage value, notice by the owner is not required.</p>

	CURRENT ONTARIO HERITAGE ACT REQUIREMENT	PROPOSED CHANGE TO THE ONTARIO HERITAGE ACT	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
		<p>notice in writing of the owner's intention. This only applies if the property is on the Register before a building permit application is made.</p>	<p>The notice must also be accompanied by plans and information that Council may require.</p> <p>The Act does not include provisions by which a property owner may withdraw their notice of intent to demolish.</p> <p>This proposed change would limit the City's ability to add a property to the Register after a building permit application has been made in order to provide interim protection.</p> <p>Properties that are listed on the Inventory are afforded no protection and cannot be added to the Register to provide interim protection. Heritage resources will be lost because of this proposed change.</p> <p>Where previous research on a property has not been done, this puts the City in a difficult position which may result in proceeding directly to designating a property.</p> <p><b>Staff requests the Province to remove the requirement that the property be on the Register before the building permit</b></p>

	CURRENT ONTARIO HERITAGE ACT REQUIREMENT	PROPOSED CHANGE TO THE ONTARIO HERITAGE ACT	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
			<b>application is made.</b>
Designation Limitation	N/A	<p>Section 29(1.2)</p> <p>A new section has been added to the Act that proposes that Council will not be permitted to give notice of an intention to designate a property more than 90 days after a "prescribed event" has occurred.</p> <p>There are currently no limitations on when a Council may provide notice of an intention to designate.</p>	<p>The new section now includes a limitation as to how much time a Council has to give notice for an intention to designate a property after a "prescribed event" has occurred. Under the current Act, Council is not restricted.</p> <p>The new section does not describe what constitutes a "prescribed event" nor were regulations provided for clarification. As such, in the absence of details it is not possible to fully assess the implications of this proposed change.</p> <p><b>Staff advise the Province that there should be no limitations as to when Council may provide notice of an intention to designate.</b></p> <p><b>Should the Province proceed with including this requirement, the Province should consult with municipalities on the "prescribed event" and the regulation should clearly describe what constitutes a "prescribed event" prior to proceeding with these proposed changes to the Act.</b></p>

	<b>CURRENT ONTARIO HERITAGE ACT REQUIREMENT</b>	<b>PROPOSED CHANGE TO THE ONTARIO HERITAGE ACT</b>	<b>IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS</b>
Objection to Designation	<p>Subsections 29(6) to (17) currently outline the process for notice of objections to a designation and that objections would be referred to the Conservation Review Board (CRB). A person who objects currently has 30 days after the publication of the notice in the newspaper to serve the Clerk with a notice of objection. Previously, an appeal to the CRB was non-binding and resulted in a report to Council setting out its findings and recommendations. Council could then</p>	<p>Subsections 29(6) to (17) have been replaced with new notice requirements for objections.</p> <p>A Council will now be required to consider the objection and make a decision whether or not to withdraw the intention to designate 90 days after the end of the 30 day objection period.</p> <p>If an objection is not served, Council may pass a by-law in the following circumstances:</p> <p>By-law is passed within 120 after the publication of the notice of intention to designate;</p> <p>It must include a statement explain the heritage value or interest and the heritage attributes;</p> <p>Must provide the owner or anyone who objected with a copy of the By-</p>	<p>Additional opportunities have been included for decisions of Council on designating a property to be reconsidered (within 90 days of receiving an objection).</p> <p>Additional timeframes have been included for passing a by-law. If a by-law is not passed within 120 days, Council has the option to restart the process.</p> <p>Power to designate has been removed from Council and transferred to the LPAT. Decisions should be made by Heritage experts such as the Conservation Review Board.</p> <p>The proposed changes will lengthen the process and add to the volume of appeals before the LPAT which may result in delays in decision making.</p> <p>Proposed changes will require modifications to the City's designation process and will require additional staff resources.</p>

	CURRENT ONTARIO HERITAGE ACT REQUIREMENT	PROPOSED CHANGE TO THE ONTARIO HERITAGE ACT	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
	<p>pass a by-law designating the property or withdraw the notice of intention to designate. The decision of Council would be final.</p>	<p>law;</p> <p>Notice must be published in the newspaper of the passing of the by-law; and,</p> <p>The notice must include that the by-law may be appealed within 30 days after the date of publication of the notice.</p> <p>Objections would now be appealed to the LPAT.</p> <p>For an appeal, the record of the decision must be forwarded to the LPAT within 15 days of the notice of appeal.</p>	<p><b>Staff requests that the Province reinstate referral of objections to the Conservation Review Board for a hearing and report and Council as the final decision making authority on objections to designations.</b></p>
Powers of the LPAT	N/A	<p>Section 29 (15) and (16)</p> <p>After holding a hearing the LPAT shall dismiss the appeal or allow the appeal in whole or in part.</p> <p>The LPAT may dismiss all or part of an appeal without holding a hearing if</p>	<p>The powers the Conservation Review Board currently has are proposed to be expanded for the LPAT including the ability to dismiss all or part of an appeal.</p> <p>Decisions should be made by heritage experts such as the Conservation Review Board on</p>

	CURRENT ONTARIO HERITAGE ACT REQUIREMENT	PROPOSED CHANGE TO THE ONTARIO HERITAGE ACT	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
		<p>the LPAT is of the opinion that there are no grounds to allow all or part of the appeal or that the appeal is not made in good faith, is frivolous or vexatious or is made only for the purpose of delay, appellant has not provided a written reason in support of the objection, has not paid the fee or has not responded to a request by the LPAT.</p> <p>Before dismissing an appeal, the LPAT shall notify the appellant and give the appellant an opportunity to make representations with respect to the dismissal.</p>	<p>heritage matters. It is also not clear on what basis the LPAT will be making decisions. For planning matters there is the "best planning" equivalency test, but a similar test does not exist for heritage matters before the LPAT.</p> <p>Using the LPAT will lengthen the process and add to the volume of appeals before the LPAT which may result in delays in decision making.</p> <p><b>Staff requests that the Province reinstate referral of objections to the Conservation Review Board for a hearing and report.</b></p>
Amending By-laws	Appeals were previously heard by the Conservation Review Board	<p>Section 30.1(7) to (16)</p> <p>The Act proposes a more robust process for objections to an appealing by-law and appeals are to be heard by the LPAT.</p>	<p>Currently the Conservation Review Board hears these matters. Decisions should be made by heritage experts such as the Conservation Review Board.</p>
Repealing By-laws by	Appeals were previously heard by	Section 31(5) to (14)	<p>Using the LPAT will lengthen the process and add to the volume of appeals before the LPAT which</p>

	CURRENT ONTARIO HERITAGE ACT REQUIREMENT	PROPOSED CHANGE TO THE ONTARIO HERITAGE ACT	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
Council	the Conservation Review Board	The Act proposes a more robust process for objections to an appealing by-law and appeals are to be heard by the LPAT. The powers of the LPAT have been expanded.	may result in delays in decision making.  <b>Staff requests that the Province reinstate referral of objections to the Conservation Review Board for a hearing and report.</b>
Repeal of by-law by owner	Appeals were previously heard by the Conservation Review Board	Section 32(2) to (18)  The Act proposes a more robust process for objections to an appealing by-law and appeals are to be heard by the LPAT. The powers of the LPAT have been expanded.	
Heritage Permits (Alteration of Property)	Appeals were previously heard by the Conservation Review Board	Section 33(2) to (16)  The Act now outlines that for a heritage permit application, it must be accompanied with "prescribed" information and material.  Appeals will now be heard by the LPAT. The powers of the LPAT have been expanded.	Currently a heritage permit application is to include information as set out by a Council. The proposed change indicates that the Province will identify what information must be included in an application through reference to "prescribed" information.  As discussed previously, these matters should continue to be heard by the Conservation Review Board.  <b>Staff requests that the Province reinstate</b>



	CURRENT ONTARIO HERITAGE ACT REQUIREMENT	PROPOSED CHANGE TO THE ONTARIO HERITAGE ACT	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
			<b>referral of objections to the Conservation Review Board for a hearing and report.</b>
Heritage Permits (Demolition of Designated Property)	<p>Previously restricted demolition or removal to a building or structure on the property</p> <p>Appeals will continue to be heard by the LPAT</p>	<p>Section 34(1) to (4.4) and 34(3) to (7)</p> <p>The Act now outlines that for a heritage permit application, it must be accompanied with "prescribed" information and material.</p> <p>The Act proposes to permit the demolition or removal whether or not the demolition or removal would affect the property's heritage attributes set out in the designating by-law.</p> <p>The application for demolition or removal must be deemed complete and the applicant must be informed.</p> <p>The Act now includes revised notice requirements for a Heritage Permit.</p> <p>The powers of the LPAT have been expanded.</p>	<p>Currently a heritage permit application is to include information as set out by a Council. The proposed change indicates that the Province will identify what information must be included in an application through reference to "prescribed" information.</p> <p>Changes to our process will be required as this is a new requirement.</p> <p><b>Staff advises the Province to consult with municipalities on the "prescribed" information and that the regulation should clearly describe what constitutes "prescribed" information.</b></p>

	CURRENT ONTARIO HERITAGE ACT REQUIREMENT	PROPOSED CHANGE TO THE ONTARIO HERITAGE ACT	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
Heritage Conservation Districts		<p>Section 39.1.2</p> <p>A new section has been proposed that a Council shall consider the “prescribed principles, if any” when council exercises a decision making authority.</p>	<p>The new section does not describe what constitutes “prescribed principles” nor were regulations provided to provide clarification. Clearer direction of “prescribed principles” is needed.</p> <p><b>Staff advises the Province to consult with municipalities on the “prescribed principles” and that the regulation should clearly describe what constitutes a “prescribed principle”.</b></p>
Heritage Conservation Districts		<p>Section 42 (1)</p> <p>A new section has been proposed that requires property heritage attributes to be included in a heritage conservation district plan. These are needed with respect to demolition or removal.</p>	<p>This change is more restrictive and requires specific heritage attributes to be listed for a property in a Heritage Conservation District Plan. Demolition or removal would not be permitted if it would affect the heritage attributes included in the Heritage Conservation District Plan. If the heritage attributes are not listed, demolition or removal is permitted in a Heritage Conservation District.</p> <p>This would impact the City’s existing Heritage Conservation District Plans that do not contain specific heritage attributes for each property and</p>

	CURRENT ONTARIO HERITAGE ACT REQUIREMENT	PROPOSED CHANGE TO THE ONTARIO HERITAGE ACT	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
			<p>could result in the demolition or removal of properties with the Plan area.</p> <p>There is no transition for existing Plans that may not have been developed in accordance within the proposed changes.</p> <p>Future Heritage Conservation District Plans will require more time and more money to prepare as the proposed change is similar to the detail required to designate a property.</p> <p><b>Staff requests that the Province delete this regulation to continue to provide protection from demolition of heritage resources in a Heritage Conservation District Plan area.</b></p>

**Schedule 12 – Changes to the *Planning Act***

The following is a summary of the proposed changes to the *Planning Act*:

- Inclusionary zoning restricted to major transit station areas or where a development permit system is in place.
- Decrease in timeframes for non-decision appeals for Official Plan Amendments, Zoning By-law Amendments, and Plans of Subdivision.
- Appeals for Plans of Subdivision and Condominium limited to applicant, municipality, Minister or public body.
- Repeal of Section 37 and replacement with a Community Benefits Charge.
- Parkland dedication by-law is no longer in effect once a Community Benefits Charge By-law has been passed.
- The alternative parkland dedication requirements based on density have been removed.
- Removal of the threshold test for consistency/conformity with relevant policies and plans, returning to “good planning” review powers by Local Planning Appeal Tribunal.

The following is a detailed summary of the proposed changes, implications for the City of Hamilton and staff recommendations to the Province. In summary, with the exception of second unit policies, Staff are not supportive of the proposed changes.

	<b>CURRENT REQUIREMENT</b>	<b>PROPOSED CHANGE</b>	<b>IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS</b>
Second Unit Policies	“The use of two residential units in a detached house, semi detached house or row house if no building or structure ancillary to the detached house, semi	“if no building or structure ancillary to the detached house, semi detached house or rowhouse contains a residential unit” has been	Currently the UHOP permits second units within a single and semi detached. The UHOP will need to be amended to allow second units in row houses and within

	CURRENT REQUIREMENT	PROPOSED CHANGE	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
	detached house or rowhouse contains a residential unit"	deleted	<p>accessory structures.</p> <p>Staff are currently developing consolidated zoning regulations regarding secondary units.</p> <p>Staff are supportive of the proposed change in urban areas. For the rural areas, the City should have the opportunity to review the feasibility of second units in the context of servicing and source water protection.</p> <p><b>Staff supports the proposed change as it expands the opportunities for second units throughout the City. Issues such as compatibility, context and appropriate zoning standards need to be evaluated.</b></p>
Inclusionary Zoning	<p>An Official Plan shall contain policies that authorize inclusionary zoning with no geographic restriction as to where it may be used.</p> <p>It is a prescribed requirement through the use of the word</p>	An Official Plan may contain policies that authorize inclusionary zoning in respect of a protected major transit station area or within a development permit system area.	<p>The use of inclusionary zoning is proposed to be restricted to only a major transit station area, where a development permit system is in place or where the Minister orders a development permit system be put in place.</p> <p>The City does not have a development permit system in place therefore this proposed change would be not applicable.</p>

	CURRENT REQUIREMENT	PROPOSED CHANGE	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
	"shall".		<p>The application of inclusionary zoning would be restricted to the LRT corridor from McMaster University to Queenston Rd.</p> <p>Under the Growth Plan, Go Stations are not major transit stations and therefore inclusionary zoning would not apply.</p> <p>The proposed change will reduce the opportunities to create new affordable housing units.</p> <p><b>Staff do not support the proposed change to restrict inclusionary zoning to limited areas in the City. This proposed change will restrict the City's ability to increase the supply of affordable housing. Staff requests the Province to permit municipalities to utilize the inclusionary zoning provisions City wide.</b></p> <p><b>Staff do not support the Minister requiring a development permit system be put in place as this should be up to municipalities.</b></p>
Grounds for	An appeal on an Official Plan or	This section has been	The existing grounds for appeals provides

	CURRENT REQUIREMENT	PROPOSED CHANGE	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
Appeals	Zoning By-law Amendment may only be made on the basis that the decision is inconsistent with a policy statement or conflicts with a Provincial Plan.	deleted in its entirety.	<p>greater emphasis to the decision-making powers of Council.</p> <p><b>Staff do not support the proposed change to delete the grounds for appeals. Staff requests the Province to retain the existing Planning Act ground for appeals given that the Official Plan is the tool for translating provincial plans and policies into a local land use vision.</b></p>
Development Review Timeframes	<p>Currently appeals for non-decision may be issued as follows:</p> <p>Official Plan Amendment: 300 days (210 + 90 day extension)</p> <p>Zoning By-law Amendment: 150 days</p> <p>Plan of Subdivision: 180 days</p>	<p>The proposed timeframes for non-decision appeals are as follows:</p> <p>Official Plan Amendment: 120 days</p> <p>Zoning By-law Amendment: 90 days</p> <p>Plan of Subdivision: 120 days</p>	<p>The proposed timeframes are proposed to be significantly reduced requiring the City to make decisions based on the information initially submitted with the application that in most cases requires additional details or further refinement. It will also limit opportunities for public consultation. It also may create an adversarial process, instead of a collaborative process.</p> <p>In addition, the reduced timeframes may result in a greater number of appeals to the LPAT, delaying projects.</p> <p>Reducing the timeframes can result in the exclusion of community consultation and</p>

	CURRENT REQUIREMENT	PROPOSED CHANGE	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
			refinement of development proposals.  <b>Staff do not support the proposed changes to the timeframe for non-decision appeals. Staff requests the Province to retain the existing Planning Act timeframes.</b>
Community Benefits Charge	Section 37	Deletion of Section 37 and replaced with a new Community Benefits Charge	An information report was previously prepared by Finance staff providing a summary of the proposed changes. Detailed comments on the new charge will be further discussed in a future report to be prepared by Finance staff.  In general, City staff are not supportive of the proposed <i>Planning Act</i> changes and the removal of Section 37.
Conveyance of Land for Park Purposes	Currently the Planning Act permits land in the amount not exceeding 2% for commercial or industrial purposes and 5% for all other purposes, be dedicated for park or other public recreational purposes.	Parkland dedication by-law is no longer in effect once a Community Benefits Charge By-law has been passed.  Repeal the alternative parkland dedication requirements based on	Detailed comments on the proposed change will be further discussed in a future report to be prepared by Finance staff.  In general, City staff are not supportive of the proposed changes.  <b>Staff do not support the proposed</b>



	CURRENT REQUIREMENT	PROPOSED CHANGE	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
	<p>If an Official Plan contains policies related to the provision of land for park or other public recreational purposes, the municipality may, in the case of a subdivision for residential purposes, require that land be conveyed at a rate of 1 hectare for each 300 dwelling units, or at a lesser rate determined by the municipality.</p> <p>In lieu of land, the <i>Planning Act</i> permits a municipality to require payment of lieu of land.</p> <p>The <i>Planning Act</i> currently requires the municipality to prepare and make available to the public a parks plan that examines the need for parkland.</p>	<p>density.</p> <p>Plans of subdivision that are approved with a condition of parkland are not subject to a Community Benefits Charge By-law.</p> <p>The requirement to complete a parks plan that examines the need for parkland has been deleted.</p>	<p><b>changes. Staff requests the Province to retain the existing criteria for parkland dedication.</b></p>
<p>Appeals for Plans of Subdivisions and Condo</p>	<p>Currently the Planning Act allows the applicant, a person or a public body that made oral or written submissions, the</p>	<p>Changes are proposed that would limit third-party appeals of a plan of subdivision. Only the</p>	<p>The proposed change would restrict appeals to those public bodies and persons identified in the <i>Planning Act</i> and not allow a person who gave oral or written submissions the</p>

	CURRENT REQUIREMENT	PROPOSED CHANGE	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
	<p>Minister, or a municipality in which the land is located, to appeal the decision of the approval authority to the LPAT.</p>	<p>applicant, municipality, Minister, public body or prescribed person, or municipality in which the land is located will have the right to appeal a decision of an approval authority.</p>	<p>opportunity to appeal.</p> <p>This proposed change would prohibit a third party appeal, such as an appeal from a resident or neighbourhood association. For joint applications, a Zoning By-law or Official Plan Amendment may be appealed to the LPAT but not the subdivision application.</p> <p>Details of the subdivision such as tree preservation and grading are addressed after the application has been submitted but the community will not be able to participate in the LPAT hearing or on refining the sub</p> <p><b>Staff do not support the proposed changes to who may appeal a decision on a Plan of Subdivision. Staff requests the Province to retain the existing Planning Act appeal rights.</b></p>

**Schedule 5 – Changes to the Endangered Species Act, 2007**

Summary of proposed changes to the *Endangered Species Act*.

- Broaden Committee on the Status of Species at Risk in Ontario (COSSARO) member qualifications include members with expertise in “community knowledge”.
- Requiring COSSARO to consider a species’ condition around its broader biologically relevant geographic area, inside and outside of Ontario, before classifying a species as endangered or threatened.
- Increased discretionary powers to be given to the Minister.
- Once a new SAR is listed, the Minister may make an order that temporarily suspends all or some of the protections for a period of up to three years.
- New landscape agreements and a SAR Conservation Trust are proposed.

The following is a detailed summary of the proposed changes, implications for the City of Hamilton and recommendations to the Province. Staff are not supportive of the proposed changes as they will have the effect of adding additional processes and delay to the classification, listing, and protection of species at risk. Changes are also being proposed which may undermine the role of COSSARO. The proposed changes are not detailed therefore it is difficult for staff to fully assess the implications without the details.

	<b>CURRENT ACT REQUIREMENT</b>	<b>PROPOSED ACT CHANGE</b>	<b>IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS</b>
<b>Assessment, Listing and Protection of</b>	The Committee on the Status of Species at Risk in Ontario (COSSARO), an independent	Broadening COSSARO Member Qualifications:	“Community knowledge” has not been defined and there is concern that broadening the COSSARO membership

	CURRENT ACT REQUIREMENT	PROPOSED ACT CHANGE	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
<p><b>SAR</b></p>	<p>committee comprised of experts with scientific backgrounds and Aboriginal Traditional Knowledge, classify species as extirpated or extinct, endangered, threatened or special concern. Each species added to the Species at Risk in Ontario (SARO) list is through regulation. Once the species is added, it receives general habitat protection. Currently, COSSARO can submit a report to the Minister at any time and the species must be added to the list within 3 months.</p>	<p>The proposed changes will broaden COSSARO member qualifications to include members with relevant expertise in "community knowledge".</p>	<p>would allow non-scientific input into a species classification. It is unclear why the membership of COSSARO needs to be altered.</p> <p><b>Staff recommends that "community knowledge" be deleted.</b></p>
		<p>Consideration of Species Condition in a Broader Geographic Context:</p> <p>It is proposed that COSSARO consider a species' condition around its broader biologically relevant geographic area, inside and outside of Ontario, before classifying a species as endangered or threatened. If the overall risk to a species in the broader relevant geographic area is lower, COSSARO would be required to adjust the species' classification to the lower category.</p>	<p>This conflicts with the preamble of the Act, which references the precautionary principle (where there is a threat of significant reduction or loss of biological diversity, lack of full scientific certainty should not be used as a reason for postponing measures to avoid or minimize protection). This approach relies on other jurisdictions to protect SAR and does not consider that species at the northern limit of their range may receive little or no protection, which is particularly important with climate change impacts.</p> <p><b>Staff recommends that the consideration of species condition in a broader geographic context be deleted.</b></p>

	CURRENT ACT REQUIREMENT	PROPOSED ACT CHANGE	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
		<p>Extension of Timing to add Species to SARO List:</p> <p>The revised ESA proposes to extend the timeframe for making regulations from 3 months to 12 months after receiving the COSSARO Report (Section 7(4)).</p>	<p>It is unclear how this would improve the current process since it would further delay the protection of SAR. Also, it is contrary to the Province’s intended purpose of “streamlining processes” and improving “outcomes for the species and its habitat”.</p> <p><b>Staff recommends that the extension of timing to add species to the Species at Risk list be deleted.</b></p>
		<p>Reconsideration of Classifications:</p> <p>The revised ESA proposes to allow the Minister to reconsider the classification of a species if it is determined that the classification may no longer be appropriate (opinion is to be based on scientific information). For species that are not yet on the list or are listed as special concern, the species would not be added to the SARO list or listed to a more endangered status during COSSARO’s re-assessment.</p>	<p>This means that if a party provides scientific opinion which differs from COSSARO’s, the classification must be reconsidered if the Minister agrees. Since COSSARO uses the best available knowledge (including emerging trends) to evaluate species, it is unclear what new evidence could be provided that would change the classification. This allows for competing scientific opinions, undermines the role of COSSARO, and delays listing and protection of species.</p>

	CURRENT ACT REQUIREMENT	PROPOSED ACT CHANGE	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
			<p><b>Staff recommends that the reconsideration of classifications be deleted.</b></p>
<p><b>Assessment, Listing and Protection of SAR</b></p>	<p>The Province has 12 months from the time of listing to prepare a Recovery Plan or Management Strategy for the species and to identify the regulated portions of its habitat.</p>	<p>Removal of Mandatory Requirement for Developing Habitat Regulations:</p> <p>Currently, the legislation requires that the habitat regulation (which protects SAR and their habitat) be made within 12 months of listing. The proposed ESA removes the mandatory requirement and timeline to develop a habitat regulation for each newly listed species and retains the option to develop a regulation "when needed".</p> <p>Within the proposed ESA, once a new SAR is listed, the Minister may make an order that temporarily suspends all or some of the protections for a period of up to three years. During this time, the species will be on the SARO list, but may not</p>	<p>This would result in delays in identifying the SAR protected habitat, which would create uncertainty for proponents and negatively impact SAR.</p> <p>For some listed species, a 3-year delay in protection could result in further decline, and the species may not recover. This delay in protection of listed species does not meet the Province's intent to improve outcomes for SAR and their habitat.</p>

	CURRENT ACT REQUIREMENT	PROPOSED ACT CHANGE	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
		be fully protected (Section 8 (1)).	<b>Staff recommends that the mandatory requirement and timeline to develop a habitat regulation for each newly listed species and temporary suspension to protect of up to three years be deleted.</b>
<b>Greater Minister Discretion</b>	Currently, the Lieutenant Governor in Council (LGIC) is responsible for developing and approving habitat regulations.	<p>The proposed revisions to the ESA include new sections which provide the Minister of Environment, Conservation and Parks (MECP) with “greater Minister discretion on protections, while keeping the assessment as a science-based process”. While the role of classifying species would remain with COSSARO, the proposed changes would provide the Minister with the following new powers:</p> <ul style="list-style-type: none"> <li>• Currently, the Lieutenant Governor in Council (LGIC) is responsible for developing and approving habitat regulations. The new ESA proposes giving this responsibility to the Minister.</li> <li>• The Minister would no longer need to consult with an</li> </ul>	<p>This may result in delay or uncertainty for City Environmental Assessment projects, since there would be increased opportunities for Minister discretion on SAR habitat regulations.</p> <p>The change to clarify that recovery strategies are advice to government are concerning as advice does not have to be taken or acted upon which may lessen the importance of recovery strategies.</p> <p><b>Staff recommends that the discretion remain with the Lieutenant Governor in Council.</b></p>

	CURRENT ACT REQUIREMENT	PROPOSED ACT CHANGE	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
		<p>independent expert for the "D" permit process and would replace the LGIC in this role.</p> <ul style="list-style-type: none"> <li>• A change is proposed to clarify that recovery strategies are advice to government.</li> <li>• Once a SAR is listed, the Minister may make an order that temporarily suspends all or some of the SAR protections for a period of up to three years if certain criteria are met. These criteria include non-scientific reasons, such as "if applying the prohibition would have significant social or economic implications". If the species is listed and warrants protection, delaying SAR protection for up to three years could negatively impact the species. This proposed process does not reflect the "precautionary principle" in the Preamble or the Province's intent to streamline processes and achieve improved outcomes for SAR.</li> </ul>	



	CURRENT ACT REQUIREMENT	PROPOSED ACT CHANGE	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
		<ul style="list-style-type: none"> <li>The Minister would have the power to make regulations limiting the application of the prohibitions for a species. Limitations may be applied to the prohibitions (examples given are: only applying to geographic areas, or certain stages of the species development).</li> </ul>	
SAR Conservation Fund and Trust	N/A	<p>Sections 20.1 to 20.18 provide for the establishment of the SAR Conservation Fund and an agency (SAR Conservation Trust) to manage and administer this Fund. This would give proponents the option to pay a charge instead of completing certain on-the-ground activities (such as habitat restoration or compensation) required by the ESA. The payment-in-lieu funds would be used to support “strategic, coordinated, and large-scale actions that assist in the protection and recovery of SAR”. The new agency would receive the funds and disburse them to third parties in</p>	<p>This approach encourages the loss of more habitat and reduced habitat protection. If proponents are provided with the option of payment-in-lieu, they may be reluctant to avoid or mitigate impacts to SAR habitat within the affected municipality. This reduces the accountability that proponents have to protect SAR. In addition, the implementation details of the agency are not clear, including who would be on the board, and where and how funds would be dispersed.</p> <p><b>Staff advises the Province not to proceed until the Province consults</b></p>

	CURRENT ACT REQUIREMENT	PROPOSED ACT CHANGE	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
		order for activities to be completed.	<b>with municipalities and other key stakeholders on the SAR Conservation Fund, the details of the agency, including who would be on the board, and where and how funds would be dispersed.</b>
Landscape Agreements	N/A	<p>Section 16.1 allows the Minister to enter into Landscape Agreements. A Landscape Agreement allows people who undertake "multiple activities" to be able to pursue limited conservation banking. Conservation banks allow compensation when a species or habitat is affected during development by providing credits that can be purchased to offset their negative impact.</p> <p>The agreement would require that the person take reasonable steps to minimize adverse effects on the species, consider all reasonable alternatives, and undertake beneficial actions.</p>	<p>This approach reduces accountability and does not lend itself to addressing site or species-specific concerns. This approach could result in reductions to species diversity in Hamilton, with compensation provided in other parts of Ontario.</p> <p><b>Staff advises the Province not to proceed until the Province consults with municipalities and other key stakeholders on the Landscape Agreements.</b></p>